# SENATE—*Wednesday, June 23, 1982*

*(Legislative day of Tuesday, June 8, 1982)*

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the President pro tempore (Mr. THURMOND).

PRAYER

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

Our Father who art in Heaven, we find it so difficult to take Thee seriously. Some of us don't believe in Thee at all. Others of us say we do, but we live as though we don't. Some of us are too busy to give Thee much thought except when we get into trouble, then we use Thee as a fire escape or a life preserver and forget Thee as soon as we're safe. Some of us are secretly angry with Thee. Frankly, we feel we have been treated unjustly and we blame Thee. Some of us see so much tragedy, so much injustice, so much pain in the world, that we cannot understand how a God of love could allow it.

Despite the fact that the Bible is filled with assurance of Thy unconditional love, concern, and compassion, though Thou hast promised never to leave us or forsake us, we choose not to believe Thee. Forgive us, Lord, help us to understand, to trust, to love and adore Thee. In the name of Jesus, whose love for Thee and for us never fails. Amen.

## RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

## 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.

## ORDER OF PROCEDURE

Mr. BAKER. Mr. President, this morning after the two leaders are recognized under the standing order and after the execution of a special order in favor of the distinguished Senator from Florida (Mr. CHILES), who I observe is in the Chamber, there will be a brief period for the transaction of routine morning business as previously ordered, not to extend past the hour of 10 a.m., in which Senators may speak for not more than 2 minutes each.

At 10 a.m. the Senate will resume consideration of the House amendment to Senate Concurrent Resolution 92. There are 5 hours for debate allocated by unanimous consent from the conference report itself on this measure.

Mr. President, it is my hope that we can finish action on the amendment on the House amendment to Senate Concurrent Resolution 92 and obtain final disposition thereof during this day, I hope by the middle of the day.

Senators should be on notice that there is a possibility that we will be called upon to deal with a supplemental appropriations bill or action with respect thereto as it may reach us from the House of Representatives.

I do not anticipate at this time that the Senate will be asked to remain later than approximately the usual recess hour of 6 p.m. or 6:30 p.m.

If I see a different situation I will try to make an announcement on it as circumstances may warrant.

Senators are also reminded, however, that tomorrow is a late day, according to the regular schedule, and the one remaining item of business involved, the conference report and action in respect thereto, that must be dealt with as soon as possible is the extension of the debt limit. If we have a debt limit bill or bills and if it is possible to take that up, I anticipate that we will attempt to do so yet this week.

Mr. President, I have no requirement for the remainder of my time under the standing order. I am prepared to yield it to any Senator who wishes time, and I see none seeking such recognition.

I offer the remainder of my time to the minority leader.

## RECOGNITION OF THE MINORITY LEADER

The PRESIDENT pro tempore. The minority leader is recognized.

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

Mr. President, I yield 5 minutes of my time to Mr. PROXMIRE.

## HOW TO BREAK THE MOMENTUM OF THE NUCLEAR ARMS RACE

Mr. PROXMIRE. Mr. President, in early March 1982, the American Committee on East-West Accord invited Adm. Noel Gayler to develop a means to achieve deep cuts in nuclear weapons that would be both politically and technically feasible. Just who is Admiral Gayler? Does he have any significant military experience? Does he understand the nature of the Soviet threat? Does he have a realistic grasp of the military basis of the international rivalry between the United States and the Soviet Union?

Mr. President, the answer to all of these questions is a resounding "Yes." Admiral Gayler, U.S. Navy, retired, was commander in chief of all U.S. forces in the Pacific, 1972-76; former Director of the National Security Agency, 1969-72; and Deputy Director of the Joint Strategic Target Planning Staff of the Joint Chiefs of Staff, 1967-69. It would be hard to find anyone better qualified from a military point of view to speak out on this issue.

Mr. President, I wish to quote briefly from Admiral Gayler's statement and then have the entire statement printed in the RECORD. He writes:

> Everyone understands that nuclear weapons are the most deadly things ever invented by man. If they were ever to be used, the chances are overwhelming that they would be used in great numbers. And that would mean the slaughter of innocents in the hundreds of millions, the end of Western civilization, perhaps even the end of a livable world.
>
> What many Americans do not understand is that there is no sensible military use for any of the three categories of nuclear weapons—strategic (of intercontinental range), or theater (capable of reaching targets within one theater of military operations) or tactical (designed, like atomic cannon, for battle-field use). I say this as a military man, a former commander in chief of all United States forces in the Pacific, an aviator and mariner, soldier and intelligence officer of 46 years' experience.
>
> In the battles I saw and the military strategy I helped carry out, the means employed bore a reasonable relation to the ends in view. But now the nuclear forces of the United States and of the Soviet Union have become so large and so threatening that there is no conceivable military objective worth the risk of nuclear war.
>
> This truth offers us a way out. There are specific ways in which we and the Russians can reduce the now very real risk of nuclear conflict. We and they can renounce first use of nuclear weapons. We and they can redeploy tactical weapons beyond each other's range. Together, we can freeze nuclear-weapons activity just where it is, as a prelude to cutting back. Most especially, we and the Russians can agree on massive cuts in our nuclear arsenals.
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> There are fancy theories current about controlled nuclear exchanges, and bloodless, chesslike calculations between opponents in

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

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the middle of nuclear war. People who think like that do not understand nuclear weapons, and they do not understand war. Real war is not like these complicated tit-for-tat imaginings. There is little knowledge of what is going on, and less communication. There is blood and terror and agony. We cannot deal with war a thousand times more terrible than any we have ever seen in some bloodless, analytic fashion. To kiss off nuclear war in this abstract way makes it more likely, for we and the Russians may convince each other that we have aggressive plans that we do not in fact have.

Mr. President, this is an extraordinary wise and thoughtful statement, and I do commend it to the attention of my colleagues.

Mr. President, I ask unanimous consent to have printed in the RECORD the article by Admiral Gayler first published by the New York Times, April 25, 1982.

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

Everyone understands that nuclear weapons are the most deadly things ever invented by man. If they were ever to be used, the chances are overwhelming that they would be used in great numbers. And that would mean the slaughter of innocents in the hundreds of millions, the end of Western civilization, perhaps even the end of a livable world.

What many Americans do not understand is that there is no sensible military use for any of the three categories of nuclear weapons—strategic (of intercontinental range), or theater (capable of reaching targets within one theater of military operations) or tactical (designed, like atomic cannon, for battle-field use). I say this as a military man, a former commander in chief of all United States forces in the Pacific, an aviator and mariner, soldier and intelligence office of 46 years' experience.

In the battles I saw and the military strategy I helped carry out, the means employed bore a reasonable relation to the ends in view. But now the nuclear forces of the United States and of the Soviet Union have become so large and so threatening that there is no conceivable military objective worth the risk of nuclear war.

This truth offers us a way out. There are specific ways in which we and the Russians can reduce the now very real risk of nuclear conflict. We and they can renounce first use of nuclear weapons. We and they can redeploy tactical weapons beyond each other's range. Together, we can freeze nuclear-weapons activity just where it is, as a prelude to cutting back. Most especially, we and the Russians can agree on massive cuts in our nuclear arsenals.

There are fancy theories current about controlled nuclear exchanges, and bloodless, chesslike calculations between opponents in the middle of nuclear war. People who think like that do not understand nuclear weapons, and they do not understand war. Real war is not like these complicated tit-for-tat imaginings. There is little knowledge of what is going on, and less communication. There is blood and terror and agony. We cannot deal with war a thousand times more terrible than any we have ever seen in some bloodless, analytic fashion. To kiss off nuclear war in this abstract way makes it more likely, for we and the Russians may convince each other that we have agressive plans that we do not in fact have.

Both the Soviet and the American Governments have repeatedly expressed their wish to reach agreements reducing the risk of nuclear apocalypse. But President Reagan's campaign pledge to commence strategic arms limitations talks "immediately" upon taking office has not been honored. The pacific statements of the Soviet leader, Leonid I. Brezhnev, are compromised by the continuing buildup of Soviet nuclear arms and the not-so-veiled threats of Soviet counteraction if agreement is not reached. The only nuclear arms-control game in town now is the negotiation in Geneva on so-called medium-range weapons in the European theater. But the news from the negotiating table seems to rehearse the same tired old arguments that have gotten us nowhere in the past. What's the problem?

In all our negotiations, past and present, both we and the Russians have been hung up on the following three issues:

1. What is fair and equal? Neither side will stand still for unilateral disarmament, nor should it. But we Americans talk about equal effectiveness in terms of weapons systems, while the Russians talk about equal security, and the way they define their security needs is unacceptable to us.

2. What is verifiable? We are tremendously concerned about the potential for Russian cheating. They are equally concerned that our proposals for inspection inside the Soviet Union might be a cover for espionage.

3. How do you classify weapons, and what weapons do you count? For example, is the Russian Backfire bomber capable of intercontinental range, as our military contend, or is it a medium-range aircraft, as the Russians insist? Do you count as "strategic" those long-range weapons that cross oceans (our idea) or any weapons that can reach Soviet soil no matter where they start from (their idea)?

These built-in difficulties were the principal reasons the United States Senate refused to ratify the SALT II nuclear arms limitation treaty signed by President Carter and Mr. Brezhnev in Vienna in June 1979. And they are still bedeviling the current talks in Geneva. What can we do to get negotiations moving again?

When I joined the Army as a kid, the old sarge had a hell of a time getting us slewfoot recruits to march in some decent semblance of order. Once in a while, when things got out of hand, he would order: "Fall out and fall in again!" That's what we have to do with arms-control talks. Time is running out. We need a fresh approach.

On the occasion of receiving the Albert Einstein Peace Prize in Washington in May 1981, George F. Kennan, the distinguished Soviet-affairs scholar and former Ambassador to the Soviet Union, put forward a proposal that goes to the heart of the problem. Kennan proposed an immediate 50 percent across-the-board reduction in American and Soviet nuclear weapons, "without further wrangling among the experts." Eloquently, he spoke a simple and profound truth: "There is no issue at stake in our political relations with the Soviet Union, no hope, no fear, nothing to which we aspire, nothing we would like to avoid, which could conceivably be worth a nuclear war."

His suggestion has had a strong impact. A Gallup Poll last December showed three out of four Americans backing the idea. There is compelling evidence that public opinion in Western Europe and Japan is strongly in favor of such an approach, and the same appears to be true of public sentiment in the third world. Yet our policy makers in Washington do not seem to have grasped the proposal's extraordinary promise. They tend to dismiss the notion as simplistic, or impractical, or impossible to negotiate.

Yet all these concerns are misplaced. Deep cuts are practical. They can be negotiated, simply because they are in the best interests of both parties. They can be designed to have a stabilizing effect and reduce the risk of nuclear war. Solutions are available to all obstacles, real or imaginary.

Einstein once said that "everything should be made as simple as possible, but not simpler." Kennan's proposal is pretty close to that ideal; the trick now is how to go about it. Let us take a leaf from Grover Cleveland, who said: "The way to begin is to begin." The way to get rid of nuclear weapons is to get rid of nuclear weapons.

Here is the idea. We look for a solution that is fair, that we can verify and that does not get us into fruitless arguments about how different kinds of weapons should be classified. To do this, we have to look at security requirements, the politics of negotiations and the nature of nuclear weapons. Taking these factors into consideration, we find there is a way to bring about arms reduction that satisfies essential concerns on all three counts.

Let each side turn in an equal number of explosive nuclear devices. Let each side choose the weapons it wishes to turn in, whether missile warheads, bombs or artillery shells. Each weapon would count the same—as one device.

This proposal has some major advantages. A nuclear device is uniquely identifiable and can be counted without error when turned in; thus, there is full verification without intrusive inspection in either country. Since each side chooses the weapons it wishes to turn in, there can be no problem about what is fair. And since all explosive fission devices count equally, we have no arguments about how the weapons should be classified.

Self-interest will make each side turn in its more vulnerable weapons. This is good. As we now stand, both the United States and the Soviet Union have relatively vulnerable land-based strategic missiles, mounted in fixed silos. It would be logical for both sides to start giving up these weapons, while retaining their less vulnerable strategic bombers and virtually invulnerable nuclear-armed submarines. In this way, the temptation of either side to fire first in time of crisis, lest it lose its weapons to an enemy who attacks first, will be reduced. The "hair trigger" character of the nuclear forces, the most dangerous aspect of the present situation, will be eliminated.

Similarly, the missiles on each side that are the more threatening to the adversary's fixed silos—such as the highly accurate, high-yield, multiwarhead Soviet SS-18 and the equally formidable projected American MX—will tend to lose value. They will be deprived of their "counterforce" targets—the land-based strategic missile force of the other side, which they now threaten with destruction in a pre-emptive first strike. If deep enough cuts are made, the strategies of both sides are likely to revert to reliance on the relatively invulnerable components of their strategic forces. Crisis stability will be improved, and the chances of accidental or unauthorized firing will be greatly reduced.

To whom do we and the Russians hand over these weapons? Probably to a joint Soviet-American commission established for the purpose; perhaps a third party can be brought in as referee. What do you do with

the devices? Convert them, under safeguard, to nuclear power for civilian purposes. Uranium 235, one of the elements of nuclear weaponry, can be diluted with the plentiful isotope uranium 238 to a level of concentration suitable for nuclear energy but not for bombs. Plutonium, another such element, can be burned directly in a nuclear power reactor.

We can start by each turning in a relatively small number of weapons—say 50—to test the system and establish confidence. From there, we should proceed on an agreed schedule to a very large reduction—say 10,000 devices each. Again, the idea is to compel each side to choose to retain only a small number of weapons in a strategic reserve.

How will this or some similar proposal satisfy the basic concerns enumerated above?

Let us look first at security. America's primary security need is that the United States, its allies and the free world not be conquered, coerced or threatened by the military forces of the Soviet Union and its proxies. Historically, we have relied partly on the deterrent role of nuclear weapons to contain aggression employing conventional arms. The military doctrines of the United States and the North Atlantic Treaty Organization still plug the usefulness of nuclear force against a conventional Soviet attack. But now, with the Soviet Union's stategic forces roughly equal to ours, these doctrines are obsolete. Kennan and three other former senior American officials—Robert S. NcNamara, McGeorge Bundy and Gerard C. Smith—hit the nail on the head in their recent article in Foreign Affairs urging retreat from our strategy of defending Europe by first use of nuclear weapons: "deterrence cannot be safely based forever on a doctrine which more and more looks to the people of the alliance like either a bluff or a suicide pact." There is growing recognition that the game is not worth the candle. The security of the United States and its allies must be protected in ways other than with nuclear weapons.

Yet our European allies are torn by conflicting impulses. Their governments, as well as important segments of the political opposition and of public opinion, want the United States to be married to the defense of Europe not only by conventional force but by the threat of nuclear retaliation. Hence, the original demand by European leaders for the deployment of American medium-range weapons in Western Europe. At the same time, Europeans entertain the entirely reasonable wish not to be the nuclear battlefield of the giant powers. This wish finds expression in popular demonstrations against deployment of the new American missiles.

Current United States policy also has violently conflicting elements. On the one hand, Presidential Directive 59, issued by Jimmy Carter in 1980, still implies readiness to fight and win a limited nuclear war—as do many previous and subsequent official statements. There is still a green light—and an enormous appropriation—for development of the MX missile, even though the best brains in the country cannot figure out a sensible way to provide it with an invulnerable base. The B-1 bomber program bids fair to waste as much money on an obsolete means of weapons delivery as would be required to modernize, in many respects, the entire United States Army. And the so-called neutron weapon is still in the works, even though it is a battlefield weapon not so different from other nuclear weapons and is clearly regarded by the Russians as offensive and not defensive in nature.

On the other hand, President Reagan himself has expressed a desire for deep cuts. He has also proposed a "zero option" for Europe—no American medium-range weapons in Europe capable of reaching Soviet territory and no Soviet weapons aimed specifically at Western Europe. He has spoken of the overriding need for strategic nuclear talks, though at other times he and his aides have conditioned negotiations on better Soviet behavior.

In any event, the overwhelming logic of the situation, the political imperative being created by the growing revulsion against nuclear arms, dictates movement toward real and deep reductions. There are two major political problems yet to be overcome.

First, the primitives in American politics will not be satisfied with anything less than the unattainable—American nuclear "superiority." Why is this unattainable? In the real world, "superiority" has no meaning. We and Russia are like two riverboat gamblers sitting across a green table, each with a gun pointed at the other's belly and each gun on hair trigger. The size of the guns doesn't make much difference; if either weapon is used, both gamblers are dead. In the same way, the size of the nuclear forces makes little difference. States of readiness, targeting decisions, even which way the wind is blowing (carrying nuclear fallout), make a greater difference than a thousand extra missiles on either side.

Moreover, even if having more missiles than Moscow did give us "superiority," the Russians would not stand still for it. They have said they won't, and we had better believe them, for in their controlled society they can put into weapons whatever resources they choose. So the argument that we have to attain "superiority" before we can negotiate—an argument still being made in some Administration circles—just won't wash. We are not "inferior" in any meaningful sense, and we are not going to become "superior," no matter how much we ratchet up the nuclear arms race.

The second major political problem in the United States is the notion that we can punish the Soviet Union for its misdeeds—many of them very real—by withholding nuclear arms talks. We cannot use nuclear arms talks as a stick or carrot to make Moscow behave. And if we wait for the Soviet regime to shape up, by our standards, before we engage in nuclear arms reductions, we will wait a long time indeed. The reverse is true: The more our relations turn sour, the more imperative it is to drive down the risk of nuclear war.

What about the Russians? They, too, understand the terrible dangers of nuclear war. Many an official pronouncement and many an unofficial approach testifies to their willingness, even eagerness, to entertain the idea of deep cuts in nuclear weapons.

Soviet spokesmen contend that Soviet doctrine on nuclear war has changed in the past five years, and radically so in the last two. This is what they are saying:

"To try and outstrip each other in the arms race, or to expect to win a nuclear war is dangerous madness,"—Leonid Brezhnev, in a speech before the 26th Congress of the Soviet Communist Party, Feb. 23, 1981.

"Western politicians and strategists stubbornly push the thesis that Soviet military doctrine allegedly assumes the possibility of an 'initial disarming strike,' of survival, and even of victory, in a nuclear war. All this is a deliberate lie."—Marshal Dmitri F. Ustinov, Minister of Defense, in a speech at a Kremlin rally, Nov. 6, 1981.

"Political and military doctrines have been changed. This has been reflected in our internal life. There is new determination to seek sharp reductions."—Nikolai N. Inozemtsev, director of the Soviet Institute of World Economy and International Relations, at a Soviet-American seminar in Washington, Jan. 12-14, 1982.

These and other similar statements are accompanied by the interesting assertion that the change of doctrine is recent, that it involved internal political struggle, and that it was resolved by Brezhnev himself. We in the West are invited to note that this change will find expression in Soviet military schools, in military training manuals and elsewhere.

How much can we trust these declarations? Are they not just propaganda, intended to put us to sleep? If I were planning a military campaign, or even betting on the stock market, I would evaluate the downside risk of any given course of action. If we treat these statements as sincere and the Russians are deceiving us, the worst that can happen is that we lose some propaganda points or get otherwise snookered in some inconsequential way during arms negotiations. For no matter what the Russians say, we would never accept an unequal treaty. But if we fail to take these statements seriously—and hence fail to negotiate on arms reductions—we risk getting our heads blown off. It will be little consolation that the Russians will lose theirs also.

But the most compelling reason to take the Soviet authorities seriously on this score has been given by W. Averell Harriman, President Roosevelt's Ambassador to Moscow and, like Kennan, a profound scholar of Soviet affairs: "You can trust the Russians—to act in the Russian interest." Our own best minds have come to the conclusion that nuclear war is unwinnable. It would be folly to assume that the Russians are too dumb to have reached the same judgment.

Thus, in measuring the deep-cuts proposal against the security interests of the United States, the West and the Soviet Union, we find no major obstacles in the way.

Let us look next at whether deep cuts are negotiable—in other words, whether such reductions can be embodied in a treaty that (1) takes account of practical realities, and (2) can be sold to those elements within the American and Soviet societies that dominate the two countries' domestic politics. These are tough criteria, and they can be met only by a treaty that conforms to a strict set of principles.

An acceptable treaty must not only reduce the risk of nuclear war or nuclear blackmail but must be readily seen as achieving those ends. It must not only improve the security of both sides but must do so in ways that each side recognizes as valid for its own concerns. It must be equitable in mutually acceptable ways. The planned reductions must be such as to improve stability in a crisis by cutting down the advantage to be gained by striking first. Most especially, the negotiating parties must not be duplicitous, or strike phony poses, or arouse false hopes or unreasonable expectations.

Fortunately, these principles can be solidly based on the common interest. Neither superpower wishes to be destroyed. Neither wishes nuclear weapons to be in the hands of a variety of small powers or terrorist groups. If these overriding concerns can be kept separate from all other issues between

Washington and Moscow, fruitful negotiations are almost certain. It is essential, however, that each government give a clear political directive to its negotiators: "Find solutions that remove our joint peril and enhance the security of both."

The third factor—the physical technicalities of deep cuts—presents lesser difficulties. The essence of a nuclear weapon is its fissionable material. All else is mere supporting hardware—missile or cannon or airplane, guidance system re-entry shield or arming and fusing. Moreover, all nuclear weapons have roughly the same amount of fissionable material. In a "small" weapon, the fission element accounts for the weapon's entire explosive yield; in a megaton-range weapon, which depends on fusion, a similar quantity of fissionable material acts only as the spark for the enormously greater succeeding explosion.

Hence, in counting the weapons to be eliminated from the nuclear arsenals of both sides, all weapons can be treated alike. That provides a realistic basis for counting every weapon, no matter what its size, as one nuclear device, and for implementing the cuts by converting the fissionable material to nuclear energy. A desirable, though not essential, corollary to enhancing the effectiveness of weapons disposal would be an agreement to stop manufacturing weapons-grade fission material—both from reactors designed for that purpose and from the spent products of civilian power plants. A stop to production from weapons reactors can be verified by each side with current intelligence techniques. Diversion from nuclear-power reactors is more difficult to monitor, but not impossible.

The effect of deep cuts would be extraordinary. Reductions in the nuclear weaponry of the United States and the Soviet Union would prove the superpowers' willingness to bring the nuclear arms race to a halt. That would produce a much better climate for efforts to limit proliferation of nuclear weapons around the world. Major reductions in the more threatening or more vulnerable systems would enhance stability, thus reducing the probability of nuclear war. Weapons would no longer be available for "warfighting" strategies, and greater validity would be given to the assurances of national leaders on both sides that their nuclear forces had no objective beyond deterrence. The chances of accidental or unauthorized firings would be greatly diminished.

In all of the above, several things stand clear. Deep cuts are practical. They will enhance the security of the United States, of NATO, of the Soviet Union, of the world. They can be equitable and verifiable. They can be negotiated by the great powers and sold domestically. And there is a straightforward way to begin.

No one can doubt the extreme peril that nuclear weapons pose to civilization on earth. Getting rid of a lot of weapons on both sides will reduce the peril immeasurably. In Leonid Brezhnev's astonishing phrase, "God will not forgive us" if we do not act.

## GENOCIDE: A PROBLEM THAT WILL NOT GO AWAY

Mr. PROXMIRE. Mr. President, last Sunday, at the International Conference on the Holocaust and Genocide in Tel Aviv, five scholars presented papers documenting the genocidal acts committed against Armenians during World War I. Plans for these presentations reportedly occasioned threats of reprisals against Turkish Jews.

While it is not clear whether threats were in fact made, the very possibility of such threats obliged the organizers of the conference to consider its cancellation. We can be thankful that the rumors appeared sufficiently ill-founded, and the likelihood of danger sufficiently slim, to allow this scholarly gathering to proceed as planned.

Mr. President, surely these events are evidence of continuing tensions over the issue of genocide. Surely it is clear that these tensions could, under unusually stressful circumstances, erupt in violent and harmful acts. And surely we in the United States would want to do all in our power to prevent such a result. Why then do we tie our own hands by refusing to address the problem of genocide?

It would be pleasant to believe that genocide is a dead issue. It would be pleasant to think that humanity has so well learned the tragic lessons of the past that genocide could never again occur. Sadly, this is not the case, and those who believe that the world is now free from the threat of genocide are indulging in wishful thinking.

We have allowed ourselves to be lulled into this pleasant fantasy. We are guilty of wishful thinking. We have tried to pretend that we live in a safe and civilized world in which international sanctions against genocide are unnecessary. The events surrounding the conference in Tel Aviv should remind us that the problem of genocide has not gone away.

We must stop pretending. We must act. And we can do both at once. We can recognize the continuing problem of genocide while we take the first step toward its elimination—by ratifying the Genocide Convention.

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

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

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

The Assistant Secretary 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.

Mr. BAKER. Mr. President, if I may reclaim 1 minute of my time under the standing order, I understand this request which I will now state for the consideration of the minority leader and all Senators has been cleared.

## REMOVAL OF INJUNCTION OF SECRECY—CONVENTION FOR THE CONSERVATION OF SALMON IN THE NORTH ATLANTIC OCEAN

Mr. BAKER. As in executive session, I ask unanimous consent that the injunction of secrecy be removed from the Convention for the Conservation of Salmon in the North Atlantic Ocean (Treaty Document No. 97-25), transmitted to the Senate yesterday by the President of the United States; and ask that the treaty be considered as having been read the first time; that it be referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed; and that the President's message be printed in the RECORD.

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

The message of the President is as follows:

*To the Senate of the United States:*

I transmit herewith, for the advice and consent of the Senate to ratification, the Convention for the Convervation of Salmon in the North Atlantic Ocean which has been signed by the United States, European Community, Iceland, Norway and Canada. It will enter into force following ratification by not less than four Contracting Parties of which one must be the United States. Also transmitted for the information of the Senate is the report of the Department of State with respect to the Treaty.

Work on this Convention was initiated in 1978 by the United States to develop a new organization to address Atlantic salmon conservation, restoration and management issues through international cooperation. The Convention will provide an effective forum for salmon producing states and salmon harvesting states to work together cooperatively in solving critical salmon conservation and management problems in the Atlantic region. It will focus attention on worldwide Atlantic salmon conservation and management programs and augment current domestic and international efforts to restore these valuable resources.

I recommend that the Senate give early consideration to the Treaty and give its advice and consent to ratification.

RONALD REAGAN.

THE WHITE HOUSE, *June 22, 1982.*

Mr. BAKER. Mr. President, I thank the Senator from Florida for yielding, and I yield the floor.

## RECOGNITION OF SENATOR CHILES

The PRESIDING OFFICER. Under the previous order, the Senator from Florida (Mr. CHILES) is recognized for not to exceed 15 minutes.

CRIME CONTROL ACT OF 1982

Mr. CHILES. Mr. President, every day now for the last few weeks, Senator NUNN and I have spoken on the Senate floor about crime, and about the need for the Senate to pass anticrime legislation. There are two good bills on the Senate Calendar right now. Either one can be called up for consideration at any time.

On May 19, Senator NUNN and I introduced S. 2543, a package of crime-fighting proposals. S. 2543 is an updated version of legislation we introduced last year. So far, 17 other Senators have joined us as cosponsors. A week after introducing this bill, I joined Senator THURMOND and Senator BIDEN, the chairman and ranking Democrat on the Judiciary Committee, in sponsoring the other major anticrime package, S. 2572. We have picked up 50 cosponsors since then.

We need to act quickly on this legislation. The crimewave goes on, and time is running out on this session of Congress. We have as few as 47 legislative days left. I am encouraged by the number of cosponsors on the crime control bill, and by the fact that they come from both parties. Now we need to bring these bills up on the floor, pass them, and give the House an opportunity to consider our proposals.

There are plenty of good reasons to move on this legislation. Over the last couple of weeks, I have given examples of the outrageous crimes that are being committed, of the crime-drug connection, of the plight of victims, and of the effect of crime on our society.

Today, I would like to talk about another side of the crime problem—the effect of all this violence on our law enforcement officers. It has gotten to the point where the people who have dedicated their careers to law enforcement run a very real risk of being killed or assaulted by a member of the society they have sworn to protect. This is tragic, and it cannot help but have an effect on morale and on the functioning of law enforcement operations.

Over the past 15 years, we have lost 70 good people in Florida alone. State, county, and municipal officers in my home State were assaulted more than 5,400 times last year. Over 1,300 of them were injured. And six were killed in the line of duty.

The crime situation is at its worst in south Florida. But the murder of law enforcement people is not confined to my home State or any part of it. Nor is it limited to urban areas, or to a particular kind of police force. Nobody is safe—one of the men killed last year was a Miami policeman, but another was in the small town of Frostproof. One was a Florida highway patrolman. And yet another was a sheriff's deputy in Polk County. I grew up in Polk County, and I can tell you that this kind of thing just did not happen there in those days.

The deputy, Theron Burnham, was killed in January 1981 by a man with a history of prior arrests—for auto theft, petty larceny, possession of firearms, and escape from State prison. He was following up on an abduction call, and was shot as he approached a suspect's car.

Henry McCall, the policeman in Frostproof, was also killed with a handgun. He was confronting two suspects during the armed robbery of a savings and loan association.

In April 1981, Florida highway patrolman Robert McDermon found a prison escapee in the town of Baldwin, outside Jacksonville. As he arrived at the trailer where the convict was hiding, he was killed with a 12-gage pump shotgun and a 30-06 rifle.

On May 23, Thomas Szafranski, a deputy with the Duval County Sheriff's Office, was on routine patrol in his squad car. While he was stopped at an intersection, a sniper shot him with a high-powered rifle from 80 feet away. The murderer said he wanted to "kill a cop." His record included prior arrests for drugs, firearms, and resisting arrest.

Drugs were also involved in the shooting death of Gerald Rauft, a Tampa Police Department vice detective, who was killed with a .38 caliber revolver as he tried to make a narcotics arrest. Another detective was wounded in the shooting.

The Miami police officer, Nathaniel Broom, was shot as he was chasing a fleeing felon into an alley in September 1981.

There is no question that we can prevent some of these deaths. We can pass legislation requiring mandatory penalties for anyone who uses a gun, or any other dangerous weapon, to commit a crime. We can reform our sentencing system to make sure that those who are convicted of a crime do not get off with little more than a slap on the wrist. We can help cut drug trafficking and the violence it creates, by closing the revolving door bail bond system, which puts people arrested on drug trafficking charges back on the streets before the ink on their arrest records is dry. And we can provide protection to law enforcement officials by broadening the scope of the law which makes it a crime to assault these officials. All of these reforms are contained in S. 2543, for Federal laws. By passing these reforms on the Federal level, we can create some momentum to pass tougher laws on the State and local levels. And by putting these tougher reforms in place, we will send a message to our law enforcement officials that we stand with them in the fight against crime.

Mr. President, these six men gave their lives to the fight against crime. Not one of them was over 40 years old. They left families, loved ones, and the chance for a full life, behind them. People—not just statistics, but real people—are dying out there, innocent victims and law enforcement officers both. We can do our part to help the people who are on the front line in the fight against crime by passing this package of bills. We can do that, Mr. President, but only if we act now.

● Mr. NUNN. Mr. President, it has now been 1 month since Senator CHILES and I introduced S. 2543, the Crime Control Act of 1982. To date that bill, as well as the crime package introduced by Senator THURMOND, S. 2572, remain untouched on the Senate calendar. While those bills await our action, violent crime continues to terrorize the American public on a daily basis.

While the Senate persists in placing its legislative priorities elsewhere, our criminals become more daring and more confident in their deeds. Our failure to reform and strengthen our criminal justice system only reinforces the criminal's belief that he is beyond the reach of the law. So secure is the criminal underworld that open and violent assaults on the integrity of our system are now commonplace.

In 1981 Dean Kachulis and John Arends were facing Federal narcotics charges in the district of Connecticut. The Government alleged that they had conspired to distribute some 25 pounds of cocaine. Kachulis was obviously not intimidated by the gravity of the Federal indictment. He devised yet another criminal scheme by which to defeat the initial charges. He persuaded five other individuals to assist him in a plan which would include kidnaping, murder, and the bribery and intimidation of the jury. The targeted individuals were by no means minor players in the Kachulis case: They included the principal Government witness, the judge, and the prosecuting attorney. Fortunately, the plan was never successfully carried out as to those three individuals. Two other men, however, were not so lucky. They were actually shot, bound and dumped into the East River. Only one of the two survived. One victim was, surprisingly, a defense witness whom Kachulis feared would incriminate him at trial. The second was neither a Government nor defense witness, but a coconspirator whom Kachulis suspected would eventually cooperate against him.

When the kidnaping and murder plot came to light, both Arends and Kachulis pled guilty to the cocaine charges. They were sentenced to 6 and 7 years, respectively.

Federal authorities subsequently charged Kachulis and five coconspirators with conspiracy to kidnap, kidnaping, and obstruction of justice. All six were found guilty. Kachulis

was sentenced to life, with the coconspirators receiving terms ranging from 30 years to life.

Such brazen attempts to thwart justice via intimidation and violence have become everyday occupational hazards to those whose duty it is to enforce our criminal laws. S. 2543 will better equip our law enforcement community to brave those hazards. The bill makes "murder-for-hire" a Federal offense. It extends full statutory protection against threats and violence to all persons charged with the enforcement and prosecution of Federal law, the families of those persons, actual as well as potential witnesses, and Government informants. Lastly, the bill provides for increased criminal penalties for offenses involving actual or threatened violence.

American law enforcement daily risks violence and physical harm in an effort to maintain respect and integrity for the law. For its part, the law must be clearly committed to protect and sustain those enforcement efforts. We in the Senate should act without any further delay to adopt S. 2543 as a clear and determined statement of that commitment.●

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant secretary proceeded to call the roll.

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

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

## ROUTINE MORNING BUSINESS

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant secretary proceeded to call the roll.

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

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

Mr. HATFIELD. Mr. President, I ask unanimous consent that I may proceed as if in morning business without the time being charged against the budget resolution.

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

## THE WAR IN LEBANON

Mr. HATFIELD. Mr. President, the people of Lebanon are dying today. They have been dying now for almost 3 weeks, and no end to their suffering is in sight. Their bodies lie unburied, and, in many families, there is no one left to mourn. They are a people caught in the hatreds of age-old differences. For them, the destruction of the Palestine Liberation Organization, the securing of Israel's northern border, and the triumph of U.S. weaponry over Soviet weaponry offers no solace.

They have been a resilient people—these Lebanese—perhaps too resilient. Time and again, they have taken up their lives in the aftermath of bombing, automatic weapons fire, or artillery rounds. In their acceptance of violence, perhaps they have invited violence. But this time, the destruction may be too great, the trauma too deep. Lebanon and its people may be lost, to become ghosts in some buffer zone where only soldiers feel at ease.

This is no longer the defensive operation of a friend and ally. This is no great opportunity for the United States in the Middle East. This is no solution for the troubles of Lebanon. There is no victory here for anyone. We deceive ourselves if we think otherwise.

Israeli forces invaded Lebanon on June 4 with the announced aim of pushing PLO forces out of artillery range of Israeli settlements—a distance of some 25 miles. But even as Israeli spokesmen made those first announcements, Israeli forces already had penetrated beyond that stated goal. And with each new fait accompli—with each new village and town occupied—that goal shifted. It shifted eastward to the Bekaa Valley and the Syrian missiles there. It shifted again yesterday with the bombing of west Beirut, and it threatens to shift to the gates of Damascus and beyond. And as Israeli leaders shift their goals to suit military exigencies, relief supplies are turned back from Lebanon's borders by Israeli military authorities or by fighting and the threat of disease mounts.

What is Israel's goal now—today? Must Lebanon and its people be destroyed utterly in the name of defense? Can Israeli children live in peace only if Lebanese children die in war? I will not countenance that bargain, and I do not believe this Nation can afford to be a silent partner to it.

Israel can stop the fighting now, if its leaders so choose. The dead can be buried, the wounded treated, and negotiations begun to restore Lebanon and its people to a free, sovereign way of life. It is time—but the Israeli Government must seize this moment.

I ask President Reagan to call one last time for an immediate cessation of hostilities. If Israel's leaders choose again to ignore the wisdom of that advice, I strongly urge the President, through the United Nations, to call for the imposition of international sanctions against Israel, to freeze all military aid now in the pipeline for Israel, and to call for a reassessment of his fiscal year 1983 recommendations for military assistance to Israel. We can make no bargain with armed aggressors—friend or foe.

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. CHILES. 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. Morning business is closed.

## FIRST CONCURRENT RESOLUTION ON THE BUDGET—CONFERENCE REPORT

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

The PRESIDING OFFICER. The clerk will report the House amendment.

The assistant legislative clerk read as follows:

The House recedes from its amendment to Senate Concurrent Resolution 92 and agrees to the concurrent resolution with an amendment.

(The text of the House amendment is printed in the House proceedings of the RECORD of June 22, 1982, at page H3723.)

Mr. CHILES. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. CHILES. Mr. President, is it in order now to move the adoption of the amendment, move that we concur in the adoption of the amendment, with an amendment?

The PRESIDING OFFICER. It is in order.

UP AMENDMENT NO. 1039

(Purpose: To provide an increase of $100 million over current policy for Federal Law Enforcement Agencies (FBI, Drug Enforcement Agency;) Immigration and Naturalization Service) (F. 750))

Mr. CHILES. Mr. President, I move that we concur in the House amendment with an amendment which I send to the desk. I ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Florida (Mr. CHILES), for himself, Mr. JOHNSTON, Mr. NUNN, Mr. DOMENICI, and Mr. HOLLINGS, proposes an unprinted amendment numbered 1039.

Mr. CHILES. Mr. President, I ask unanimous consent that further read-

ing of the amendment be dispensed with.

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

The amendment is as follows:

Amendment to the House amendment to S. Con. Res. 92:

(a) In section (b)(14) setting forth the appropriate levels of budget authority and budget outlays, for the fiscal years 1982 through 1985, strike out all after "(14) Administration of Justice (750):", and insert the following:

"Fiscal Year 1982:

"(A) New budget authority, $4,500,000,000.

"(B) Outlays, $4,600,000,000.

"(C) New direct loan obligations, $0.

"(D) New primary loan guarantee commitments, $0.

"(E) New secondary loan guarantee commitments, $0.

"Fiscal Year 1983:

"(A) New budget authority, $4,800,000,000.

"(B) Outlays, $4,800,000,000.

"(C) New direct loan obligations, $0.

"(D) New primary loan guarantee commitments, $0.

"(E) New secondary loan guarantee commitments, $0.

"Fiscal Year 1984:

"(A) New budget authority, $4,900,000,000.

"(B) Outlays, $4,900,000,000.

"Fiscal Year 1985:

"(A) New budget authority, $5,000,000,000.

"(B) Outlays, $5,000,000,000."

(b) In section (a)(1) through (a)(3), setting forth the recommended levels of Federal revenues, budget authority and budget outlays for the fiscal years 1982 through 1985, strike out all after "(1) the recommended levels of Federal revenues are as follows:", and insert the following:

"Fiscal Year 1982: $628,400,000,000.

"Fiscal Year 1983: $666,050,000,000.

"Fiscal Year 1984: $738,400,000,000.

"Fiscal Year 1985: $821,900,000,000.

"and the amounts by which aggregate levels of Federal revenues should be changed are as follows:

"Fiscal Year 1982: −$200,000,000.

"Fiscal Year 1983: +$20,900,000,000.

"Fiscal Year 1984: +$36,000,000,000.

"Fiscal Year 1985: +$41,400,000,000.

"(2) The appropriate levels of total new budget authority are as follows:

"Fiscal Year 1982: $777,672,000,000.

"Fiscal Year 1983: $822,650,000,000.

"Fiscal Year 1984: $878,873,000,000.

"Fiscal Year 1985: $961,111,000,000.

"(3) The appropriate levels of total budget outlays are as follows:

"Fiscal Year 1982: $734,100,000,000.

"Fiscal Year 1983: $769,968,000,000.

"Fiscal Year 1984: $822,328,000,000.

"Fiscal Year 1985: $881,856,000,000."

The PRESIDING OFFICER. There are 30 minutes equally divided.

Mr. DOMENICI. That was going to be my question, Mr. President, whether this is an amendment that will come within the 30-minute rule in the Budget Act.

The PRESIDING OFFICER. The Senator is correct.

Mr. DOMENICI. I wonder if my good friend (Mr. CHILES) will agree that we can vote on this amendment at 10:30? If he wants to use 15 minutes, I shall not use anything other than what remains.

Mr. CHILES. That will be fine with me, Mr. President. Then we shall have an up-or-down vote on the amendment at 10:30?

Mr. DOMENICI. We shall not ask unanimous consent. That is what we are shooting for. I shall not use a lot of time and it will probably work out better that way.

It is the intention of the leader that we not vote up or down but that there be a tabling motion first on the amendment. I want to send notice of that.

Mr. CHILES. Mr. President, I hope the Senator is talking about our reducing our time a little bit, which I am perfectly willing to do, but that we may have an up-or-down vote on the amendment.

Mr. DOMENICI. We do not have to reduce the time. I am sorry, the Senator may go ahead.

BUDGET FOR FEDERAL LAW ENFORCEMENT

Mr. CHILES. Mr. President, we are taking the unusual step of seeking to amend the conference agreement on the budget resolution to provide adequate funding for Federal law enforcement activities. We face a continuing crisis of increased activities by organized crime, by drug smugglers and drug dealers. Yet our Federal law enforcement agencies are not being provided the resources they need to keep up with crime, far less to gain on it.

When the Senate first considered the budget resolution as reported by the Budget Committee, the law enforcement agencies were held to a 3-year "freeze." The Senate accepted my argument that organized crime was not going to freeze its activities for 3 years, so we could not afford to freeze enforcement.

Unfortunately, the conference agreement came back below the $4.6 billion freeze level reported by the Senate Budget Committee. I objected to that agreement in conference, and I object today.

Mr. President, I remind my colleagues that we are not dealing here with grant programs that can be picked up by State or local governments. We are dealing with agencies whose budgets are mostly salaries. If we freeze them for 3 years, they will have to cut back on staff. That means fewer drug agents, fewer FBI agents, fewer customs agents monitoring our ports of entry.

The Budget Committee projects inflation of almost 20 percent over the 3 years, 1982 through 1985. A three-year freeze, therefore, would cost the law enforcement agencies 20 percent of their real funding level. For the FBI, that would mean a loss of 550 special agents, or the closing of entire FBI offices.

For the Drug Enforcement Agency, the freeze would mean a layoff of 195 agents, one-tenth of the DEA's authorized strength. I do not know of anyone who thinks we are so far ahead in the war on drugs that we can cut back one-tenth of our agents.

For the Immigration and Naturalization Service, whose burdens of border patrol and processing are increasing every day, a freeze would mean cutting 1,511 people in 1983; cutting another 707 people in 1984; then still another 707 people in 1985. The total loss would be 2,925 staff.

Mr. President, we are getting ready to take up an immigration bill on the floor. The committees have been working long and hard on that. Part of that bill is going to call for further additional enforcement agents for immigration—more border patrol, more agents. Here, we are talking in this resolution about cutting 2,925 staff men of IRS. I do not know how the rest of the States are situated in regard to immigration. I thought we had a national problem, a hemorrhage of aliens coming into this country. I can tell you we have a hemorrhage in my State, and I can tell you that there are nowhere near the number of Immigration and Naturalization Service agents right now to deal with that problem, to even begin to deal with that problem

And what about the Mexican border with Texas and the States that border on the Rio Grande? Do we seriously think that there are sufficient Immigration and Naturalization Service agents today that we can cut approximately 3,000 agents in the next 3 years? My goodness.

I just cannot believe that we are taking actions like that to freeze these particular agencies. What kind of signal do we send to our law enforcement people, do we send to FBI agents, do we sent to customs agents, do we send to DEA agents, to Immigration and Naturalization agents, when we say, "We are cutting back on Government, boys, so we are going to have a little freeze"?

As we know, last year, we actually had DEA agents who had to put their cars on the blocks toward the end of the year because they did not have gasoline to go out and patrol. Their wives tried to have a cake sale in one particular area to try to raise gasoline money. The Justice Department told them that would be illegal, that they could not use those funds. Yet in the face of that and the cutbacks we are already facing, now we are talking about a freeze.

Mr. President, the United States does not have control over our borders today. We cannot control the flow of refugees, or illegal immigrants or anyone who chooses to come in for any purpose. How, then, can we afford to cut back INS staff?

My good friend, the distinguished chairman of the Budget Committee, Mr. DOMENICI, has argued that if we want to provide adequate funds for law enforcement, the Appropriations Committee can take the $260 million

out of other programs. But the budgets for everyone are extremely tight this year. We watch the budget conference add back all kinds of money in key areas, because that is what the House leadership said they needed to get enough votes for passage of the resolution. Well, if those areas are critical, as I believe they are, then how are we going to cut them to pay for law enforcement activities?

I really would like to be shown where we can cut $260 million in discretionary appropriations to pay for law enforcement? I do not know whether we are going to cut education of the handicapped, cut the space program, cut veterans medical facilities or cut somewhere else. The Budget Act requires us to set spending levels by function, and we have done that. Each function has been cut to the lowest tolerable level; some to intolerable levels. So, I just do not see how we can cut something else to pay for law enforcement.

Mr. President, I hope the Senate will recognize the critical need for Federal law enforcement and adopt this amendment.

Mr. HOLLINGS. Mr. President, the distinguished Senator from Florida is right on target. Last year, our President went to New Orleans. He talked to the law enforcement bodies. He described law enforcement as that thin blue line separating civilization from the jungle of violence and crime and then came back. I served as chairman and now as ranking member of the State-Justice-Commerce Subcommittee on Appropriations, so we have the FBI, the Immigration, the DEA budgets on the Appropriations Subcommittee there. When President Reagan came back from New Orleans, to our dismay, he proposed cuts in the law enforcement agencies, and we lost many agents. I know as of last year, we had 1,000 fewer FBI agents at the end of 1981 than we had at the end of 1971—with an increased population, and increased incidence of crime, with a greater job to do.

Let us talk about the DEA. Of course, the United States, with its jurisdictional size increased, with the Coastal Zone Management Act and the extension of the jurisdictional lines out to the 200-mile limit of the economic zone—that increased our jurisdictional size by one-third for the DEA, the Coast Guard, and other law enforcement agencies.

So we have a bigger job to do, with some 1,000 agents less. As the Senator from Florida points out, this resolution will cost us another 550 Federal Bureau of Investigation agents, another 200 in DEA. Agents down in Fort Lauderdale had gotten together with cake bakes to get for their cars gas funds that had been eliminated through budget cutbacks. They had been deadlined in my own State's backyard. So this is a real problem.

The funding reductions adopted last year severely impacted the ability of Federal law enforcement agencies to do their job. The following table shows the dollar amount as well as the number of agents reduced in each bureau.

[Dollars in thousands]

| | | Agents |
|---|---|---|
| Federal Bureau of Investigation | $60,722 | 354 |
| Immigration and Naturalization | 37,307 | 248 |
| Drug Enforcement Administration | 8,596 | 555 |
| Total | 106,625 | 1,157 |

This is where we get down to where we can talk polemically of spend and spend and tax and tax. Let us not talk at the Federal level about law enforcement because the Congress does nothing to assist that effort. On the contrary, we are cutting funds for law enforcement. I support this amendment against those cuts.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I yield myself 2 minutes.

Let me say to the Senate that from the standpoint of the procedure, we do not normally have the opportunity for floor amendments when we consider a budget conference report, so for those who would think that the assumptions in a conference report for discretionary appropriated accounts are too low, the normal remedy would be to vote against a budget resolution. It so happens that in this instance the product of the conference is outside scope in a couple of areas, principally in the area of medicare and medicaid, because it was the desire of the conference to come in lower—with less cuts—than either resolution. As a result, Senator CHILES has another opportunity to attempt to amend the resolution.

Now, I am not being critical of him. I am merely explaining that normally you would not be able to do what he is doing. You would just say I do not like the resolution because it does not have enough discretionary appropriations, and one of those things that I do not like is this function.

But today, if we vote this amendment in, we will have no budget resolution. After months and months of work we are being asked basically to turn this whole thing down because we want to add $150 million in outlay estimates for function 750, and we want to add $260 million in budget authority for that function.

The numbers we compromised on in conference with the House are very close to what the administration requested for this function. If this committee had gone through each function item by item we would have found about $200 million in function 450 for EDA that goes to the Commerce, State, Justice Subcommittee on Appropriations that also has jurisdiction over Federal law enforcement activities. The authorizing committee that oversees EDA has already indicated it will probably not reauthorize the EDA program.

The reason I make the point is that we cannot be sure what the Appropriations Committee will do. But if we want to assume that it uses for law enforcement only the exact amounts assumed in this resolution, that would be about $50 million short of the administration's request. On the other hand, if we assume that the other appropriators are as concerned as the Senator from Florida, then it seems to me that they can put less somewhere else and find enough to make do this year.

I just want to make the point to the Senate that we really should not turn down a budget resolution coming back from conference through adoption of an amendment at this point in time. Only because of a procedural accident is there an opportunity to amend the conference agreement today. I say to those who really think that issue is not with the appropriators, but with the Budget Committee, you can go ahead and vote with the distinguished Senator from Florida and then we will have no budget. I think the better course is to get on with the last 2½ months of work. Let us get a budget. Let us see whether Congress wants to implement it and enforce it. Let us assume that our appropriators will put law enforcement activities very high on their priority list and we will not suffer the conseqences as described by Senator CHILES, consequences about which he and many of the rest of us are legitimately worried.

The PRESIDING OFFICER. Who yields time?

Mr. CHILES addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida.

Mr. CHILES. I listened with great interest to this accident we are talking about, this window that kind of happens to give the Senator from Florida an opportunity to address this problem, by offering this amendment, which was occasioned by the fact that the majority conferees wanted to monkey with the figures in the budget resolution. And they wanted to do that in order to get a few more votes and to try to adjust a few more budget functions. So, through some closed meetings that were had, we find that the majority brought back sort of a package. None of us had an opportunity to change that package. We did not have a normal conference where you go in and you sort of go through each item. We received a package that was already there. It was already worked out. And through the negotiations

that went on between the Republicans of the House and the Republicans in the Senate we had this package presented. Of course, in that package, the majority cut out the law enforcement figures that the Senate had put in on my floor amendment.

There are two bills pending on the Senate Calendar now that are trying to present a package of anticrime bills. The Senator from Florida is a cosponsor with Senator NUNN in one of those, S. 2543, and a cosponsor with Senator THURMOND and Senator BIDEN in another one, S. 2572. One of those has 17 cosponsors. One has 50 cosponsors. That is 50 people in the Senate, and another 17 on another bill, who are saying, "We are concerned about crime." The President has said he is concerned about crime. The Attorney General has said he is concerned about crime and has presented a package of bills. The Senate caucus of the Democrats have said they are concerned about crime and they have gone on record. The Republicans have said they are concerned about crime and they have a package of bills. Everybody is concerned about crime. So what are we doing? We are so concerned about it that we are going to cut a few thousand agents. We are going to cut a few thousand people but that is not important. This budget resolution is important.

Yesterday, I say to my distinguished friend from New Mexico, I saw an amendment to the emergency supplemental bill sent back to the House because that was important; that had something to do with the amount of money Senators can receive from speaking engagements, so that was pretty "dadgum" important. I did not hear anyone say there, "Do not tamper with this bill because this might doom this bill to failure." Everybody said that this is the legitimate parliamentary device under the rules of Congress where we have a chance to address a matter as serious as this, how much we are going to be able to receive for our speaking engagements and so we jolly well address that. We sent that back to the House and said, "If you want this emergency supplemental, you better agree with our amendment." But today we are told not to be concerned with 3,000 border agents, with a hemorrhage at our borders, not to be concerned with whether we are going to cut DEA 10 percent, not to be concerned that you are going to cut 500 FBI agents, not to speak of the customs agent. Do not be concerned about that because it is more important that we get this budget package going down the track.

We waited days and days, and we have had plan 1, plan 2, and plan 3. I know of no reason why we should not adopt the House amendment with an amendment and send it back to them and simply say the Senate says crime is important. The Senate says we need to do something about law enforcement.

The 50 Members of the Senate that have cosigned the Thurmond-Biden bill, the 17 Members that have co-introduced the Chiles-Nunn bill, and all of the Democrats and all of the Republicans who have talked about crime so long and hard feel at this time that we should not cut these particular moneys; we should take this opportunity to say we think this is important, it is in our national interest to speak to this question. That is what this amendment gives us a chance to do.

I do not see how any Member of the Senate can say, "I am a cosponsor of one of these bills, I am telling my people back home that I stand long and hard and firm on crime, but I just had to vote with the distinguished chairman from New Mexico, I had to go ahead and cut 3,000 border patrol agents, cut the 500 FBI agents because it was very important that we get that budget resolution that only has a little over $100 billion deficit. It is very important that we get that on the way; it is going to do so much for the economy." That just does not add up.

Mr. President, I ask unanimous consent to have printed in the RECORD a table comparing our amendment to the House and Senate levels, showing that the conference gave up virtually all of the Senate positions to the House in this function.

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

CHILES AMENDMENT TO BUDGET RESOLUTION CONFERENCE REPORT

[In billions of dollars]

| | Fiscal year 1983 | | Fiscal year 1984, BA and 0 | Fiscal year 1985, BA and 0 |
|---|---|---|---|---|
| | BA | 0 | | |
| Senate-passed | 4.9 | 4.9 | 5.0 | 5.1 |
| House-passed | 4.4 | 4.5 | 4.3 | 4.25 |
| Conference substitute | 4.54 | 4.65 | 4.5 | 4.5 |
| Chiles amendment | 4.8 | 4.8 | 4.9 | 5.0 |
| Over conference | +.260 | +.150 | +.4 | +.5 |

Assumptions: (1) Law enforcement agencies (FBI, Drug Enforcement Agency, Customs Service, Immigration and Naturalization Service) receive current policy, plus $100 million real increase; (2) Legal Services Corporation, Juvenile Justice are held to current funding levels (conference agreement assumes they are cut $100 million in fiscal year 1983).

Mr. CHILES. Mr. President, I ask unanimous consent to have printed in the RECORD two tables prepared by the Senate Budget Committee's majority staff for our markup.

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

TABLE I.—FUNCTION 750: ADMINISTRATION OF JUSTICE, HISTORICAL DATA

[Outlays in billions of dollars, fiscal years]

| Major program | Actual | | | | |
|---|---|---|---|---|---|
| | 1976 | 1977 | 1978 | 1979 | 1980 |
| Federal Bureau of Investigation | 0.5 | 0.5 | 0.6 | 0.6 | 0.6 |
| Immigration and Naturalization Service | .2 | .2 | .3 | .3 | .3 |
| Drug Enforcement Administration | .1 | .2 | .2 | .2 | .2 |
| Customs Service | .3 | .3 | .4 | .4 | .5 |
| The Judiciary | .3 | .4 | .4 | .5 | .6 |
| Law enforcement assistance; research and statistics | .9 | .8 | .7 | .7 | .7 |
| Legal Services Corporation | .1 | .1 | .2 | .3 | .3 |
| Federal prison system | .2 | .2 | .3 | .3 | .4 |
| All other | .7 | .9 | .7 | .9 | 1.0 |
| Total function | 3.3 | 3.6 | 3.8 | 4.2 | 4.6 |
| Nominal growth (percent) | 14 | 9 | 6 | 11 | 10 |
| Real growth (percent) | 8 | 2 | −1 | 1 | 1 |

Source: Senate Budget Committee.

TABLE II.—FUNCTION 750: ADMINISTRATION OF JUSTICE, HISTORICAL DATA

[Outlays in billions of dollars, fiscal years]

| Major program | Actual 1981 | Revised baseline | | | |
|---|---|---|---|---|---|
| | | 1982 | 1983 | 1984 | 1985 |
| Federal Bureau of Investigation | 0.7 | 0.7 | 0.8 | 0.8 | 0.8 |
| Immigration and Naturalization Service | .4 | .4 | .5 | .5 | .5 |
| Drug Enforcement Administration | .2 | .2 | .2 | .2 | .3 |
| Customs Service | .5 | .5 | .5 | .5 | .5 |
| The Judiciary | .6 | .7 | .7 | .8 | .8 |
| Law enforcement assistance; research and statistics | .5 | .3 | .1 | .1 | .1 |
| Legal Services Corporation | .3 | .2 | .3 | .3 | .3 |
| Federal Prison System | .4 | .4 | .4 | .4 | .4 |
| All other | 1.1 | 1.1 | 1.3 | 1.3 | 1.3 |
| Total function | 4.7 | 4.6 | 4.8 | 4.9 | 5.0 |
| Nominal growth (percent) | 2 | −2 | 4 | 2 | 2 |
| Real growth (percent) | −7 | −8 | 0 | −5 | −5 |

Source: Senate Budget Committee.

Mr. CHILES. Mr. President, table I shows that the law enforcement agencies' budgets have hardly grown over the last 5 years, a period when there has been tremendous real growth in the overall Federal budget.

Table II is even more telling. It shows that the figures in our amendment will only bring function 750 spending up to the projected current policy baseline for the years 1983 through 1985. Even if we achieve that baseline level, spending for law enforcement and justice will decline by 10 percent in real terms.

So the budget we are proposing is really very tight. The only way we will be able to get improvements is law enforcement is by restraining other programs in this budget function. But to cut it down as low as the conference committee proposal will just not be tolerable.

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI. I yield myself 2 minutes.

Mr. President, I say to the Senator from Florida that I would be ready now, but I am waiting for the leader. I have a couple of minutes, so I will respond to some of the Senator's allegations of "monkey business."

The Senator from Florida indicated that the reason we came back in disagreement is that some "monkey business" occurred. I do not argue with either him or the distinguished ranking minority Member, when they talk about Stockman, first; DOMENICI, second; Stockman, third. Indeed we did work on budget options in private meetings with BOB MICHEL and others.

I am sorry there was no other way to get a budget, but the reason the conferees went out of scope had nothing to do with private meetings. It was done openly, in public, by the conferees when they approved the functional numbers and the reconciliation instructions. The Senator from Florida was not there. He had been very diligent. That really is the "monkey business" that puts us on the floor with amendments being in order.

If there are going to be cuts in DEA, FBI, the law enforcement people, about which my good friend from Florida is concerned, this budget is not going to do it. The Appropriations Committee is going to do it.

I had the staff look at all of the budget authority that is going into the Appropriations Committee's crosswalk, and I find that for domestic discretionary programs, the budget authority being sent to the committee is, for all domestic programs, equal to the 1982 levels.

If the Appropriations Committee wants to move that money around so that they put law enforcement at high enough priority to receive additional funding, it seems to me that can readily be done. There are some programs that are not going to be funded as they were in 1982, such as DEA and others. Some of that money could be moved into law enforcement and we need not have the results that the distinguished Senator from Florida wants to prevent.

Mr. BAKER. Mr. President, it had previously been indicated, I believe, and announcements were made last evening and perhaps again this morning—on the cloakroom line on this side, at least—that there would be a tabling motion against the Chiles amendment. There seems to be strong sentiment by the Senator from Florida that he would like to have an up-and-down vote. The Senator from New Mexico indicates that he has no strong preference one way or the other.

I believe this would be a logical tabling motion, but I have no objection to an up-and-down vote. Since we already have an order for a vote at 10:30, I am prepared to go ahead now and vote up and down, if the Senator from Florida is prepared to do so.

Mr. CHILES. Mr. President, I yield back any time I have remaining.

Mr. DOMENICI. I yield back the remainder of my time.

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

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

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to concur in the House amendment to Senate Concurrent Resolution 92 with an amendment. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from Nevada (Mr. CANNON), and the Senator from Hawaii (Mr. MATSUNAGA) are necessarily absent.

I further announce that, if present and voting, the Senator from Delaware (Mr. BIDEN) would vote "yea".

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

The result was announced—yeas 33, nays 64, as follows:

[Rollcall Vote No. 193 Leg.]

YEAS—33

| | | |
|---|---|---|
| Bradley | Heflin | Metzenbaum |
| Burdick | Hollings | Moynihan |
| Chiles | Huddleston | Nunn |
| Cranston | Inouye | Pell |
| DeConcini | Jackson | Randolph |
| Eagleton | Johnston | Rudman |
| Exon | Kennedy | Sarbanes |
| Ford | Leahy | Sasser |
| Glenn | Levin | Specter |
| Hart | Long | Tsongas |
| Hawkins | Melcher | Weicker |

NAYS—64

| | | |
|---|---|---|
| Abdnor | Domenici | Murkowski |
| Andrews | Durenberger | Nickles |
| Armstrong | East | Packwood |
| Baker | Garn | Percy |
| Baucus | Goldwater | Pressler |
| Bentsen | Gorton | Proxmire |
| Boren | Grassley | Pryor |
| Boschwitz | Hatch | Quayle |
| Brady | Hatfield | Riegle |
| Bumpers | Hayakawa | Roth |
| Byrd, Harry F., Jr. | Heinz | Schmitt |
| | Helms | Simpson |
| Byrd, Robert C. | Humphrey | Stafford |
| Chafee | Jepsen | Stennis |
| Cochran | Kassebaum | Stevens |
| Cohen | Kasten | Symms |
| D'Amato | Laxalt | Thurmond |
| Danforth | Lugar | Tower |
| Denton | Mathias | Wallop |
| Dixon | Mattingly | Warner |
| Dodd | McClure | Zorinsky |
| Dole | Mitchell | |

NOT VOTING—3

| | | |
|---|---|---|
| Biden | Cannon | Matsunaga |

So the motion to concur in the House amendment to Senate Concurrent Resolution 92 with an amendment (Chiles UP amendment No. 1039) was rejected.

Mr. DOMENICI. Mr. President, I move to reconsider the vote by which the motion was rejected.

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

The motion to lay on the table was agreed to.

(Later the following occurred:)

Mr. HOLLINGS. Mr. President, I yield to the distinguished Senator from Delaware.

Mr. BIDEN. Mr. President, this morning when the Chiles amendment was voted on I was necessarily absent. I had to take my young daughter to a hospital, and everything is fine with my daughter, but I missed the vote. And having said this and begging the Senate's indulgence for being so personal on a matter I would not have mentioned that except the vote this morning was of great importance and interest to me and I regretted deeply missing it.

I wish at this point, although I am not asking unanimous consent to be recorded but to have it recorded in the record had I been here I would have voted and spoken on behalf of the Chiles amendment.

Mr. President, as the ranking member of the Judiciary Committee and the chairman of the Democratic Task Force on Crime, I support Senator CHILES amendment which would relieve Federal law enforcement agencies of a budget freeze at current level appropriations through 1985. A freeze in this area would undoubtedly mean a reduction in personnel for labor intense agencies like the U.S. attorney's, FBI, Drug Enforcement Administration, and Customs.

I need not spend a lot of time explaining how the Federal law enforcement agencies are already losing ground against drug traffickers and organized crime. Today we have 8 percent fewer Federal Bureau of Investigation agents than we did in 1975; Drug Enforcement Administration has 11 percent fewer personnel than it did in 1979. The U.S. Attorney's, which are screening out over 50 percent of their cases partially because they are understaffed, have 101 fewer positions and State and local assistance funds for law enforcement have been cut by 75 percent since 1980. Since 1975 violent crime in America has gone up 33 percent and the drug trafficking business is estimated to be a $85 billion a year business.

This budget proposal will increase national defense by over $100 billion in the next 3 years. I cannot believe that this body does not believe it essential to spend one-half a percent of that figure on improving domestic defense. Other than the economy there is no other issue our constituents are more concerned about than crime.

Last year we worked in a bipartisan manner in blocking administration cuts that would have eliminated 434 positions in the Drug Enforcement Administration, 340 agents in the Federal Bureau of Investigation, froze undercover investigations, froze personnel in the U.S. Attorney's Office—which was already 14 percent understaffed—and eliminated all State and local drug task force programs.

Again, in a bipartisan manner last month, we voted not to subject law en-

forcement agencies to a budget freeze when the first budget resolution was voted out of this Chamber of Congress.

Just as it was clear to this body then, it should be clear now: We cannot afford to make budget cuts to law enforcement programs.

Mr. President, the crimes of burglary and robbery alone cost this Nation more than $8 billion in property lost or damaged a year. This does not include such things as the increase in the price of goods to pay for security and insurance.

But the real cost of crime is the physical and mental anguish that victims, family members, and friends suffer for every crime that occurs. There are no statistics or dollar figures that can put in perspective the damage and hurt that occurs when you or a family member or friend are a victim of crime.

It is time to stop the rhetoric on the crime issue and spend the money so that we at least give our law enforcement people the tools necessary to do the job. As you well know, criminals are not cutting budgets. If a greater commitment to specific law enforcement, prosecution, judicial and correction agencies is necessary, then we must face that fact and make the commitment.

I ask my colleagues to support this amendment.

Mr. DOMENICI. Mr. President, I understand now that the distinguished Senator from Ohio (Mr. METZENBAUM) desires to discuss the issue, and we have 5 hours to further discuss the proposal before the Senate, and I yield to the distinguished Senator from Ohio.

The PRESIDING OFFICER. Before the Senator begins, let me ask the Senator——

Mr. ROBERT C. BYRD. Mr. President, the Senator from Ohio will have to seek recognition. One Senator cannot parcel out time to another Senator.

The PRESIDING OFFICER (continuing). The Senator is correct. The Chair was about to recognize the Senator from Ohio. The Senate will please be in order.

The Chair is advised that until the motion is made to concur, there are 30 minutes evenly divided between the majority leader and the minority leader on the House amendment.

Mr. DOMENICI. Mr. President, I move that the Senate concur in the amendment of the House in the nature of a substitute to Senate Concurrent Resolution 92.

The PRESIDING OFFICER. The motion is in order. There are 5 hours of debate.

The Senator from Ohio.

Mr. METZENBAUM. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The Senator is correct. Will the Senate please come to order.

The Chair is advised that——

Mr. HOLLINGS. Mr. President, I yield the time on our side to the Senator from Ohio.

The PRESIDING OFFICER (continuing). The Senator from Ohio.

Mr. METZENBAUM. Mr. President, we have before us today the so-called conference report on the budget, and we have had a lot of discussion—may we have order in the Senate, Mr. President?

The PRESIDING OFFICER. The Senator's point is well taken. The Senate will be in order. Those wishing to confer please leave the Chamber and repair to the cloakrooms.

The Senator from Ohio.

Mr. METZENBAUM. Mr. President, all of the discussion in connection with this budget has related to the question of how many billions up or down, how far the budget is in a deficit position or whether or not it is $103 billion or $116 billion or whether or not we can find $2 billion here or $2 billion there.

None of the discussion has related to the real impact of this budget on the people of America, and it is a sad reality that we have been more concerned about what Wall Street is going to say about this budget than we are about what the people on Main Street and the people back home are going to say about this budget and what its impact is going to be.

Not one word has been said about the human equation, about what happens when you cut billions of dollars out of the Federal budget on human services programs and go on your merry way. Nobody has talked about that. Nobody seems to care. Nobody is concerned. Yet the White House pushes forward relentlessly saying, "We have got to have this budget."

Well, let us not kid ourselves. When all is said and done it is much ado about nothing because you have a $115 billion deficit in 1983, almost twice the amount of any previous administration's worst deficit, and you have got something like $90 billion in 1985, probably 150 percent of the highest deficit ever before in the history of this country.

But having said all of that, you would have thought with all the time and effort that have been put into this subject that some thought would have been given to its impact upon people.

Mr. President, I object to being expected to speak further while all of this conversation is going on. The Senate is not in order.

The PRESIDING OFFICER. The Senator's point is well taken. The Senate will please be in order. Those Senators wishing to converse will do so in the cloakroom.

Mr. METZENBAUM. Mr. President, the President now has had his first budget resolution. He has his second budget resolution, he has his tax bill and he has also picked up something else along the way—he has a real recession in America.

The President, according to the Wall Street Journal of June 10, indicates that the people at the White House are more and more concerned about the perception that the Reagan administration is seen as a reverse Robinhood. Instead of robbing from the rich, the Reagan administration is seen as robbing from the poor. According to a recent Gallup poll, people at the White House cannot understand why 60 percent of the public thinks that the administration does not care about the poor, while 75 percent believes that the administration does take care of the rich.

Every single thing in this bill, every provision of this bill, every provision of this budget resolution will only add more to the rich and take more away from the poor.

The administration does not want to acknowledge that its policies are nothing better than the trickle down policies of Herbert Hoover, dusted off and rejuvenated for the 1980's.

Now, we heard those policies enunciated once before in the halls of Washington. They came from a man by the name of Charlie Wilson, head of General Motors, who some years ago said, "What is good for General Motors is good for the country." But the fact is that is not the reality of life and the people of this country are soon going to learn that as they learn of the impact of this budget that is about to be passed.

I stand on the floor today not for the purpose of persuading anybody to change their vote. I am well aware of the fact that will not happen.

But I think every person who votes on this budget ought to understand full well what its impact will be upon America, ought to understand the impact of the earlier passed budget and this budget and the impact of increased defense spending and the cuts in taxes. And the bottom line result is a recession in America, 10-percent unemployment, 12 percent in my own State, continued high interest rates, and no movement forward.

The result of the two budgets and the tax cuts and the increased defense spending means that the America that we leave to our children will not be nearly as great as the America that we found here. But this administration does not want to deal with the problems it has caused for millions of Americans. It is only concerned with its image.

Back some months ago, the Washington Post had a story "Change Sought in Reagan Image. Fairness to

Poor Offensive Launched. Administration Seeks to Change Administration Image Toward the Poor."

Then they went on to quote Reagan, the President of the United States.

During his recent trip to Alabama, Tennessee and Oklahoma, Reagan described his tax reduction program as "the best darn thing that's been done for working and middle-income people in nearly 20 years" and stressed his "real compassion" for people who cannot help themselves. The tax cut, he said repeatedly, will create jobs and "most of the benefits will go to average citizens in your hometowns."

Well, that is not the way the media of this country has been reporting it. On April 5, 1982, Newsweek magazine had a cover story, a picture of a little waif and the headline on the story was: "Reagan's America, and the Poor Get Poorer." And when you read what Newsweek had to say on that subject, you pretty well understood what the issue is all about.

The Newsweek article stated:

Ronald Reagan took the podium in New York last week to defend himself against what he believes is nothing more than a cheap political shot: the charge that both he and his policies are indifferent—even hostile—to the nation's poor. The occasion was a $250-a-plate dinner for the National Conference of Christians and Jews, which made Reagan the first incumbent President to receive its Charles Evans Hughes humanitarian award. His nomination was highly controversial, and the hotel where the honor was bestowed was flanked by 10,000 demonstrators protesting his policies at home and abroad. Reagan accepted the medal with characteristic graciousness—then declared his dismay at the rising chorus of criticism. "Today I'm accused by some of trying to destroy government's commitment to compassion and to the needy," he said. "Does this bother me? Yes. Like FDR, may I say I'm not trying to destroy what is best in our system of humane, free government—I'm doing everything I can to save it."

It was a candid admission of what one White House aide termed "a significant political headache for the President"—the public's growing perception that Ronald Reagan favors the rich over the poor and that his policies will effectively widen the gap between them.

But that is not the only place they have been talking about Reagan's image with the poor. On June 10 of this year, the Wall Street Journal, in one of its lead stories wrote:

Damaging view. White House strides to combat the feeling Reagan is insensitive. Image of "Robbing the Poor" Persists, but aides say it is a problem of perception.

Mr. President, if it is a problem of perception in the past, it will be a reality in the future under this budget that we are going to pass here today, without my vote, I might say, and without the vote of many others in this body. What we really have today in this country is a double standard, one standard for the rich and powerful and another for everyone else. More than a million Americans have already exhausted their full 6 months unemployment benefits.

And what does somebody expect them to do? What do they expect those people to do? To go on welfare? If they have no savings, what other choice do they have? Where is the compassion, where is the humanity, where is the concern? All that we hear is, "Balance the budget," and it has been a total failure in that respect. But, unfortunately, it has not been a total failure in coming down harder and harder and harder upon working people, middle-class Americans, and poor people.

And what does the Republican National Committee say about this? Well, let me quote to you what the Republican Party's National Finance Committee chairman stated just a few days ago. And you have got to listen to this and the impact of it.

Said he, "The recession has been a beneficial and cleansing tonic."

Beneficial for whom? "Cleansing tonic." What is he talking about? What kind of a man can the chairman of the Republican National Committee finances be and say that the recession is beneficial? What has happened to this crowd? Have they no heart? Have they no concern? Have they no feeling?

Now the Reagan administration is going over the social security disability file and terminating benefits in an astonishing 45 percent of the cases reviewed. People on social security disability, getting a benefit because they cannot work, because they are disabled, and without any reason or rhyme, just going forward and taking them off the disability benefit rolls and forcing them to go to the appeal process.

That is a 45-percent cutoff. But even more astonishing is the fact that the Social Security Administration's own administrative law judges are actually reversing those decisions in 70 percent of the cases.

But while a case is pending, there are no benefits, there is no income, and there is travail. Some in my own State have been known to take their own lives because of the termination of the social security disability benefits.

(Mr. DANFORTH assumed the chair.)

Mr. METZENBAUM. Oh, this is a great administration. This is an administration that speaks extremely well, but does not act nearly as well.

After his election, Mr. Reagan appointed as the VA Administrator a man who has publicly compared the effects of agent orange to those of teenage acne. Imagine the absurdity of that.

While slashing programs for Vietnam veterans on the ground that they represent coddling, that same VA official appropriated for himself an unauthorized chauffeur at the cost to the Government of $6,414.

Every time I go to a Budget Committee hearing, every time I sit in a meeting, someone comes up with a figure about how we are going to eliminate a lot of waste and fraud, how we are going to cut back on Government spending. Well, the facts do not speak too well in that area. U.S. News & World Report, on March 15, 1982, did a whole article about the fact that the crowd that is in the White House and serving in the Cabinet is the first to spend money lavishly without concern, without care.

Ronald Reagan ordered a sharp cutback in Federal travel expenditures and when he did that it was understood that across the board there would be those kinds of cuts. But the fact is his people are still traveling first class, not economy, even using the Concorde airplane to cross the Atlantic, spending $350 a day for hotel suites, and hundreds of dollars a day for stopover vacations while on trips. And even that great head of the Federal Reserve Board, who is so concerned about a tight money policy, never sees fit to fly any way except first class.

They seem to be saying, it is all right for most Federal workers to be held to strict accountability, but do not hold their bosses to strict accountability.

It was all right for David Stockman to come before the Budget Committee and tell us how we should cut back on food stamps, the school lunch program, the school milk program, the women and infant children program, and all the other programs, but when David Stockman had to go to Baton Rouge to make a speech, good David did not see fit to travel the way the rest of us travel, but on a special plane. No, in order to get to Baton Rouge, he had to get an Air Force Saber jet to take him down to make his political speech.

And he is not the only one. When the Secretary of Commerce wanted to go out to Tucson, Ariz., it did not bother him that there are plenty of commercial flights back and forth to Tucson, Arizona—he had to go deluxe. So he spent, from the taxpayers' money, $11,243 for a Lear jet to take him to Tucson to make his speech.

As a matter of fact, it is rather interesting in connection with that flight that the Federal excise tax, which was $535.41, was actually $18 more than the lowest round trip fare between Tucson and Washington.

And when the Transportation Secretary wanted to go down to Mexico, he had to go the best way possible, taking some family and friends along with him. He spent $31,246 of the taxpayers' money, using a Coast Guard 1 plane, a 12-seat Coast Guard plane.

It is great to talk about economy; it is great to talk about how we are going to save money; it is great to talk about eliminating waste; but not for the high mucketymucks of the Reagan administration. No, they have to travel the best way possible.

I like the Deputy Secretary of Transportation. I like his reason for traveling first class instead of traveling coach. His argument was he had to go first class instead of coach because he would not have been able to reach his destination in time if he had gone coach. My question is, Does he mean that the front of the plane gets there a little bit earlier than the back of the plane? I do not know.

Even our Secretary of Defense, the great Cap the Knife, travels pretty fancy. Last June the Secretary of Defense, Caspar Weinberger, joined members of the Grocery Manufactures of America when they met at the luxurious Green Brier Resort in White Sulphur Springs, W. Va. Cap made a speech. He spent two nights at the hotel. The bill for the Secretary and three aides came to $3,650, almost all of which was paid out of a $300,000 Pentagon fund that is designed "to maintain the standard prestige of the United States."

You have to maintain the standard and the prestige by keeping the Secretary of Defense in those fancy summer and winter resorts.

And then he made five trips to Maine on Air Force executive jets, all at the taxpayers' expense, all to his vacation home in Bar Harbor, Maine.

Mr. President, maybe those little items will not balance the budget, but it is an indication of what this administration is all about. They live high off the hog and let the people eat with the pigs. They just do not seem to care at all about what is happening to people in American.

A couple of weeks ago I listened to the President's address which was transmitted via satellite from Europe. I must tell you frankly I was disappointed. Ronald Reagan talked about his visit to France, Britain, Germany, and Italy. It was a magnificent travelog. He talked about the anniversary of D-Day and the Marshall plan. But he did not say a word about the most devastating economic conditions we have seen in American since the days of Herbert Hoover.

So I had an opportunity to respond to him, to respond to him and point out to him on behalf of the Democrats that in the 10 weeks since he began his series of broadcasts, 700,000 more workers joined the ranks of the unemployed. Each Saturday he spoke, and for 10 weeks he made his remarks to the American people, an average of 70,000 per week more joined the ranks of the unemployed during each of those weeks.

And during the same 10-week period, unemployment benefits ran out for nearly a million people, a million willing workers who have now been jobless for 6 months or more.

And in that same 10-week period, 4,200 businesses of all sizes, from the corner grocery store to Braniff Airlines, filed for bankruptcy.

That, Mr. President, is the highest rate of business failures in the past 50 years. But does the White House care? No.

That is the highest rate of business failures since the depression year of 1932. Does anybody down on Pennsylvania Avenue really care or feel for those who have gone bankrupt?

Do they care about the fact that American farmers are losing their farms by the thousands? There is not one iota of evidence to suggest that there is any feeling, that there is any concern about the real problems of America.

Image, yes. But when it comes to the reality of the kind of America we have, nobody cares. Nobody will lift a finger to do anything about it in this White House, this Republican administration.

Thousands of American families face the possibility of losing their homes, their cars, and what is left of their human dignity. I remember two women from Ohio who are wives of unemployed steelworkers who came to Washington to speak to the problem of unemployment in their community. They met with the Vice President of the United States and he was very considerate in listening. I sat in with those women and they said:

> Mr. Vice President, the American dream used to be that the average person wanted to be able someday to own his own home and own his own car.

They said,

> Mr. Vice President, today, the problem is will we be able to retain the home and the car that we now own?

Our country, Mr. President, is in trouble, deep trouble. The American people know it, but the Reagan administration does not know it, does not care about it, and does not have a policy to deal with this human suffering.

Several months ago, when the economy did not take off, what did the President do? The President blamed the Carter administration. Later, he blamed 40 years of Government mismanagement. That would have been under the administration of Franklin Delano Roosevelt. Then he said 50 years. That would be under the administration of Herbert Hoover. Then, when that did not seem to work, he blamed the media for reporting the bad news from south Succotash.

Now, Mr. President, the President of the United States is blaming the Democrats—blaming us for his tax bill, blaming us for his budget bills. He was so anxious to get them through, and he was successful in every single detail. He was also successful in creating a recession in America.

Mr. President, it is not a question of who is to blame. I say to the President, there is nothing to be gained by looking for scapegoats. Ten million unemployed do not care whether the blame rests on the President or on the Congress of the United States. They care about one thing and one thing alone: They want and they need their jobs back.

Thousands of farmers and small business people do not want and do not need lectures on supply-side economics. They need lower interest rates. Thirty-six million senior citizens should not be living in fear of Republican raids on their social security. They need a Government that lives up to its promises.

Ronald Reagan ran against waste in Government. Today, his administration does nothing in the face of the greatest waste of all, the waste of production from our idle factories, the waste of crops from our bankrupt farms, the waste of skills of millions of jobless Americans.

The time has come to act. The country has had enough of government by anecdote and bumper-sticker slogans.

But are we acting? Yes, we are passing a budget bill. Whom we are going to make happy, I am not sure. It will not solve one single problem in America, but at least Congress will be able to say we passed a budget bill. And it is a budget bill that will penalize the poor. It will penalize middle-income Americans. And nobody cares.

On June 20, just a few days ago, the New York Times had an editorial entitled, "What? Penalizing the Poor?" I think it so well addresses the problem that I want to share it with my colleagues in the Senate. Said the New York Times:

> There he goes again. In Houston last week, President Reagan denounced "the special pleaders" who go about "campaigning against our budget cuts as penalizing the poor." As he has insisted repeatedly, "There have been no budget cuts"—only slower spending growth.
>
> That's the kind of statement that has given Mr. Reagan such a reputation for compassion. (Gallup reports that 65 percent of the public thinks he doesn't care about the poor while 75 percent thinks he does care about the rich.) Almost any way you slice the budget figures, spending for people in need is being cut. The poor are being penalized. The special pleaders, if that's how Mr. Reagan thinks of advocates for the voiceless poor, are right.
>
> What is the President thinking of when he keeps saying there are no budget cuts? Welfare? Impossible. In 1981, about $8.1 billion was spent for Aid to Families with Dependent Children, the main welfare program. Mr. Reagan cut that to $7.8 billion for 1982, and proposed chopping it to $5.5 billion for 1983. The new Congressional budget

figure, $6.4 billion, is almost generous by comparison.

Can the President be thinking of jobs and training? Also impossible. The 1981 spending figure was $5.6 billion. He cut that to $4.3 billion in 1982 and proposed a bare $2.4 billion for 1983. The Congressional figure is $3 billion-plus.

Or, most important of all, when he says no budget cuts, can the President be thinking of hunger? Outside Puerto Rico, Washington spent $10.3 billion for food stamps, the main anti-hunger program, in 1981. The 1982 figure will be $10.6 billion. For 1983, the President proposed $9.6 billion. That is not a decrease in the rate of increase. It is a decrease, plain, simple and painful.

Food stamp benefits have not been adjusted for inflation since September 1980. Food now costs about 9 percent more.

If not welfare, if not jobs, if not even hunger, it's hard to imagine what Mr. Reagan does have in mind when he says there are no budget cuts that penalize the poor. Does he think no one will examine such statements? Or does he believe that repeating them often enough will somehow make them accurate?

Life is hard enough for poor people when, in a recession, the Government helps them less. It does nothing for Mr. Reagan's stature or the country's conscience when he keeps saying that less is more.

I think, Mr. President, I am not only concerned with what is happening to the poor, but also with the other components of the budget. We have been attempting to pass this budget for over 6 months. What do we have in the budget? We have a defense budget that will increase by $100 billion over the next 3 years. In 1980, the defense budget was $135 billion. In 1983, 3 years later, defense spending will be $251 billion, almost doubling the single largest program in the Government within 4 years. And by 1985, the defense budget will rise to $316 billion. In other words, from 1980 to 1985, we shall increase the defense budget from $135 billion per year to $316 billion per year.

That is a staggering military increase, Mr. President. That is a tremendous military increase. That is an increase far beyond what anybody could ever have contemplated would be necessary or probably what is needed. Yet the fact is that with all of those dollars being thrown against the military, with Cap the Knife being the new Secretary of Defense, we expected economies to be affected.

But the fact is that the Pentagon refuses to make even the most basic cost-saving efforts. The current administration's record is no better than it was in 1967 when then Secretary of Defense Robert McNamara estimated that failure to use competition resulted in wasting 25 cents of every procurement dollar.

Mr. President, on February 25, 1981, the distinguished senior Senator from Arizona, BARRY GOLDWATER, and I addressed a letter to the Secretary of Defense pointing out the kinds of economies that could be effected in the Department of Defense, coming to a figure approximating $10 billion a year. Did anything happen? No, nothing really happened.

The distinguished senior Senator from Arizona and I filed suit against the Navy because they refused to use competitive bidding in procuring a plane known as the CTX. Did the Navy try to help? Were they supportive? Of course not. They went into court to throw us out on a technicality.

The facts are that there are economies that can be effected in the Department of Defense without in any way affecting the strength of our Military Establishment.

Mr. President, I ask unanimous consent that the entire letter that the senior Senator from Arizona and I sent to the Secretary of Defense be printed in the RECORD at this point.

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

UNITED STATES SENATE,
*Washington, D.C., February 25, 1981.*

Hon. CASPAR W. WEINBERGER,
*Department of Defense, The Pentagon, Washington, D.C.*

DEAR SECRETARY WEINBERGER: In his State of the Union Address, President Reagan restated his intention to move immediately to strengthen the nation's defensive posture. "But even here," he said, "there was no exemption. The Department of Defense came up with a number of cuts which reduced the budget increase needed to restore our military balance . . . The aim will be to provide the most effective defense for the lowest possible cost."

We support the goal of upgrading our military strength and we commend the President for his determination to accomplish that objective in the context of sound, cost-conscious methods of management.

We are convinced that the Department of Defense, whose budget will soon make up nearly a third of all Federal spending, is in a position to effect major savings without in any way sacrificing military muscle. These savings can be made in two major areas—improved procurement practices, including greater use of multi-year contracts and more effective administration.

Procurement reform is by no means a new topic at the DOD. As long ago as 1967, for example, then-Secretary Robert McNamara estimated that the failure of the DOD to take advantage of competition contributed to the waste of as much as twenty-five cents on each procurement dollar.

Your predecessor, Secretary Brown, echoed Secretary McNamara's frustration in January, 1979, when he told the *New York Times* that "his key disappointment so far was his inability to induce genuine cost efficiency within the Defense Department." And in a report submitted on December 25, 1979, to the Chairman of the Senate Budget Committee on the implementation of OMB Circular A-109, the GAO stated that:

"The greatest non-compliance with A-109 appears to be the services' reluctance to seek solutions to their weapon system needs through competition. Pre-conceived solutions are still being proposed as needs rather than seeking solutions through competitive proposals."

President Eisenhower once pointed out that the world's spending on arms "is not spending money alone. It is spending the sweat of its laborers, the genius of its scientists, the hopes of its children." That, we believe, is what we must keep in mind when we talk about financial efficiency in the DOD.

Today, just as it has for years, the DOD spends fewer than 10 percent of its procurement dollars through contracts let by competitive sealed bidding. Just as consistently, the Department takes the sole source route for over half of its procurement spending.

We are aware of the argument that sole source contracts are necessary in order to acquire sophisticated items that cannot be procured through price competition. This may be true in some cases, but it is also true that the Department routinely lets sole source contracts for items that could readily be purchased on the open market.

Two years ago, to take only one of many instances, we filed suit in Federal court to require the Navy to use competitive bidding to procure the CTX, an off-the-shelf light cargo aircraft. In spite of the clear intent of the Senate, made abundantly obvious in a colloquy between ourselves and the Chairman of the Armed Services Committee, and in spite of the existence of several competent suppliers, the Navy, in the end, procured the CTX through a sole source contract after our case was dismissed on a technicality. This decision by the Navy is typical of a procurement policy that operates without regard for saving taxpayer dollars.

There is no doubt of the fact that competition can lower the cost to the taxpayer of acquiring even highly sophisticated weaponry.

In 1973, a study prepared for the Joint Economic Committee examined the costs of twenty complex weapons systems including sophisticated electronics and missile systems. These contracts originally were awarded through sole source procurement, but for various reasons the costs were later readjusted by price competitive bids. The results were dramatic—price decreases averaging 51 percent. More recently, GAO's September 25, 1979, report to the Chairman of the Budget Committee on the status of DOD's efforts at procurement reform included data supplied by the DOD on its program to break out spare parts from larger systems for competitive acquisition.

At the Oklahoma Air Logistics Center, a turbine should cost $86.23 when procured on a sole source basis. Competitive procurement lowered the cost to $64.99.

A nut assembly that cost $246.29 on a sole source basis was acquired competitively for $36.75.

A panel assembly costing $1,454 on a sole source basis was purchased through competition for $245.

Those are laudable savings, but unfortunately, they are more the exception than the rule. In February of this year, the CBO estimated that over the next five years, modest improvements in procurement efficiency could reduce the Department's outlays by $16 billion and its budget authority by $22 billion.

In this time of budget austerity, we are convinced the opportunity exists to make the kinds of far-reaching reforms in procurement that have in the past eluded us. New legislation might be useful in this regard, but current law provides a more than adequate vehicle for a determined effort to improve the Department's efficiency in procurement.

Under existing legislation, sealed bid competition is specifically required for all procurement. Unfortunately, the law also provides 17 exemptions to that rule, several of which are exceedingly broad. As a result, DOD officials have been able virtually at will to purchase on a non-competitive basis.

We believe that these wasteful practices can be brought under control. But to do so will require a tough-minded, persistent and systematic effort to change fundamentally the way the DOD bureaucracy does its procurement business.

It is not enough simply to state a policy of enhancing the use of competition. Responsibility for implementing such a policy must be very precisely delegated. And to be effective, it must be placed in the hands of officials who are accountable personally to the highest level in the Department. Whenever competitive bidding is not used, the failure to do so should be specifically approved or disapproved at the level of the Office of the Secretary of Defense. Such a review procedure would require procurement officers to prove their case to one of your aides. When competitive bids are not used, a top level official, responsible directly to you, should be charged with this task. A general exception could be made for all contracts below a certain dollar amount and for emergency situations.

We would also suggest that the department make greater use of formal advertising in awarding contracts. Currently, hundreds of millions of dollars in contracts are awarded each year, particularly for consultant services, with no notification to potential competitors that this work will be available. Why not simply require, when national security considerations permit, that all contracts in excess of $10,000 be announced in the Commerce Business Daily no less than thirty days prior to the closing date for submission of bids? We are confident that the free enterprise system will respond.

In order to facilitate that response, we strongly support enhancing the Department's flexibility in the area of negotiating multi-year contracts for the procurement of selected weapons systems. A contractor, after all, cannot be expected to make major capital investments in machinery and raw materials in the absence of assurances that a market will continue to exist in the future. By discouraging necessary investments through single-year contracts, we lose for the taxpayer the economies of scale that should be realized in major acquisition programs. Those savings, we believe, would amount in the long run to a far greater sum than we might have to pay out to compensate companies whose multi-year contracts must, for whatever reasons, be terminated ahead of schedule.

Another problem—one that has implications for the Congress as well as for the Department—is the annual spending spree in which DOD and virtually all other Federal agencies have indulged at or near the end of each fiscal year in order to clear the accounts and protect future appropriations. That pattern of bureaucratic self-protection inevitably produces wasteful spending, funds marginal projects, and adds enormously to the cost of government. It is necessary to reverse the incentive system by rewarding officials for saving money, rather than giving them powerful incentives to spend every penny available. We are certain that a Secretary who chose to bluntly confront that pattern of spending would have strong support in the Congress. Certainly, he or she would have ours.

But procurement reform is not the only area in which major savings can be made.

The Systems Acquisition Report Quarterly Update issued by the General Accounting Office on November 17, 1980, demonstrates that something is very wrong with the manner in which DOD has managed its major acquisition program.

In the S.A.R. issued in September, 1978, for example, the cost of acquiring 545 YAH-64 advanced attack helicopters was projected at $4.14 billion, or $7.4 million for each helicoper. In late 1980, that figure had risen to $5.85 billion or $10.7 million per aircraft.

In 1978, each *Perry* class frigate was expected to cost $139 million. In FY '81 the cost per ship rose to nearly $225 million. Inflation has been severe since 1978, but not severe enough to turn a figure of 139 into a figure of 225.

The program cost for the F-18 Hornet was estimated at $14.3 billion in 1978, with a cost per plane of approximately $14.8 million. For FY 1981, the F-18 program cost estimate has reached $29.7 billion and the unit cost will exceed $30 million. Again, inflation cannot account for the cost growth.

These are not isolated cases. Runaway costs characterize our entire defense procurement program.

But no reform will have any beneficial effect as long as the DOD continues to bail our wasteful contractors. Admiral Rickover has described what happens when contractors know that they can always count upon the Pentagon to save them from the consequences of their own bad management.

"Large defense contractors can let costs come where they will and count on getting relief from the DOD through changes and claims, relaxation of procurement regulations and laws . . . or other escape mechanisms . . . they will make their money whether their product is good or bad; whether their price is fair or higher than it should be; whether delivery is on time or late."

We believe that the time is long past due for decisive action. The Defense Department should cut off contractors with records of waste, overruns, and poor management. There are companies that are prepared to give the taxpayer a dollar's worth of value for every dollar spent. Those are the companies that should get the government's business.

In order to put teeth into that approach, we suggest that you establish a second review process in the Office of the Secretary of Defense. Just as a top level official should be required to sign off on non-competitive procurements, so should cost overruns be intensely reviewed. Such a review ought to be triggered whenever an over-run exceeds the rate of inflation.

The Department can also do more internally. There is no reason why the DOD cannot do what every well-run private corporation does to control costs and improve its own productivity. But a glance at a random sample of GAO reports done over the past two years on DOD operations demonstrates vividly how far the Department has to go.

One report is entitled "Correct Balance of Navy's Foreign Military Sales Trust Fund Unknown."

"The Department of Defense," the report says, "does not know the correct cash balance being held in trust for countries involved in the Navy's foreign military sales program. This is despite the Navy's having spent thousands of staff days since early 1977 to determine why the trust fund account does not agree with detailed military sales case accounting records. Unreconciled differences in cash balances between the sets of records totaled $544 million, as of June 1, 1978."

Another GAO report is entitled, "The Air Force Should Cancel Plans to Acquire Two Computer Systems At Most Bases.

"The Air Force plans to install two computer systems at about 105 bases to perform such functions as accounting, finance, personnel, and supply. This program will cost about $600 million to $1 billion more than a one-system approach over an expected life of 20 years."

GAO concludes that this is unnecessarily expensive and restricts competition on the largest computer acquisition ever attempted in the government.

Another, selected at random, suggests that "The Army Should Use Available Serviceable Parts to Avoid Repairs."

"The Army unnecessarily spends millions of dollars to repair parts when more than enough serviceable parts are available to meet current needs. The Army needs to establish procedures for identifying repair-actions, notifying depots that replacement quantities are available, and matching actions with quantities."

And there are many more. "DOD continues to subsidize the foreign military sales program by not charging for normal Inventory losses."

"GAO reported in September 1977 and August 1978 that DOD was losing millions of dollars because normal inventory losses were not being recovered on foreign military sales. The Arms Export Control Act was amended in September 1978 expressly to require recovery of these losses on certain inventory sales."

"Although the military services have since identified almost $600 million in inventory losses, governments have not been charged for their fair share of the losses as required by the Act. As a result, the United States has lost millions and created a subsidy to foreign government."

DOD Can Save Millions of Dollars by Improving Management of Air Force Inventories.

"Two Air Force Logistics Centers has over $50 million in excess stocks on order for items or which they had over $8 million of stock on hand exceeding current needs."

And so it goes.

The Navy's material handling costs can be reduced.

The Navy does not know if it has too much electronic/electrical depot maintenance capability, too little, or the right kind.

Defense Department is not doing enough to maximize competition when awarding contracts for foreign military sales programs.

We could add many more items to this list, but the point is that waste and inefficiency have over the years become a way of life for too many in the Department. The Nation cannot afford to permit this situation to perpetuate itself any longer.

We hope, Mr. Secretary, that you will seize the opportunity presented by President Reagan's approach to Federal spending to undertake major reforms in your Department's operation. By so doing, you will contribute to the Nation's economic health and to the real strength of our armed forces.

Very sincerely yours,

BARRY GOLDWATER,
*U.S. Senator.*

HOWARD M. METZENBAUM,
*U.S. Senator.*

Mr. METZENBAUM. Mr. President, there are other areas of wastefulness in the Department of Defense that can be so easily achieved and accomplished. The Department of Defense only uses sealed competitive bids with respect to 6 percent of their procurement dollars. Why? Why? What is it that makes them so sacred that they cannot do what every little township and county and city and village in America does, what every other department of government does? But, no, they are unwilling to use competitive bidding in spite of all of the protestations to the contrary. They even tried, according to the GAO in a very recent report, to say that they had increased the amount of competitive bidding, but what did they really do? They jiggered the figures. They changed the method of making their computations.

What kind of economy is that? What kind of responsibility is that?

And then, when it comes to the question of cost overruns, that cost us billions and billions of dollars a year, it was Admiral Rickover who made the statement:

> No defense contractor can lose doing business with the Department of Defense. If he makes a bad contract, the Department of Defense will bail him out and they will find a basis on which to pay him additional money.

Cost overruns are rampant at the Pentagon.

There were 1,107 Blackhawk helicopters that we were to buy. Originally it was to cost $2,300 billion. Now it is going to cost better than three times that amount, $7.7 billion, a cost overrun of 237 percent.

There was a Patriot missile whose cost exceeded the estimated production cost by $2.5 billion since it was first made in 1979.

There is no reason under the Sun why the Department of Defense cannot be run like a business. Why can the Secretary of Defense not say that you cannot have a cost overrun unless it is approved by somebody who is at his right hand? Why cannot they refuse to permit a cost overrun beyond the inflation factor? That has been proposed to them, but they are not willing to take that kind of step because it might step on the toes of some of the big defense contractors and some of the biggest supporters of this administration.

The Kiowa helicopter was a small scout-type helicopter, at a cost of $110,000 each. Now the Army wants to spend $143,000 each or a total of $40 million to fix a chronic engine and rotor problem. But even fixed, the Pentagon spokesmen say the Kiowa will not fly on hot days similar to those experienced in the Middle East.

Then we are all familiar with the expenditures for military bands. The current budget is $89.7 million. There are three full military bands in the District of Columbia area.

I want to be frank. I have enjoyed going to the Marine band show that takes place every Tuesday night near where I live. It is a magnificent production and I enjoy it much, but I really ask, in these days of trying to cut back on Government spending, do we need to have three full military bands in the District of Columbia area, each one of which has a larger budget than the Washington National Symphony?

The Department of Defense consistently refuses to move toward any procedure that might save some money. There was a Washington Post article recently, just a small blurb, and it was entitled "Leave Us Alone." It read as follows:

> The central recommendation of the Office of Management and Budget's brand new study of Government contracting is that all Federal agencies, defense and civilian, should have to follow the same procurement rules. But there is one problem. The Defense Department does not like the idea.
>
> This week House-Senate conferees gave the Pentagon what it asked for, a specific legal provision exempting Defense from any OMB procurement rules it does not choose to obey.
>
> Defense accounts for about 70 percent of the Government's $110 billion annual spending for goods and services.

Mr. President, the Department of Defense is not the only place where there are wasteful expenditures in this budget that is going to be approved. It still provides $4 billion for construction of water projects by the Corps of Engineers and the Bureau of Reclamation, $4 billion for water projects. Do not touch the water projects. That is the private preserve of the western Senators. What difference does it make that the National Taxpayers Union says that it believes the water project construction area should not be shielded by budget cuts.

But the fact is they are shielded—not one single penny is cut back with respect to water projects.

We are continuing to fully fund the wippers, or Bureau of Reclamation, program even though the GAO has written study after study questioning the need for many of these projects, questioning the huge subsidy that the Federal taxpayer provides for these projects and questioning the limited number of people who actually benefit from a massive development program. Cut the budget when it comes to feeding people but protect the water project of the western Senators.

On March 13, 1981, the GAO issued a report entitled "Federal Charges for Irrigation Projects Reviewed Do Not Cover Costs." That GAO report studied six Federal irrigation projects and found that water produced will cost the Government between $54 and $130 per acre-foot each year.

But the crops grown by the farmers will not yield even enough revenue to cover the costs. Yet, farmers continue to buy the Federal water because they are charged a price below Government cost.

As the GAO stated, the terms of repayment, lack of interest, and length of time without repayment combine to give a large subsidy to users of Federal irrigation.

Mr. President, Fortune magazine ran an article on February 23, 1981 entitled "Ending the Southwest's Water Binge." That article points out that Federal taxpayers are paying tremendous subsidies for water to landowners and firms in the Southwest and West, but in many cases that water is being squandered. As Fortune magazine stated 15 years ago and again last year, the Southwest is not running out of water. It is running out of cheap water. The Southwest's reaction to its artificial water shortage is to cry out for even more Federal spending on projects, ranging from the one-third completed $2.2 billion central Arizona project to a $26 billion dream of bringing water from the Mississippi to western Texas.

Mr. President, my point is that there are ways of balancing a budget that are not being used in this particular budget measure. It still contains $252 million to break ground for the Clinch River breeder reactor, which will ultimately cost more than $3.6 billion, compared to the original cost estimate of $1.1 billion.

This budget can take food out of the mouths of kids, keep young people from being able to go to college, and cut back on medicare benefits, but it still has funding of about $200 million in budget authority and $80 million in outlays for the tobacco subsidy program. Last year, we almost killed that program and came within two votes of doing so, and we should have done so.

Now industry is trying to reform the allotment system, but in attempting to reform it, are they really zeroing in on the problem of the allotment system and the drain upon the Federal budget? We will see, as the days and weeks unfold.

This budget provides for a cut of $15.4 billion over the next 3 years for medicare—$15.4 billion for medicare—and medicaid will be cut by another $2.2 billion. But do not touch the water projects. Do not touch the tobacco subsidy program. Do not cut the Defense Department increase. That $17.7 billion cut out of medicare and medicaid is on top of the $16 billion in cuts passed in last year's reconciliation bill.

Where do you think this money is going to come from, when you cut medicare and medicaid?

Supporters of these cuts have suggested that the medicare and medicaid programs can be cut without causing health care payments for the aged and the poor to go up. That is just not so. That is just not the fact. They said it last year, and we have already seen Blue Cross insurance premiums double in 1 year because of these Federal budget cuts. These additional cuts will hurt even more.

According to a recent memo by the American Association of Retired Persons and the National Retired Teachers Association, these medicare proposals will have a tremendous impact on out-of-pocket expenses for the elderly.

One proposal to save $12.3 billion from a new reimbursement system would be particularly disastrous. According to the AARP, even the most vocal advocates for tougher hospital reimbursement rules do not see savings beyond $2.5 billion over 3 years from that proposal. This proposal would require huge, new out-of-pocket costs for hospitalized medicare beneficiaries of $18 per day for the second through the 60th day of hospitalization.

For an average hospital stay, a medicare beneficiary's out-of-pocket costs would increase by 60 percent next year alone, under this proposal.

Another proposal to index part B deductible—that is, for doctor bills—to the CPI, the estimated savings would be $60 million in fiscal 1983. But, says the AARP, "After the 25 percent increase in the part B deductible last year, the elderly simply cannot afford another precipitous increase in the deductible again this year."

Mr. President, I ask unanimous consent to have printed in the RECORD the Republican Senate Budget Committee staff figures with respect to the possible health care package and the impact upon the people of this country.

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

MEDICARE

| | Fiscal year | | |
|---|---|---|---|
| | 1983 | 1984 | 1985 |
| ADMINISTRATION LEGISLATIVE PROPOSALS | | | |
| Elimination of utilization review | 0 | 0 | 0 |
| Delay medicare eligibility date | $105 | $135 | $165 |
| Working aged | 610 | 700 | 790 |
| Revenue loss | 155 | 175 | 200 |
| Waiver of liability | 10 | 10 | 10 |
| Reimbursement of pathologists/radiologists at 80 percent | 145 | 195 | 230 |
| Index of part B deductible to CPI | 60 | 130 | 220 |
| Repeal increase in reimbursement to physical therapists | 4 | 4 | 5 |
| ADDDITIONAL LEGISLATIVE PROPOSALS | | | |
| Provide for no increase in the economic index in fiscal year 1983, provide for a 5-percent increase in fiscal year 1984 | 280 | 410 | 480 |
| Repeal nursing differential | 95 | 110 | 125 |
| Prohibit payments on the basis of percentage contracts (includes radiologists and pathologists) | 63 | 73 | 84 |
| Apply 20 percent coinsurance on home health visits starting with the 20th visit | 100 | 165 | 190 |
| Include teaching physicians in the proposal to eliminate duplicate medicare reimbursement for overhead costs | 65 | 95 | 110 |

MEDICARE—Continued

| | Fiscal year | | |
|---|---|---|---|
| | 1983 | 1984 | 1985 |
| Place 223 limits on all hospital costs | 390 | 440 | 490 |
| In conjunction with 223 limits, place the overall limit of 110 percent on the increase in medicare inpatient revenues per admission during fiscal year 1983, fiscal year 1984. Adjustment to the limit would be allowed to take into account changes in volume and unusual circumstances beyond control of hospital. By mid-1984, the administration shall report to the Congress a method of prospective payment to be put into place for reporting periods after October 1, 1984 | 320 | 340 | 390 |
| Reimburse skilled nursing facilities on a prospective basis utilizing the medicaid payment and a plus factor on the basis of a rate | 10 | 10 | 10 |
| Hold the part B premium constant on a percentage of program costs | 230 | 545 | 940 |
| Total medicare legislative savings (billions) | 2.580 | 3.486 | 4.360 |
| Total medicare regulatory savings | 562 | 731 | 836 |
| Total medicare savings (billions) | 3.772 | 5.466 | 6.460 |

Mr. METZENBAUM. Mr. President, I address myself now to one of the major reasons why we find ourselves in the position we do, of not being able to balance the budget.

Before I came to the U.S. Senate, I was a business person. I ran a business, several businesses, and I understood that in running a business, you have to concern yourself about two factors. One was how much you are taking in, and the other was how much you are spending. The fact is that the problem starts on the whole question of how much we are taking in—$750 billion in tax cuts over a 5-year period.

I say that when you do not take in the money, you cannot balance the budget. Can you believe it? Sixteen of the new U.S. Senators who came here on the wave of conservatism and new rightism in 1980—even they, after the tax bill was passed, wrote to the President of the United States and said:

> Mr. President, we did not know that the tax bill was going to make it possible for 50 percent of the corporations by 1985 to pay no taxes at all.

What an inequitable and iniquitous piece of legislation that was. Corporate taxes are going to be cut and cut and cut. The 1981 act will reduce the corporate share of Federal revenues to only 7.1 percent by 1987—7.1 percent—down from 12.4 percent in 1980; and by the end of this decade, the corporate share of Federal receipts will be below 5 percent, and it will continue to fall.

The business tax reductions will cost each taxpayer, in the form of higher taxes for foregone services, $180 in 1982, rising to $950 in 1986. Over the decade, the Reagan corporate tax phaseout will cost each taxpayer an average of $7,330.

Mr. President, I am no different than anyone else in the Senate, in Congress, and the people of America. It would be more fun to pay no taxes than to pay some taxes. It would be more fun to pay the least amount of taxes rather than the fair amount of taxes. But you cannot run this Government without having sufficient income to pay the bill. We can sit and cut, and cut, and cut, and try to cut back on social security benefits as the Republicans have attempted to do and the White House has attempted to do, but that is not the answer. The answer is we went too far in that tax bill. The budget resolution attempts to talk about this problem. But the fact is there are so many tax loopholes at the present time that I do not believe they will ever be able to close them adequately and the tax bill was so unfair and so unbalanced.

During 1982, 1983, and 1984, including bracket creep and social security increases, workers who were earning $30,000 or less when the bill was passed will be paying a greater share of their income in Federal taxes than they did in 1980. For taxpayers with incomes between $10,000 and $15,000, the tax increases will average 9 percent. For taxpayers earning under $10,000 the increase will be 28 percent.

But for those with incomes above $200,000, the Reagan tax bill cuts will provide reductions of more than $58,000 each over the next 3 years after fully offsetting tax increases due to bracket creep and social security hikes. That is a 15-percent cut in their taxes.

Mr. President, the fact is this budget resolution instructs the Finance Committee to report new legislation by July 12 that will raise a total of $98.3 billion in new taxes including $20 billion for fiscal year 1983.

Mr. President, it is not going to meet the problem. It is not going to really zero in on the issue because the real question is will the Finance Committee raise new taxes by closing corporate loopholes, or by increasing taxes that hit the middle and working class families? Will the Finance Committee eliminate the safe harbor leasing provisions, which will cost the Treasury $14 billion over the next 3 years and almost $30 billion over the next 5 years?

That provision has been a boon to the rich companies, not to distressed industries around the country.

General Electric earned $2.6 billion in 1981, paid no taxes, but it received $200 million in tax breaks from this leasing provision. In fact, in 1980, General Electric, the Nation's largest electrical manufacturer, paid $330 million, but in 1981 it actually got a refund from the Government of $100 million.

Under the safe harbor leasing provision IBM purchased nearly a billion dollars in tax breaks from the Ford Motor Co. And the Government now estimates that this kind of corporate trafficking in tax loopholes will cost the Treasury $30 billion in 5 years.

Mr. President, there are so many other tax loopholes that could be closed but I doubt very much that they will be closed and I see little indication from the Budget Committee that there is any intention of directing

the Finance Committee to close them. If we did one thing, if we closed the oil company tax loopholes, the elimination of the foreign tax credit on oil and gas extraction, the replacing of the percentage depletion for oil and gas with cost depletion, the change in the ACRS period for refinery property from 5 to 10 years, the elimination of the State and local government exemption from the windfall profit tax, and the elimination of the intangible drilling cost deductions that one act alone, if we had the guts to stand up to the oil companies and their political action committees, we would pick up $31.6 billion alone in the next 3-year period.

If we improved taxpayer compliance we could pick up $17.4 billion in a 3-year period. If we changed the taxation of foreign-earned income we could pick up a billion dollars.

Then, Mr. President, there are some others. there is an excess bad debt reserve that financial institutions have. No other businesses have it. If they have bad debts, they write them off. But the fact is that banks and financial institutions are permitted to compute and deduct amounts far in excess of their actual expense. And what does that cost the Federal Treasury? That single items costs the Federal Treasury $2.2 billion through fiscal year 1985.

Some years ago the timber interests of this country were pretty good in getting their lobbyists to get through a tax provision making it possible for them to treat timber as a capital gain. What the farmers in Ohio grow does not become a capital gain. They pay their full tax on the profit on it. The farmers in Ohio pay their full taxes on what they grow on the farm. Why is it that we make it possible for those who grow timber, which is planted in the same manner as our other crops, to treat their profits as a capital gain? That will cost the Federal Treasury $2 billion through fiscal year 1985.

Why do we make it possible for companies to take their entire operations into our island possession and pay no taxes at all?

A corporation doing business in a U.S. possession may elect to take a tax credit equal to the Federal income tax otherwise owed. In 1973 that tax credit provided the tax cost to the Federal Treasury of $2,300 per employee. By 1979 for every person employed in an island possession, it was costing the Federal Treasury $18,310 per employee, and I am sure it is much higher now.

In 1978, the Federal tax loss for pharmaceutical companies located in Puerto Rico was over $43,000 per employee while the traditional labor-intensive industries averaged their cost of less than $3,000 per employee. The difference occurred because they took their operations down to Puerto Rico and operated there.

The real question is, what is going to happen and where are we going to get this extra $20 billion?

I have the feeling, Mr. President, that some of these tax loopholes that presently exist are not going to be eliminated, including the one that was talked about in today's editorial in the Washington Post about the tax subsidies for retirement. I doubt very much that the chairman of the Finance Committee, notwithstanding his willingness and effort to do something about some of these loopholes, is going to be able to muster the necessary number of votes to get such a provision out of committee.

The Washington Post editorial today made it clear how accountants, lawyers, and corporate executives can put away $45,000 per person tax exempt in a pension fund and now under certain circumstances it can go up to as much as $150,000 in a single retirement account and no taxes are paid on that amount or the interest earned on it until it is withdrawn after retirement. Under that provision, if he dies and leaves the money, his heirs pay no estate tax. Self-employed people cannot do that. They can set aside only $15,000 a year in a tax-exempt account and an ordinary employee who is single can lay away only $2,000 a year tax free.

Why do we make it possible for the rich to pay no taxes and for average Americans to carry such an unfair burden?

Mr. President, I ask unanimous consent to have printed in the RECORD the entire Washington Post editorial.

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

[From the Washington Post, June 23, 1982]

TAX SUBSIDIES FOR RETIREMENT

The Tax Code now provides every worker some incentive to put away money for retirement. But the size of that incentive varies enormously—and unfairly—depending on where you work.

A corporate executive or an incorporated doctor or lawyer may have a corporate plan that sets aside up to $45,475 each year in a single retirement account—and as much as $150,000 if he is covered by two plans. He pays no tax on that amount or the interest earned on it until it is withdrawn after retirement. His heirs pay no estate tax on the fund when he dies. Self-employed people however, can set aside only $15,000 a year in a tax-exempt account, and an ordinary employee who is single can lay away only $2,000 a year tax-free.

Corporate plans, moreover, may allow individuals to borrow money from their retirement accounts to use for other purposes—thereby wiping out any stimulus for additional savings that the tax exemption may have provided.

The generous tax treatment of corporate pensions was meant to encourage corporations to provide better benefits for all their employees. In practice, however, other features of the tax law allow corporations to tailor their plans so that the vast bulk—even all—of the benefits go to higher-paid employees. In recent years, increasing numbers of professionals have incorporated so that they could get similar benefits. Now the self-employed are complaining because they don't get equal treatment.

Extending corporate-level benefits to all types of businesses and workers would simply cost the Treasury too much in lost revenue. The only sensible answer is the one that the Treasury Department—and the House legislation sponsored by Rep. Charles Rangel—would pursue: cutting back on corporate benefits, eliminating loopholes that promote use of pension funds as simple tax shelters and moving in the direction of eliminating all distinctions among types of businesses and trades.

Corporations are naturally fighting tooth and nail against any erosion of their executives' benefits. To satisfy critics, they'd rather just cut out benefits for professionals and keep their own. Some corporations are even threatening to respond to any cutback by retrenching on the relatively stingy benefits they give their lower-paid workers. But, as Assistant Treasury Secretary John Chapoton suggested recently in testimony before the House Ways and Means committee, if inducements for fair treatment of lower-paid workers are needed, there are better ways to provide them.

The government has an interest in encouraging people to provide adequately for their old age. But tax breaks for some mean higher taxes for others, and the case for subsidizing truly golden retirement years is extraordinarily weak.

Mr. METZENBAUM. Mr. President, I think some attention should be given to what the Budget Committee is thinking about as far as tax increases are concerned. Is the Budget Committee talking about really closing tax loopholes? Well, hardly so. They did mention the island possessions credit as being one possibility.

They did talk about eliminating capital gains for timber as being a possibility. They did talk about eliminating the DISC as being a possibility. And they did talk about cutting back the entertainment deduction for business to a 50-percent level as being a possibility.

But there are some areas that they talked about that I think the people of this country ought to understand. They ought to understand what the Reagan administration is thinking about, because this administration that is so determined to cut and cut and cut human service programs, people-oriented programs, programs that have to do with the quality of life in America, is not willing to go back and see the harm that it has done with respect to the most recent tax bill and the unfair shifting of the burden from the corporate taxpayers to the individual taxpayers.

No; let me tell you what they are talking about. The employers of this country have a right to deduct for health deductions, for health-paid benefits for their employees. But one Republican proposal would restrict

that deduction, which would mean that the individual employee would not receive as much in health benefits.

The Republicans are talking about eliminating the student exemption. They are talking about eliminating State and local sales tax deductions. They are talking about eliminating State and local personal property taxes as being a deductible item on your income tax. They are talking about eliminating the right to deduct your accrued interest on your life insurance. They are talking about taking away from consumers the right to deduct the interest that they pay when they buy something on credit, excluding up to $1,500 on auto loans. How generous they are. They are talking about repealing a $100 dividend exclusion. They are talking about taxing—this is a beauty—taxing all unemployment compensation.

First they cause the people to be unemployed, then they see to it that their benefits run out because they cannot find a job, then they get unemployment compensation and now it is suggested that we tax unemployment compensation. That is a real beaut. That would raise $2.4 billion according to these figures in 1984 and $2.2 billion in 1985.

And they are talking about eliminating $150 a year health insurance deduction.

Mr. President, I ask unanimous consent that the entire list be printed in the RECORD at this point.

The PRESIDING OFFICER (Mr. KASTEN). Is there objection?

Mr. DOMENICI. Reserving the right to object. I did not hear that request.

Mr. METZENBAUM. To include the entire list that the Budget Committee had.

Mr. DOMENICI. That the Budget Committee had?

Mr. METZENBAUM. Yes; it was a part of the markup document.

Mr. DOMENICI. The grocery list of tax expenditures?

Mr. METZENBAUM. That is correct.

Mr. DOMENICI. I have no objection.

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

CHAPTER II: REVENUES

ADMINISTRATION PROPOSAL [1]

[Dollars in billions]

| | Fiscal years | | | |
|---|---|---|---|---|
| | 1983 | 1984 | 1985 | Total |
| Tax revisions: | | | | |
| Completed contract accounting | $1.9 | $4.4 | $4.6 | $10.9 |
| Business energy tax credits | 0.1 | 0.3 | 0.5 | 0.9 |
| Tax-exempt revenue bonds | −0.2 | 0.3 | 1.1 | 1.2 |
| Modified coinsurance | 1.9 | 2.2 | 2.5 | 6.6 |
| Construction period interest and taxes | 0.5 | 1.0 | 1.0 | 2.5 |
| Corporate minimum tax | 2.3 | 4.8 | 4.5 | 11.6 |
| Subtotal tax revisions | 6.5 | 13.0 | 14.2 | 33.7 |

ADMINISTRATION PROPOSAL [1]—Continued

[Dollars in billions]

| | Fiscal years | | | |
|---|---|---|---|---|
| | 1983 | 1984 | 1985 | Total |
| Improved tax collection and enforcement: | | | | |
| Withholding on interest and dividends | 2.0 | 1.3 | 1.4 | 4.7 |
| Acceleration of corporate tax payments | 1.4 | 1.7 | 0.9 | 4.0 |
| Internal Revenue Service staff increases | 2.1 | 2.4 | 2.4 | 6.9 |
| Subtotal, improved tax collection and enforcement | 5.5 | 5.4 | 4.7 | 15.6 |
| Enterprise zones | −0.1 | −0.4 | −0.8 | −1.3 |
| Airport and airway trust fund | 1.2 | 1.4 | 1.5 | 4.1 |
| Railroad retirement | −1.7 | −1.8 | −1.9 | −5.4 |
| Federal employee hospital insurance taxes | 0.6 | 0.8 | 0.9 | 2.3 |
| Caribbean Basin initiative | ([2]) | −0.2 | −0.2 | −0.4 |
| Other | 0.1 | 0.1 | 0.1 | 0.3 |
| Total | 12.0 | 18.3 | 18.5 | 48.8 |

[1] Effective January 1, 1983 except provisions with fiscal year 1982 revenue effect. The enterprise zones would begin January 1, 1984.

[2] $50 million or less.

Note: Detail may not add to totals due to rounding.

ADMINISTRATION PROPOSALS

Repeal of the completed contract method. Present regulations allow contractors in projects which take more than one year to complete to defer the taxation of any income until the project is completed even though certain costs are currently deducted.

Repeal of business energy tax credits. Present law provides additional investment tax credits for the purchase of energy property. Some are scheduled to expire at the end of 1982 and others in 1985 and later. Gasohol is granted an excise tax exemption or an equivalent credit. The proposal would also repeal provisions which allow tax-exempt industrial development bonds to finance low-head hydroelectric facilities and other energy property.

Restrictions upon tax-exempt bonds for private activities. The proposal would allow only straight line depreciation over an extended recovery period for assets financed with tax-exempt bonds after 1982. Tax-exempt bonds would have to be publicly approved by local governments and, after 1985, they must contain a financial contribution, commitment, or obligation from the local government. Small-issue industrial development bonds would not be allowed for large business.

Repeal of special tax treatment of modified coinsurance. Present law allows life insurance companies to convert taxable investment income, which is subject to a 46 percent tax rate, into underwriting income which is taxed at a maximum rate of 23 percent.

Capitalization of construction period interest and taxes for corporations. Present law requires individuals to capitalize, but corporations are allowed immediate write-offs. The proposal would require capitalization over ten years except for low-income housing.

Imposition of an alternative corporate minimum tax. The present add-on minimum tax would be repealed and replaced with a 15 percent tax which would be paid if it exceeded the tax liability otherwise calculated. The alternative tax base would include taxable income plus certain tax preferences in excess of $50,000. The investment tax credit would not be allowed against the alternative tax.

Imposition of 5 percent withholding on interest and divided income. Taxpayers aged 65 or older with tax liability of $500 ($1,000 on joint returns) or less would be exempt.

Speed-up of corporate income tax payments. Corporations would be required to make estimated payments equal to 90 percent of current year liability after 1982. All remaining liability would be due in one payment on the fifteenth day of the third month following the close of the tax year.

Hiring of 5,000 additional IRS collection and enforcement officers.

Beginning in fiscal year 1984, several nonrefundable wage and investment credits would be established as part of the President's urban enterprise zone proposal. The zones would also receive relief from capital gains taxes and tariffs as well as continued availability of tax-exempt industrial development bond financing.

MISCELLANEOUS TAX INCREASES [1]

[Dollars in billions]

| | Fiscal years | | | |
|---|---|---|---|---|
| | 1983 | 1984 | 1985 | Total |
| Business: | | | | |
| 1. Employer health deductions | $2.6 | $4.5 | $5.6 | $12.7 |
| 2. Island possessions credit | 0.6 | 1.4 | 1.5 | 3.5 |
| 3. DISC (including 10-year recapture) | 0.5 | 2.0 | 3.0 | 5.5 |
| 4. Eliminate capital gains for timber | 0.3 | 0.6 | 0.7 | 1.6 |
| 5. Entertainment deductions (50 percent limit) | 0.1 | 0.3 | 0.3 | 0.7 |
| Total business | 4.1 | 8.8 | 11.1 | 24.0 |
| Individual: | | | | |
| 1. Student exemption | 0.4 | 1.1 | 1.1 | 2.6 |
| 2. State and local sales tax | 0.8 | 5.4 | 6.0 | 12.2 |
| 3. State and local personal property tax | 0.1 | 0.6 | 0.6 | 1.3 |
| 4. Accrued interest on life insurance | 1.5 | 3.7 | 3.9 | 9.1 |
| 5. Consumer interest expense (excluding up to $1,500 on auto loans) | 0.9 | 6.3 | 6.7 | 13.9 |
| 6. Repeal $100 dividend exclusion | 0.2 | 0.6 | 0.6 | 1.4 |
| 7. Repeal 15 percent net interest exclusion | | | 1.1 | 1.1 |
| 8. Tax all unemployment compensation | | 2.4 | 2.2 | 4.6 |
| 9. Eliminate $150 health insurance deduction | 0.1 | 0.4 | 0.4 | 0.9 |
| 10. 10 percent floor under medical deduction | 0.3 | 2.3 | 2.5 | 5.1 |
| 11. 10 percent floor under casualty deduction | 0.1 | 0.7 | 0.8 | 1.6 |
| Total individual | 4.4 | 23.5 | 25.9 | 53.8 |
| Total business and individual | 8.5 | 32.3 | 37.0 | 77.8 |

[1] Repeal unless otherwise stated.

MISCELLANEOUS TAX INCREASES

*Business*

1. The Employer Health Insurance deduction encourages overinsurance and higher health care costs. In fiscal year 1983, we will lose $18 billion of general revenues from this deduction and $8 billion of Social Security Trust Fund revenues. Capping the deduction at $150 a month for families and $60 for singles would raise $12.7 billion from fiscal year 1983 through 1985.

2. The Island Possessions Credit provides long-term tax deferral to American companies operating in U.S. possessions, Puerto Rico, American Samoa, and Guam, in return for job creation. Ninety-nine percent of the $1.4 billion annual revenue loss goes to Puerto Rico. Half of that amount goes to 16 large pharmaceutical companies who hire relatively few Puerto Ricans. The exemption was originally enacted in 1921 for U.S. firms in the Philippines to give them the same tax treatment as British competitors. The statute remained on the books after Philippine independence in 1946, and it was only a few years later that Puerto Rico promoted this benefit for itself and enacted its own reductions in addition. Treasury and CBO reports have since questioned the job

creation attributable to this provision. Repeal of this provision would raise $3.5 billion in fiscal year 1983 through 1985.

3. The Domestic International Sales Corporation (DISC) was established in 1971 to encourage exports of domestic production and to stem the relocation of production overseas. Treasury studies have shown a slight increase in exports, but at a very high cost in foregone revenue. DISCs are allowed to permanently defer half of their export income in excess of a base period amount. Repeal of this provision and taxation of deferred income would raise $5.5 billion from fiscal year 1983 through 1985.

4. Capital gains treatment for timber was granted in 1943 to provide the same tax for those who selectively cut timber as part of their business as those who sell an entire stand of timber. The tax code generally treats "stock in trade" as ordinary income. Repeal of this provision would raise $1.6 billion in fiscal year 1983 through 1985.

5. Firms are allowed to deduct the full amount spent on business entertainment as an "ordinary and necessary" business expense if the meal or entertainment is directly related to or associated with the firm's business. This deduction has been the subject of continuing controversy, with opponents arguing that it provides a government subsidy for personal pleasures that have only a remote business purpose, and defenders arguing that the conduct of business is greatly facilitated by such expenditures. Limiting business meal and entertainment expense deductions to 50 percent of the amount spent would increase revenues by $0.7 billion in the fiscal year 1983–1985 period.

*Individual*

1. The rule allowing a parental personal student exemption was adopted in 1954. The main reason for the rule was to avoid the "notch" problem that resulted when a dependent's earnings were close to the exemption amount; an extra few dollars in earnings could deprive the parents of the exemption, costing them hundreds of dollars in extra taxes. The exemption was also justified as a way of taking into account the added costs parents incur for students. Present law provides that until a child turns 19, the parents can claim an exemption of $1,000 if they contribute at least half of the child's support. Beyond that age, an additional test is imposed—the child must have less than $1,000 income in order to qualify as a dependent. If the child is a student, however, the parents can claim an exemption regardless of the student's income, so long as they provide half of the support. If the special exemption for students was repealed effective January 1, 1983, the increased Federal revenues over the fiscal year 1983–1985 period would total about $2.6 billion.

2. & 3. State and local sales and personal property tax deductions have been included to preserve state and local revenue sources and as an item determining the taxpayer's ability to pay taxes. In most cases, however, these taxes are deducted by higher income itemizers (a third of all taxpayers) for personal consumption expenditures. This deduction also encourages states to rely more heavily upon sales taxes than they otherwise would with a resulting increase in the level of inflation. Repeal of both of these taxes would raise $13.5 billion from fiscal year 1983 through 1985.

4. Premiums paid for whole life insurance contribute both to a death benefit and to a savings benefit. The accrued interest on life insurance savings is not taxed under present law even though interest income on other forms of saving is taxed. Taxing this interest income currently (even though the policy-holder has received no cash income) would raise $9.1 billion for fiscal year 1983 through 1985. Allowing a $100 floor to eliminate taxation of small amounts of such income would reduce the revenue gain by approximately half.

5. Consumer interest expense deductions encourage high-income taxpayers to borrow to make consumption expenditures. This helps raise interest rates. Only 17 percent of all taxpayers use this deduction. Twenty-two percent of this tax benefit goes to those with incomes in excess of $50,000. Repealing this deduction, excluding automobile interest, would raise $13.9 billion for fiscal year 1983 through 1985.

6. The $100 dividend exclusion and its predecessor, the dividend credit, have been part of the tax law since 1954 to alleviate the double taxation of dividends at both the corporate and individual level and to promote broader stock-holding by small investors. Numerous studies have shown that this provision does little to achieve these objectives, especially because of the very low dollar limitation. Repeal of this exclusion would raise $1.4 billion over the fiscal year 1983 through 1985 period.

7. The net interest exclusion was added to the tax law in 1981 to promote personal saving beginning in 1985. Some studies have questioned whether individuals are responsive to such incentives. Repeal of this provision would raise revenues by $1.1 billion in fiscal year 1985.

8. Taxing unemployment compensation would increase employment among higher income workers. In many cases these workers have seasonal employment or they have working spouses. As much as half of all unemployment compensation goes to those who have experienced temporary layoff. Once the benefits have been exhausted, the worker is rehired. In the cases where unemployment reduces income below the poverty level, existing income tax exemptions and deductions would allow that portion of unemployment compensation to remain tax-free. Present law already recognizes the taxability of unemployment compensation for individuals with incomes exceeding $20,000 and couples with $25,000. Taxing all unemployment compensation as of January 1, 1983 would raise $4.6 billion in fiscal year 1983 through 1985.

9. The medical insurance deduction was created in 1942 and expanded in 1965 on the theory that insurance expense ultimately reduces medical expense claimed as a deduction and should therefore be encouraged. It now appears that medical insurance is so widespread that unnecessary medical expenses contribute to a $22 billion annual revenue loss. Repeal of this deduction would raise $0.9 billion in fiscal year 1983 through 1985.

10. The medical expense deduction is allowed on the theory that expenses which are catastrophic and severely impare a taxpayer's ability to pay taxes should be deductible. Originally, in 1942 when the deduction was created, a five percent floor was imposed. Now, there is a three percent floor with an additional one percent floor on prescription drug expense. With the rise in health care costs, encouraged by the deductibility of employer health insurance payments, the average health care cost as a percent of adjusted gross income has risen to over 12 percent. Thus, it is difficult to support the present law 3 percent floor as the dividing line for catastrophic medical expense. A 10 percent floor would raise $5.1 billion from fiscal year 1983 through 1985.

11. The casualty loss deduction currently benefits only three percent of the taxpayers who itemize their deductions and who incur a sudden and unexpected loss from fire, storm, theft, etc. This deduction tends to benefit high-income taxpayers. It has proven to be difficult to administer and to be subject to abuse. It creates an incentive to underinsure and to take unnecessary risks. Imposing a 10 percent floor under this deduction would raise $1.6 billion in fiscal year 1983 through 1985.

EXCISE TAX INCREASES [1]

[Dollars in billions]

| | Fiscal years | | | |
|---|---|---|---|---|
| | 1983 | 1984 | 1985 | Total |
| 1. Double distilled spirits ($21 a gallon) | $1.6 | $2.6 | $2.7 | $6.9 |
| 2. Double tobacco (16 cents a pack) | 1.2 | 1.8 | 1.8 | 4.8 |
| 3. Double beer ($18 a barrel) | 0.8 | 1.2 | 1.1 | 3.1 |
| 4. Double wine (34 cents a gallon) | 0.2 | 0.2 | 0.2 | 0.6 |
| 5. Double telephone (2 percent) [2] | 0.5 | 0.6 | 1.3 | 2.4 |
| 6. Double motor fuels (8 cents) | 2.3 | 3.4 | 3.3 | 9.0 |
| 7. $5 a barrel oil import fee | 8.6 | 12.2 | 11.6 | 32.4 |
| 8. 10 percent excise tax on luxuries | 1.5 | 1.6 | 1.7 | 4.8 |
| Total | 16.7 | 23.6 | 23.7 | 64.0 |

[1] Effective Jan. 1, 1983 unless otherwise noted.
[2] Effective Oct. 1, 1983.

Mr. METZENBAUM. Now what is really going to happen? When are we going to require the oil companies of this country to pay their fair share? When are we going to eliminate some of these gross tax loopholes, or are we only going to consider taxes on consumers by increasing taxes on telephones and gasoline and alcohol and tobacco and the like?

The sad part about this entire matter is that those measures to increase revenue that probably have the best chance of getting through are those that will increase the consumer-oriented taxes. Here is a budget that comes down hard on working people and poor people. Here is a budget that increases military spending and throws money at the military, and here is a budget that talks about picking up $20 billion in 1983. That is a pittance. We caused reductions in taxes of $750 billion.

Exxon, in 1980, made $2.5 billion and paid 1.3 percent taxes.

Now what kind of fairness, what kind of equity, what kind of a country are we? What kind of Congresspersons and Senators are we that we do not seem to care about the impact of this budget on the people of this country; the impact of the earlier budget on the people of this country, the impact of the tax bill, the inequities and unfairness and disproportionate responsibility that was caused by reason of that tax bill? Do we not care? Do we not feel? Whose Senators are we? Whose work are we doing down here? How can we be so cruel that we do not seem to care at all about the impact of this budget?

We worry only about the mathematical figures, the numbers. It is the impact that I think we ought to be talking about.

The White House is worried about the perception that the Reagan administration policies are helping the rich and hurting the poor. Unfortunately, that is a reality of America. They are hurting more than the poor. They are hurting middle-income Americans. They are hurting Americans. That is the real problem, they are hurting Americans. When funds are cut for food stamps, for jobs, for medicare, for medicaid, for education, and for other human service programs, people are going to be hurt.

People are being hurt now and will be hurt even that much more, but not one word of concern about that. "Get the budget bill through, Wall Street demands it."

Yesterday the House passed this budget resolution by only 3 votes, 211 to 208. That is hardly a resounding mandate. But the President got his budget bill in the House and he is going to get it in the Senate. This budget is going to be hard for many people to swallow. There are 215 million people in America and my guess is there are not 215 of them that know what is in this budget bill.

We have heard much talk about sending a signal to Wall Street so investors will have confidence. Let me say it is time to worry less about Wall Street and it is time to worry more about the people of this country. It is time to worry about the millions of Americans who need help because they are unemployed. It is time to provide the social safety net that was originally talked about and promised.

This budget will hurt millions of people. It is unfair. It is inhumane. It is unjust.

Some may say, "Well, Senator, you have used those words before." Indeed I have. And the facts only serve to confirm exactly what I said before and what is true today and it is more true and it is going to get worse and worse and worse. This administration's priorities are turned upside down. This administration has done more to turn the clock back in about 16 months than probably any other administration in the history of the Nation.

But do they care? Do they care? Is there any single indication that anybody down at that White House really cares or is concerned?

And I say to my Republican friends in the U.S. Senate, "Do you really understand what you are doing here today? Do you really care what you are doing?" You told us when David Stockman was before us that this thing of supply-side economics was going to work so well. It worked so well that one out of every eight people in my State are unemployed. Oh, that is great work. And there is not any indication that they are going back to work.

Inflation has started up again. Oil companies are increasing their prices even though there is no shortage. But this administration does not care. This administration is the most indifferent, most lacking in compassion that I think we have ever had in the history of our Nation.

This budget goes in the wrong direction. I will vote against it. I urge my colleagues to do the same.

The PRESIDING OFFICER. Who yields time?

Mr. HOLLINGS. Mr. President, I yield to my distinguished colleague from Nebraska, Senator EXON.

Mr. EXON. Mr. President, I thank my friend from South Carolina with whom I have had the privilege of working on the Budget Committee since I came to the Senate.

We are discussing the budget today and I would like to make a brief statement and then if I could, if he would agree, my friend from South Carolina, possibly he could clarify some of the questions that I have in my mind that I think many of the Members of the U.S. Senate would be asking for clarification on as we come down to the vote on the matter before us in the very near future.

Mr. President, it seems to me that at least the Senate should clearly understand what it seemingly is about to do. I am fearful that many in the land who have been led to believe that we are making progress toward a reduction in Federal spending and deficits may soon ask, "Why didn't someone tell us the truth about what was really happening with regard to the lack of true fiscal responsibility?"

So to try and spell it out one more time as clearly as we can, so that our colleagues will know what they seemingly are about to do, and so once again shortly before the vote it will be spelled out so no one can possibly misunderstand, let me first ask the ranking minority member on the Budget Committee, my friend from South Carolina, if the figures I have, and as I interpret them, are accurate.

In the first place I would ask the question, is it true that the conference report we are about to vote on predicts a deficit for fiscal year 1982 of $105.7 billion as presented to us in the conference report?

Mr. HOLLINGS. That is for the year 1982. In the conference report, the deficit for fiscal year 1983 is $103.9 billion?

Mr. EXON. I thank my friend. So it is true, then, that for 1982 the projected deficit is $105.7 billion?

Mr. HOLLINGS. That is correct.

Mr. EXON. Is it also true that for the same period the independent, nonpartisan Congressional Budget Office says that deficit is more likely to be $113.8 billion for 1982?

Mr. HOLLINGS. That is correct.

Mr. EXON. To carry this one step further, for 1983, which we have just verified, the conference report projects a decrease, I would point out, to $103.9 billion in deficits for 1983. Is that correct?

Mr. HOLLINGS. That is correct.

Mr. EXON. And is it also true that for the same period, the independent, nonpartisan, nonpolitical Congressional Budget Office estimates that that same figure will not be $103.9 billion but will be more likely $116.4 billion?

Mr. HOLLINGS. The Senator is correct.

Mr. EXON. I would simply point out, Mr. President, that when you take people who are not involved in trying to give the best face of the budget possible, we are going in the wrong direction with regard to the deficits in the budgets of the Federal Government, from $113.8 billion for fiscal 1982 up, and not down, to $116.4 billion in 1983.

I would simply ask my friend from South Carolina, the ranking minority member on the Budget Committee, is it fair to say, then, that this budget takes us in the wrong direction rather than the right direction from the standpoint of balancing the Federal budget?

Mr. HOLLINGS. It very definitely takes us in the wrong direction. The Senator will remember the distinguished President in his campaign stated that what we were trying to do was to increase the size of the economy and decrease the size of Government. We find in 1980 that outlays by the Federal Government as a percentage of the GNP was 22.5 percent. In 1982 it now has gone up to 24.3 percent of the GNP. So Government is getting bigger and bigger and bigger, and the economy, incidentally, with the Dow Jones stock market index below 800, is getting smaller and smaller and smaller.

Mr. EXON. I thank my friend from South Carolina. Let me ask another question. Is it fair to characterize this as the worst budget, by far, ever proposed from the standpoint of deficit financing, that is, Government spending more than it takes in?

Mr. HOLLINGS. Yes.

Mr. EXON. I hope that my colleagues and the people of the United States will remember that.

There is one other point. It seems to me it is critically important that oftentimes when we talk about budgets, where we are going to cut and where we are going to spend, we lose sight of a very, very important factor, not only with regard to deficits but how those deficits continue to mount and mount and mount and the increase of the public debt that must accrue. There was the $1 trillion figure for the first time in our history just last year.

If this budget is approved, where are we going in increases or decreases in the national debt limit in future years?

Mr. HOLLINGS. Right to the point, of course, we have exceeded the $1 trillion debt limit and we are going to have to extend that debt limit again in the next 10 days. But if you take that $1 trillion limit and look at the public debt for 1982, it goes to $1,151,200,000,000; in 1983, to $1,310,800,000,000; in 1984, to $1,461,500,000,000, and then it goes, in 1985, to $1,607,500,000,000.

So, in 1981 when President Carter left office the national debt was 34.9 percent of the GNP; in 1982 that jumped to 37.7 percent, and now, under this particular conference report by 1985, the public debt will amount to 39 percent of the GNP.

So we are saddling all the generations to come with a bigger government, a bigger debt, and a locked-in interest cost that is going on and on and on. I do not see how the ensuing Congresses, the body politic, will be able to cope with them.

Mr. EXON. I thank my friend from South Carolina. I would like to ask a further question. What was the public debt, approximately, of the Federal Government in the year 1979 or 1980?

Mr. HOLLINGS. In 1979 it was $827.6 billion.

Mr. EXON. I thank my friend. Then if I understand the figures which have just been presented, the course that we are going on with the budget that seemingly we are about to adopt would show that in round figures the public debt of the United States would basically double in a period of 5 or 6 years, from roughly $800 billion to $1.6 trillion. Is that correct?

Mr. HOLLINGS. That is correct. It is a disaster.

Mr. EXON. Mr. President, I thank my friend from South Carolina. I intend to vote against the budget figures being presented for the basic reason that it seems to this Senator that we are bent on a course of making it impossible for us to reduce the interest rates, the high interest rates, the highest real interest rates in our history.

Until we do that, it seems to me, we are not going to have any chance for the farmers, the small businessmen, and people in general to lead us out of the serious recession that confronts our country.

Mr. President, I yield the floor.

Mr. HOLLINGS. Mr. President, I yield to the distinguished Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, what is wrong with the budget resolution, especially as amended by the House?

First, it gives the country a $104 billion deficit for the 1983 fiscal year. That will be the biggest deficit ever by far in the history of the country. The deficit will almost certainly grow far larger than $104 billion. I estimate it will go to $125 billion to $140 billion.

Every budget deficit in recent years has suffered gross underestimation when it was first proposed in the budget resolution. This will be no exception. How do I know? Easy. First, it assumes that we pull out of the current recession with a burst. Growth which, in this fiscal year, will be close to zero is expected to increase to 5.4 percent. This rapid reversal of the economy from recession to boom provides an essential basis for keeping the deficit down to $104 billion. If—as the great majority of competent experts seem to agree—we grow at a far lesser rate and suffer only a sluggish recovery to, say, 2½ percent growth or maybe 3 percent growth, the deficit will be much bigger. Here is why: The level of unemployment in those circumstances would stay at 9.4 percent, or increase. For every 1-percent increase in unemployment, the Federal deficit grows about $25 billion.

The Budget Committee assumes that unemployment will drop to 8.4 percent next year from the present 9.4 percent. That is the way they get the deficit at $104 billion. That does not sound too difficult, except that unemployment is a lagging indicator. It only improves after the economy has been growing at a pretty solid rate for some time. Employers just do not hire back former workers until they put their current workers to work full time and even overtime. And what chance do we have for that? Unemployment has hit the homebuilding industry and the auto industries especially hard. In fact, every credit-sensitive industry has been driven to its knees. No big recovery, no substantial increase in employment in those industries will occur until interest rates begin to drop. But will they? The committee assumes they will. They assume interest rates will come down sharply. But why should they? Interest rates today are high for one big reason—mammoth Federal deficits on top of a huge national debt and skyrocketing off-budget borrowing.

In fact, off-budget borrowing increased in the past few years almost exactly twice as fact as the rapidly increasing budget deficit. The Budget Committee assumes that the Federal Government will take something like 45 percent of all new credit in 1983 that would be more than in any year in our history by far except 1982, and that grim fact alone will probably abort any effective recovery.

Here is why: Interest rates presently paralyze much of American industry. With the Federal Government still demanding a mammoth share of the credit available, and a recovering economy, of course, also requiring increasing credit, the pressure on interest rates will be greater than ever. With that scenario, 1983 will be a replay of 1980, 1981, and 1982. The recovery will run into rising prime rates, mortgage rates, rates for auto buyers and farmers and small businessmen, and once again—for the fourth time in 4 years—the sickly, anemic recovery will stumble, stagger and then sink into recession.

For all these reasons, the budget resolution is wrong. This Senator introduced an amendment to the budget resolution that would have given us a deficit in 1983 of $90 billion—far too big but a great improvement over where the budget resolution before us puts the economy. It is time for us to realize that we face not a 1- or 2-year problem but a long period—perhaps 10 years or more—of slow growth or recession, of high and often growing unemployment, of great pressure on our manufacturing industry and our financial institutions, of extraordinarily difficult decisions on credit. We will have to do what may seem almost impossible.

This is something that I think too few people in Congress or too few economists outside of Congress have concentrated on: We have to hold down spending, increase tax revenues, and, at the same time, nudge the economy into a healthy period of prosperity and growth.

That is tough. It is one thing to stimulate the economy by increasing spending and cutting taxes. It is something else when you are going in the opposite direction. That is what we have to find a way to do. We must disenthrall ourselves of the illusion that we are still in the thirties and that we can solve this recession by Federal jobs and spending programs. Inflation and its high-interest handmaiden have given us an entirely new, much more difficult, much more challenging ball game. Now we will not be able to spend our way or borrow our way out of the recession. It will take years of consistent and patient forbearance to make progress.

We should not kid ourselves; we are going to have to face deficits, unfortunately, probably for years to come; unemployment at a high rate for years to come; bankruptcies for some time to come, and business failures. But unless we recognize those grim facts and recognize also that it is going to take a long, long time to push our way out of it, we shall not succeed.

Mr. President, I yield the floor.

Mr. McCLURE. Will the Senator yield?

Mr. DOMENICI. Mr. President, I am going to yield to the distinguished chairman of the Energy Committee for a colloquy, but before the distinguished Senator from Wisconsin (Mr. PROXMIRE) leaves the floor, may I take 1 minute with him?

I am sorry the Senator will not vote for the resolution, because I listened carefully to his analysis of the problems we have in this American economy and I agree. I think those of us who put this resolution together and have worked on fiscal policy reorientation for the last year and a half agree with his analysis.

We will not solve these economic problems the way we solved previous recessions and certainly not the way we solved the previous depression. Huge new expenditure programs will not solve it. As a matter of fact, and I regret to say this, I think he is absolutely correct on one point he made. The problems we find ourselves in are not subject to miraculous, instant curses. It is going to take a long period of hard, dedicated work, year after year, reducing that exorbitant rate of growth of the National Government and reducing taxes as much as we can, moving as close to balance as possible, with a monetary policy that accommodates that kind of fiscal policy.

I do not know if the American people are going to have the staying power to let their leaders and their politicians do that, but I think that is what it is going to take.

I thank the Senator for his analysis. I regret that we cannot move any more quickly than we have in this resolution. We have put together the best budget we can that will get the votes necessary to move in the directions we must go. We cannot move any faster.

We have the problem that the President with the strong support of the American people, has pushed for major increases in the national defense function, not cut it. We have that going at the same time we are trying to hold down the budget. We are doing the best we can.

I wanted to say that to him here on the floor. I hope we will arrive at some point in time that we produce a budget resolution that the distinguished Senator can support. I think he and I are moving in the same direction. I regret that we just cannot put it into the political process of getting enough people to support things that would satisfy his inclinations and his concerns, and I regret that.

Mr. PROXMIRE. Will the Senator from New Mexico yield?

Mr. DOMENICI. I would be pleased to.

Mr. PROXMIRE. I want to thank the Senator for the excellent statement he made. I could not agree with him more, and I cannot tell him how reassuring it is that the Budget Committee has that understanding. I think too few people in this country do have it. This is not something we can solve this year or next year. It is going to take at least 10 years or more to solve. We have to be persistent. We have to recognize that it is going to take years of great difficulty, of high unemployment, years in which we are going to have to make the most unpopular kind of political decisions of cutting spending and increasing revenues.

I think that we are very fortunate to have a man of the character and quality of Senator PETE DOMENICI as chairman of the Budget Committee because he does have that understanding. I thank the distinguished chairman.

Mr. DOMENICI. I thank my distinguished friend from Wisconsin.

I will be pleased to yield to the distinguished chairman of the Energy Committee, Mr. MCCLURE.

Mr. McCLURE. I thank the chairman.

Mr. President, I rise to ask for a clarification of the conference substitute in several regards.

First, with respect to the fiscal year 1983 functional total for energy (270), section 1(b)(4) establishes a functional total of $4.8 billion in new budget authority. However, as the Senator from New Mexico stated in his opening remarks, this functional total assumes certain user fees will be enacted; namely, this functional total assumes the enactment of $300 million of nuclear waste user fees based on Senate passage of S. 1662. In addition, the resolution assumes enactment of $60 million in user fees collected by the Federal Energy Regulatory Commission, as proposed by the administration.

Is this a correct interpretation of the Senator's statement?

Mr. DOMENICI. Yes.

Mr. McCLURE. Am I also correct in interpreting the Senator's statement to mean that for the purpose of Appropriations Committee actions regarding fiscal year 1983, the energy functional total is effectively $360 million higher in budget authority than the figure set forth in section 1(b)(4).

Mr. DOMENICI. That is a correct interpretation of the conference substitute.

Mr. McCLURE. My second concern, Mr. President, is in the event that the Congress should fail to enact the legislation to raise these user fees, what would be the effect on the functional total for energy. Am I correct that for the purpose of the Appropriations Committee actions the available new budget authority for fiscal year 1983 would beat the higher figure and would be unaffected by whether or not legislation regarding nuclear wastes fees and FERC user fees become final law?

Mr. DOMENICI. That is correct.

Mr. McCLURE. Would that also be the case should this resolution become operable as the second budget resolution for fiscal year 1983?

Mr. DOMENICI. That also would be the case, Mr. President.

Mr. McCLURE. My third concern, Mr. President, is the statement in the conference report regarding user fees which reads as follows:

The managers agree that the amounts set forth above for increases in revenues include the assumption that the following amounts will be raised through increased user fees to recover costs of Federal programs and activities: Revenues from user fees fiscal year 1983, $0.9 billion; fiscal year 1984, $1.0 billion; and fiscal year 1985, $1.4 billion.

The statement of the managers then goes on to add the following:

The spending totals in various functional categories of the budget also include assumed increases in offsetting receipts from new or expanded user fees. The conference substitute assumes that certain user fees will be increases, but the managers agree that the budget may be implemented without the imposition of the specific user fees assumed.

Mr. President, a clarification of this language would appear appropriate. As I understand this report language, several authorizing committees have been provided reconciliation instructions based on assumed user fees. Conversely, several authorization committees have not been assigned reconciliation instructions, although enactment of legislation providing for new or expanded user fees are assumed in various functional totals. Am I correct in my intrepretation of this report language?

Mr. DOMENICI. You are correct. The Finance Committee was given a reconciliation instruction on user fees; office committees with user fee jurisdiction were not instructed.

Mr. McCLURE. With regard to the Committee on Energy and Natural Resources, as we discussed earlier the user fees from nuclear waste and FERC are assumed in the functional totals, are these fees the subject of reconciliation instructions?

Mr. DOMENICI. No, they are not.

Mr. McCLURE. Would the absence of their inclusion in a reconciliation instruction in conjunction with the report language in any way affect our earlier understanding of the functional total for the energy, in particular, from the standpoint of the Appropriations Committee actions?

Mr. DOMENICI. The subject report language is consistent with our earlier discussion. From the standpoint of actions by the Appropriations Committee, spending totals in the various functional categories of the budget would be adjusted by certain user fees, such as nuclear waste and FERC, whether or not such fees are included within a reconciliation instruction to the authorizing committee.

Mr. McCLURE. I thank the Senator for yielding.

Mr. DOMENICI. I thank my friend, the chairman of the Energy Committee.

Mr. President, I want to yield now as much time as Senator GRASSLEY desires. He says 4 to 5 minutes, but I will yield as much time as he desires.

Mr. GRASSLEY. I thank the Senator from New Mexico for yielding.

Mr. President, I am going to cast my vote today for this budget resolution, and that vote comes not because I agree with everything that is in it, because obviously I do not. But my support of it comes from the deep concern that I have for the future direction of our economy and because I think that this budget resolution gives a much-needed and beneficial direction to our economy.

However, I have to remind my colleagues that our work has just begun. To paraphrase the poet Robert Frost, "We have miles to go before we sleep."

Recognizing that urgent action to reduce projected deficits is a very necessary first step toward lower interests rates, I support this resolution as the best possible package that could pass Congress. The final product differed widely from the original freeze concept which I proposed and supported initially and which the Senate Budget Committee adopted, due to the good work of our chairman, in some modified version on May 6.

I still believe that a freeze on total Federal spending would be the fairest of all budgets and would have provided the means of sharing the burden of spending restraint evenly and across the board. It also would have been the most effective way of halting the growth of Government spending at the Federal level.

However, this budget resolution goes a long way toward reducing the projected deficits of $625 billion that would have accumulated by 1985 had we not taken action. It will reduce those deficits by $400 billion over the next 3 years. We have established in this budget a clear downward trend of Government activity in the capital markets. But while the Government's share of borrowing will be declining, our efforts to straighten out the economy are nowhere near completion. For there are two sides to the equation for reducing interest rates. Not only must we reduce Government borrowing but we must also create new capital. The only way that can happen is for Congress to reform the laws governing the economy. We must change from a buy-and-borrow economy to a save-and-invest economy. The first place to start in this reform is with the Federal Tax Code. The problems of the Federal Tax Code are so numerous that it boggles the mind. The code is inequitable, inefficient, and grossly complicated. Billions of dollars are paid to tax experts to figure out for their clients how to avoid paying taxes.

Mr. President, think of the potential and beneficial use of those billions of dollars wasted through avoiding taxes. They could be spent within our economy in a productive way. And think of the human resources, some of the brightest minds in the country, that would be freed for productive purposes if we could somehow simplify and neutralize the Tax Code.

The present Tax Code through deductions, credits, and exemptions is heavily biased against savings and investment, and strongly favors consumption and debt creation.

The high marginal tax rates faced by all taxpayers make it increasingly difficult for lower income workers to become middle-income earners and middle-income earners to become higher income earners.

Mr. President, unless Congress acts urgently to reform the laws governing our economic activity, there is little chance that the recovery we expect later this year will be sustained. We cannot finish work on this budget resolution today thinking we have satisfied all requirements for turning the economy around. There is much more work to be done and, because of the urgency of the matter, there is little time in which to do it. Significant structural changes are in order, and unless we make the swing back to a save-and-invest economy, we will be ignoring the fundamental causes of our current high interest rates and economic weaknesses.

I yield back the floor.

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI. Mr. President, I yield myself as much time as I need.

Let me first say to Senator GRASSLEY, the distinguished junior Senator from Iowa, that my respect and admiration for him grows every week in this Senate. I did not know him and he did not know me before we started serving on this committee, but I know that the statement he just made saying he is going to support this budget resolution did not come easy. He does not like the deficits that are here. He did not like them for years before. But let me say he understands that when you are in the majority you need to govern. He understands that governing is a lot more difficult than that simple approach that some in this body take of being against everything and for nothing unless what they are for is something they know will not pass.

Now, I am sorry that the distinguished junior Senator from Ohio left the floor, because what I am about to say is aimed at several of his statements here today. I will have more to say about that shortly.

I say to my good friend, Senator GRASSLEY, that it would have been much easier for him to have taken his 4 minutes or perhaps 20 minutes and to talk about all the things that are wrong with the fiscal policy of our Government, and then say, "For that reason, I am going to vote no." I am sure that the 4 minutes he used could have grown to 34 minutes, with little effort.

So I tell the Senator that my admiration and respect for his positive contributions grow each time we work to get something on which we can vote and which will move us in the right direction. I commend him for it, and I thank him for his support in the committee and in the Senate.

Mr. President, I wish to speak for about 10 minutes, following which the distinguished chairman of the Appropriations Committee wants to have a colloquy with the chairman of the Budget Committee. I wish to talk about and respond to some of the things that have been said here this morning.

It really is amazing to listen to the words of the distinguished junior Senator from Ohio about the deplorable state of the tax laws of this country and the rather incredible nature of the tax cuts that were passed last year; how those tax cuts move absolutely in the wrong direction, and that if he had anything to do with it, he would have done it differently.

It struck me that there were not very many Senators who voted against last year's tax bill, and I thought I should find out whether he had. Well, I find that he voted for that miserable tax bill that helps the rich and hurts the poor and makes Senator HOLLINGS tremble and shake. Senator METZENBAUM cast his vote with the 89 who supported it, not with the 11 others. Senator HOLLINGS, the ranking minority member, who has been opposed to it and talks about its adverse effect—with which I do not agree—voted with the 11.

That is enough on that issue. I will go through a few other items.

First, I hope that those who listen to the words of Senators on the floor understand that it is easy to be against everything, especially when you do not have to govern and when it does not matter what your proposals are, because they are never going to become law anyway. It is easy to do that.

If the distinguished junior Senator from Ohio, who has his litany of problems with this budget and with this President, had supported budgets in the past, it might be that this Senator could say, "He has voted for some policies that are significantly different. He is just complaining because the policies he voted for in the past are not in effect." But he did not vote for those major policy changes when his own party was in office. He used to come to the floor and say the same thing to Senator Muskie when he was here.

He voted against reporting out of committee the last budget Senator HOLLINGS presented from the Democratic side.

So is is difficult to tell what he is really for, except that he is for higher taxes. He is for higher expenditures, except for Government travel costs

and things of that type which he says will cut expenditures. That does not really address the issue of high expenditures. Since he is for higher taxes, higher expenditures, and a balanced budget, I wonder what kind of budget he would produce and vote for.

I repeat: He has the privilege of not having to do that.

It was said on the floor that this budget does not address human factors. Well, I have a summary chart which shows that the human resources programs continue to grow. Spending for human resources continues to climb. If one listened to statements on this floor, one would think they were being cut. Let me give some example:

Medicare: If all the proposals are implemented, there would be a 69-percent increase in 1985 over 1981; civil service retirement, 39 percent; medicaid, almost 40 percent; subsidized housing, 68 percent.

Mr. President, I ask unanimous consent to have printed in the RECORD a chart showing the major benefit programs and the growth that will occur.

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

GROWTH OF MAJOR BENEFIT PROGRAMS

The following table shows the growth of major benefit programs between fiscal year 1976 and fiscal year 1981 and their projected growth between fiscal year 1981 and fiscal year 1985 under the budget resolution approved by the conference committee:

| | Outlays (billions) | | | Growth | | | |
|---|---|---|---|---|---|---|---|
| | | | | 1981 over 1976 | | 1985 over 1981 | |
| | 1976 | 1981 | 1985 (recommended) | Amount | Percent | Amount | Percent |
| Program: | | | | | | | |
| Social security | $72.7 | $138.0 | $201.5 | $65.3 | 90 | $63.5 | 46 |
| Medicare | 17.8 | 42.5 | 71.7 | 24.7 | 139 | 29.2 | 69 |
| Civil service retirement | 8.2 | 17.5 | 24.3 | 9.3 | 113 | 6.8 | 39 |
| Medicaid | 8.6 | 16.8 | 23.3 | 8.2 | 95 | 6.5 | 39 |
| Military retirement | 7.3 | 13.7 | 18.1 | 6.4 | 88 | 4.4 | 32 |
| Subsidized housing | 2.3 | 5.7 | 9.6 | 3.4 | 148 | 3.9 | 68 |
| Food stamps | 5.6 | 11.3 | 11.7 | 5.7 | 102 | .4 | 4 |
| Veterans compensation | 5.2 | 8.4 | 12.0 | 3.2 | 62 | 3.6 | 43 |
| Supplemental security income | 5.1 | 7.2 | 8.9 | 2.1 | 41 | 1.7 | 23 |
| Veterans medical care | 4.0 | 7.0 | 8.8 | 3.0 | 75 | 1.8 | 26 |
| AFDC | 5.8 | 8.5 | 8.5 | 2.7 | 47 | | |
| Railroad retirement | 3.5 | 5.3 | 6.5 | 1.8 | 51 | 1.2 | 22 |
| Child nutrition | 1.8 | 3.4 | 3.9 | 1.6 | 89 | .5 | 13 |
| Veterans pension [1] | 2.9 | 3.8 | 3.7 | .9 | 31 | −.1 | −3 |
| Guaranteed student loans | .1 | 2.3 | 2.9 | 2.2 | 2,200 | .6 | 26 |
| Student financial assistance (includes Pell grants) [2] | 2.3 | 4.5 | 3.8 | 2.2 | 96 | −.7 | −15 |

[1] Decrease during fiscal year 1981–85 period reflects a projected decline in the number of pension recipients. Also, new cases tend to have higher nonpension incomes and to receive lower average benefit levels.
[2] Decrease in fiscal year 1985 reflects continuation of changes made in 1981 which initially took effect in fiscal year 1982.

Mr. DOMENICI. Excessive Government travel has been debated here on the floor as if it were central to the budget resolution. That is not true. So that everyone understands, we do not adopt line items in the budget resolution. We do our best to set broad guidelines. I really do not think Government travel has much to do with a budget resolution of almost $770 billion. We ought to be debating the broad issues here.

Water projects: Water project spending is down while human resources spending is up. It has been expressed here this morning that excessive spending for water projects is what is causing us to have to deny the needy what they need from their Government. In fact, this budget resolution contains $200 million less spending for water resource programs than the 1980 budget. After accounting for inflation, there has been a 25-percent real reduction in water programs. I do not think the last President or this President asked for a new project. That means 5 years without a new start.

Defense spending: The distinguished junior Senator from Ohio speaks in terms of waste and fraud, but the real point of it is that he wants lower spending for defense. That is what he is talking about—lower spending for defense.

We held defense spending down during the 1970's and now we have to pay for that. I do not think the majority of the American people support less for defense. They might argue about how much more is enough, but they surely do not want less.

Then as to a balanced budget I just want to make one statement here. The Senator from Ohio wants increased taxes. I wish that those who want increased taxes would state which taxes they would increase and how much.

Then we could put that out for Senators to see what they think about it and so the American people could look at that.

On the fiscal 1982 numbers, it has been said that the outlays we are using are wrong. Let me tell him, I have a copy of the letter CBO wrote to the distinguished ranking minority member, and it says that CBO thinks the fiscal 1982 deficit will be between $105 billion and $115 billion. That is not what they get when they do it item by item. But the next to the last paragraph of that letter, which is in the RECORD, says it will be between $105 billion and $115 billion. We used the lower end of that range for our estimate. I think it is going to be right. I do not see why we should look askance at our estimate.

Then we turn to fiscal years 1983 through 1985, in terms of the various estimates and the various conclusions drawn in the budget conference.

I wish to make a number of documents part of the RECORD which will help explain the conference decisions. Many of the items in dispute are really judgment calls.

Mr. ANDREWS. Mr. President, will my colleague and good chairman yield for a moment?

Mr. DOMENICI. I will be finished in 1 minute and then I will yield if that is satisfactory with the Senator.

Mr. ANDREWS. That is adequate.

Mr. DOMENICI. I am just going to make these part of the RECORD. I shall ask unanimous consent to have printed in the RECORD my analysis of the CBO repricing of the budget resolution which addresses the major reestimates: revenues, defense outlays, OCS receipts, and interest costs. We have Secretary of the Interior Watt's letter with reference to OCS and Secretary of Defense Weinberger's letter with reference to defense outlays. Also, there is the June 18 letter from Senator HOLLINGS to Dr. Alice Rivlin requesting the reestimate, and Dr. Rivlin's response of June 22. I ask unanimous consent to have printed in the RECORD these materials to which I have made reference.

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

The material ordered to be printed in the RECORD follows:

CBO REPRICING OF THE BUDGET RESOLUTION

BACKGROUND

On June 18, Senator Hollings wrote CBO asking them to reprice the Conference Agreement on the First Budget Resolution using the post-policy consensus economic forecast and the CBO estimating techniques for both revenues and outlays.

On June 22, Director Rivlin wrote Senator Hollings answering his request. In short, CBO re-estimates the Conference Agreement deficits higher by the following amounts:

[In billions of dollars]

| | Fiscal year | | | |
|---|---|---|---|---|
| | 1982 | 1983 | 1984 | 1985 |
| Deficit agreed to by the conferees | 105.7 | 103.9 | 83.9 | 60.0 |
| CBO re-estimates (lower revenues, higher outlays) | +8.1 | +12.5 | +20.7 | +32.7 |
| CBO repricing of conference agreement deficit | 113.8 | 116.4 | 104.6 | 92.7 |

ANALYSIS

The CBO re-estimates fall into four main categories: revenues, defense outlays, OCS receipts, and interest costs.

We have been over the revenue estimates before. This year CBO introduced a new, largely untested method of estimating revenues. It yields lower revenue estimates than the long-tested Treasury estimating method. The conferees (and the Senate) opted to use the Treasury figures based on their well established methodology.

Defense outlays have also been the subject of longstanding argument going back to last year. We have assurances from OMB and the Department of Defense that DOD plans to live within the outlay levels for the defense function set by the conferees. If they do the management job they have promised, it is hoped that the outlay level set by the conferees will not be exceeded.

OCS receipts have also been a matter of great discussion. The conferees decided to go with the administration's estimate which is higher than that of CBO. Again, this is largely a question of management on the part of the Department of the Interior in achieving the levels we have used. Secretary Watt has stated that the Department has re-examined all of the available information on OCS receipts, including the CBO methodology, and that they see no reason to depart from the numbers the conferees assumed.

The interest re-estimates by CBO are largely the result of the higher deficits in their re-estimate. If the other areas mentioned turn out the way the conferees assumed, the higher CBO interest estimate will disappear.

U.S. DEPARTMENT OF THE INTERIOR,
*Washington, D.C., June 21, 1982.*

Hon. PETE V. DOMENICI,
*Chairman, Committee on the Budget, U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: Recent developments in the world oil market and possible delays resulting from litigation have caused the Department of the Interior to evaluate the Administration estimate of anticipated receipts from our Outer Continental Shelf leasing program.

We have also examined the assumptions and methodology employed by the Congressional Budget Office in generating its estimate of OCS receipts.

Our reviews show no reason to question the validity of the fiscal year 1983 OCS receipts estimate of $15.7 billion contained in the April update to the President's Budget. We still believe our estimate to reflect the most probable level of receipts in fiscal year 1983. The Administration estimate is $3.8 billion above the corresponding CBO estimate of $11.9 billion.

If I can be of further assistance in clarifying this matter, please let me know.

Sincerely,

JAMES G. WATT,
*Secretary.*

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THE SECRETARY OF DEFENSE,
*Washington, D.C., June 22, 1982.*

Hon. PETE V. DOMENICI,
*Chairman, Committee on Budget, U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: Realizing the extreme importance of the budget resolution and urgency of actions necessary to complete the effort, I thought it would be useful to assure you of the credibility of the Administration's outlay estimating methodology.

This same methodology, which was used in the fiscal year 1982 outlay estimates, has achieved results at the end of the third quarter which confirm the analyses, assumptions, and methodology.

If I can be of further assistance on this matter, please do not hesitate to call upon me or my staff for such assistance.

Sincerely,

CASPAR W. WEINBERGER.

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U.S. SENATE,
COMMITTEE ON THE BUDGET,
*Washington, D.C., June 18, 1982.*

Dr. ALICE M. RIVLIN,
*Director, Congressional Budget Office, House Annex Number 2, Second and D Street, SW., Washington, D.C.*

DEAR ALICE: Now that the conference on the First Budget Resolution for fiscal year 1983 has reached agreement, I would like your office to prepare an estimate of the conference agreement for fiscal year 1982-85 using CBO estimating techniques. This estimate should be based on the post-policy consensus economic assumptions, adjusted for the actual 7.4 percent COLA, the latest CBO estimate of revenues, and the spending assumptions consistent with the bipartisan baseline.

The estimate should contain all significant revenue and outlay adjustments to both budget functions and deficit reduction categories (by program) in light of the most recent spending data. For those cases in which the House and Senate have differing policy assumptions regarding program cuts, use the Senate assumptions.

If the budget process and the fiscal policy set forth in this budget resolution are to have any credibility with the American people and reassure the financial markets, they must be based on the most objective, nonpartisan data available. I am confident that your office can best supply this information.

Because the conference report will be considered in the Senate early next week, I would appreciate receiving this estimate not later than Tuesday, June 22. If you have any questions or require additional details, please contact Tom Sliter of the Budget Committee staff.

Thank you for your assistance.

Sincerely,

ERNEST F. HOLLINGS.

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U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
*Washington, D.C. June 22, 1982.*

Honorable Ernest F. Hollings,
*U.S. Senate,*
*Washington, D.C.*

DEAR SENATOR HOLLINGS: Pursuant to your request of June 18, the Congressional Budget Office has prepared an estimate of the conference substitute for the First Congressional Budget Resolution for Fiscal Year 1983. As you requested, the estimate is based on the post-policy consensus economic assumptions adjusted for the actual July cost-of-living adjustment, the latest CBO estimate of revenues, and the spending assumptions consistent with the bipartisan baseline.

The major CBO estimating differences with revenues and outlays are listed on the attached table. Each estimating difference is identified by budget function and deficit reduction category.

Two aspects of these estimates deserve special mention. First, CBO has reestimated the figures in the conference substitute only in those cases where the conference explicitly chose not to use CBO estimating techniques. With the exception of OCS accelerated leasing, CBO has not reestimated any of the policy changes assumed in the conference substitute, because it is our understanding that the dollar reductions assumed take precedence over any specific programmatic assumptions.

Second, many of the assumptions in the bipartisan baseline date from February. Based on our analysis of actual revenues and spending through April, CBO projects that fiscal year 1982 revenues will be in the range of $625-630 billion, outlays will be in the range of $735-740 billion, and the deficit will be in the range of $105-115 billion.

Should you so desire, we would be pleased to provide further details on these estimates.

Sincerely,

ALICE M. RIVLIN,
*Director.*

TABLE A.—MAJOR CBO ESTIMATING DIFFERENCES WITH REVENUES AND OUTLAYS FOR CONFERENCE SUBSTITUTE

[By fiscal year, in billions of dollars]

| | 1982 | 1983 | 1984 | 1985 |
|---|---|---|---|---|
| REVENUES | | | | |
| Conference substitute | 628.4 | 665.9 | 738.0 | 821.4 |
| CBO estimating differences | −1.2 | −4.8 | −11.3 | −22.1 |
| Conference revenues as reestimated by CBO | 627.2 | 666.1 | 726.7 | 799.3 |
| OUTLAYS | | | | |
| Conference substitute | 734.1 | 769.8 | 821.9 | 881.4 |
| CBO estimating differences: | | | | |
| Defense spending (defense; function 050) | 3.3 | 1.8 | 1.8 | 2.0 |
| OCS receipts (management savings; function 950) | 1.2 | 3.8 | 3.8 | 2.6 |
| Civil service retirement (entitlements; function 600) | | .3 | .4 | .5 |
| FDIC (other changes; function 370) | .1 | | | |
| Social security (entitlements; function 600) | .4 | | | |
| Unemployment insurance (entitlements; function 600) | .6 | | | |
| Interest costs (debt service savings; function 900) | 1.3 | 1.8 | 3.4 | 5.4 |
| Conference outlays as reestimated by CBO | 741.0 | 777.5 | 831.3 | 892.0 |
| DEFICIT | | | | |
| Conference substitute | 105.7 | 103.9 | 83.9 | 60.0 |
| Conference deficit as reestimated by CBO | 113.8 | 116.4 | 104.6 | 92.7 |

(Later the following occurred:)

Mr. METZENBAUM. Will the Senator from New Mexico yield for a question?

Mr. DOMENICI. I had already agreed to yield to Senator HATFIELD.

Mr. METZENBAUM. Just for a question.

Mr. DOMENICI. Surely.

Mr. METZENBAUM. Do I understand the Senator indicated on the floor of the Senate that this Senator had attempted to move defense spending down below last year's figure?

Mr. DOMENICI. No. I indicated that I wanted to respond to some of the things the Senator from Ohio said and he was not here. I was sorry about that. The Senator is here now, but I cannot go back and do it all over again. I indicated that in the 1970's we tried to have less money for defense, in the 1980's we were making up for it, and that the Senator from Ohio would like to cut money out of defense. I thought we had to put more money in and I thought most Senators and most Americans did also.

Mr. METZENBAUM. If the Senator from Oregon will yield further for 1 more minute. Let me make it clear that the Senator from Ohio has never supported or taken the position that we did not need additional defense spending. The question of degree has been at issue and it is at that point that I have a difference with the budget figure. But it is not a question of whether or not it ought to be something less than the past year.

Mr. DOMENICI. I thank the Senator from Ohio.

(Conclusion of later proceedings.)

Mr. DOMENICI. I have a few further remarks I will make later.

At this point I yield to Senator ANDREWS who desires to engage in a colloquy with the Senator from New Mexico.

Mr. ANDREWS. Mr. President, I appreciate the Senator yielding.

I would like to note that I think that it is extremely important for the distinguished Senator from New Mexico to have completed the work on the conference report. A number of us expressed some concern to him on the proper interpretation of the changes that were made in the budget resolution in the conference with the House of Representatives. The House of Representatives had a far different version, of course, than passed the Senate.

Some of us are very, very concerned about the fact that for the first time we have placed restrictions on the aggregate levels of new direct loan obligations and new loan guarantee commitments. My colleague has pointed out that the limits are so high that it should not affect any agency this year. That assumption would appear to be correct. Later on I am sure he will reassure Senator HATFIELD, the chairman of the Appropriations Committee, as he has reassured me, that the insertion of section 9 in the conference report will not set a binding precedent of placing a ceiling on total loan and loan guarantees in future budget resolutions.

Mr. President, one of the things I wish to clear up today with my friend from New Mexico concerns rural electrification. A strong Federal rural electrification policy is vital to the economic development of the rural areas of this country, especially during the current recession and especially during this period of energy shortage where we are importing some $75 billion worth of energy from OPEC countries. The most important Federal rural electrification programs are those administered by the REA. With the key role played by these programs in mind, I ask the chairman of the Budget Committee, my friend from New Mexico, what levels for REA loan and loan guarantee programs in fiscal year 1983 are assumed in this conference agreement?

Mr. DOMENICI. Let me say to my good friend, first of all, that I appreciate his bringing these areas of concern to the floor because I do not think they are his alone. They are the concerns of many other Senators, and I compliment the Senator from North Dakota for bringing them to our attention and to the attention of the Senate.

In answer to the Senator's question, the fiscal year 1983 credit budget totals assume, in function 270: Energy, that REA will be given authority to incur $1.425 billion in new direct loan obligations and to issue $6.4 billion in new loan guarantee commitments in fiscal year 1983. The credit budget totals assume that the Appropriation Act limitations on the REA programs in those amounts enacted for fiscal year 1982 will be maintained for the next year.

Mr. ANDREWS. I thank the Senator from New Mexico for his informative response.

I wish to make a further inquiry in the nature of setting legislative history.

As the Senator undoubtedly knows, there is a good deal of concern among rural electric cooperatives around the country that REA, at the direction of the Office of Management and Budget, may take administrative action to revise the current criteria by which cooperatives are determined to be eligible for REA loans, the current ratios for REA concurrent and supplemental loans, and the interest rates now charged on those loans. The effect of those changes will be to restrict significantly the number of cooperatives eligible for REA assistance and to raise their financing costs. I proposed language to the conferees on these issues. Have the conferees on the first budget resolution taken these concerns into account in assuming the loan and loan guarantee levels for REA cited by the Senator from New Mexico?

Mr. DOMENICI. Let me again say to my good friend that the answer to his question is in the affirmative. My recollection is that the distinguished Senator from Kansas (Mrs. KASSEBAUM) presented the language that I will soon quote, and it has been included in the statement of the managers—which is absolutely the best we could do with reference to this particular issue. The language states the following:

> It is the intent of the conferees that direct loan and loan guarantee levels for the Rural Electrification Administration assumed in the fiscal year 1983 credit totals contained in the conference substitute are predicated on the continuation of the present criteria and supplemental loan ratios and on interest rates set in the Rural Electrification Act of 1936, as amended by the Omnibus Reconciliation Act of 1981.

I think the Senator from North Dakota knows, and I do not want anyone else to misconstrue this. This is not binding language, because there is no way we can do that. The authorizing committees or others that have jurisdiction and authority could do differently then we assume. But to the extent that we could state our intent and purposes, the language clearly expresses the conferees support for the continuation of current REA regulations in fiscal 1983.

Mr. ANDREWS. In essence, Mr. President, then what my good friend, the chairman of the Budget Committee, is pointing out is that the conferees did in fact adopt essentially the language that I proposed as an amendment to our Senate budget resolution when it went through our committee. The statement of managers now reflects the Senate language.

Mr. DOMENICI. The Senator is absolutely correct. In fact, the distinguished Senator from Kansas who offered the language in conference indicated that it was language that the Senator from North Dakota had contributed and that she was pleased to offer it because the Senator from North Dakota had requested it and it had such broad support.

Mr. ANDREWS. The main thing we want to make sure is that we now have the Senate version. It is not necessarily important as to who authored it, although that sounds good back in North Dakota as it does in New Mexico and Kansas. That is known in New Mexico as the Domenici-Andrews approach and in North Dakota as the Andrews-Domenici approach.

Mr. DOMENICI. Yes.

Mr. ANDREWS. And in Kansas, the Kassebaum-Andrews-Domenici approach.

Mr. DOMENICI. So long as it works.

Mr. ANDREWS. So long as it works, that is the key thing. I thank the Senator.

I also have a final question. This one concerns the level of funding for the Postal Service assumed in the conference agreement.

As the Senator from New Mexico knows, the conference agreement on the urgent fiscal 1982 supplemental appropriation bill increased the fiscal 1982 revenue forgone appropriation to the Postal Service by $62 to $676 million. The key intent of this increase was to stabilize all postal rates for all subsidized classes of mail at step 13. To maintain this step during fiscal 1983, our Senate resolution assumed an increase for revenue forgone over that level in fiscal year 1983.

My question to the chairman is: Is there enough leeway in this budget resolution, as it now is on the floor, to accommodate the continuation of this higher level of funding for revenue foregone in fiscal year 1983?

Mr. DOMENICI. Let me say to my good friend, again, that I believe there is enough leeway to do what he suggests and what he wants. This was a very difficult issue in conference because, as the Senator knows, the House bill, by mistake or otherwise, had zero in this area.

Mr. ANDREWS. That is right.

Mr. DOMENICI. It is contended that that was a mistake and I take it that it was. We tried to fix it as best we could.

The agreement assumes, on the one hand, only $400 million for Postal Service in fiscal year 1983. However, that figure, as the Senator knows, is not binding on the Appropriations Committees. Only the aggregate level of funding for all discretionary spending programs is binding.

The Senator from North Dakota, and other supporters of postal rate subsidies funded through what is known as revenue foregone, including this Senator, will be able to advocate shifting money from other areas to the Postal Service. They may very well succeed in maintaining these postal rate subsidies during fiscal year 1983 at the increased level for fiscal year 1982 reflected in the urgent supplemental appropriations bill that was before us yesterday.

Mr. ANDREWS. That we passed here with the Senate figures.

Mr. DOMENICI. That is correct.

Mr. ANDREWS. I thank the Senator from New Mexico very much, Mr. President, for these clarifying remarks. I think it makes crystal clear that the conference did indeed move more toward the Senate version and eliminated some of the mistakes that had been made in the other body in these two key areas of importance to rural America. I thank my colleague for yielding.

Mr. HATFIELD. Mr. President, I am delighted to have the Senator from New Mexico clarify some of these matters that were raised in specific terms by the Senator from North Dakota. I would like to pick up on that subject in a broader sense as it relates to credit controls in order to get a clear record as to the duties and responsibilities that must be carried out by the Appropriations Committee following the adoption of this budget resolution.

First, I would like to refer the Senator from New Mexico to section 9 of the proposed conference substitute which would institute, in effect, through the concurrent budget resolution, a wholly new budget procedure governing Federal credit activities. This section, in effect, amends the Congressional Budget Act and the House and Senate rules.

In the last two Congresses, a number of bills have been introduced to address the issue of better congressional budgetary control over Federal credit activities.

I fully agree that this significant area of Federal economic intervention in the private marketplace must be closely examined and brought under some form of better control. I, however, have grave reservations that such a major step should be taken in this budget resolution. This is a matter which demands a far greater level of congressional scrutiny and review.

Mr. President, this provision was not included in the Senate-passed version of the Senate budget resolution and received only cursory attention in the House debate on their amendment. I inquire of the distinguished Senator from New Mexico whether he shares my concern over this section 9 as I have outlined and interpreted it at this time?

Mr. DOMENICI. Mr. President, let me first say to my good friend, the chairman of the Appropriations Committee, that I appreciate very much his overall concerns expressed yesterday and his genuine attitude of cooperation. I really do not think we could have gotten this budget resolution this far without his cooperation. I hope he knows that whenever I can reciprocate by being helpful on his problems I am going to.

This budget process is far from a perfect one and it is under a great deal of pressure. I, frankly, think it is under pressure because these are difficult times. If the pressures were not here they would be somewhere else very soon because the kind of deficits that we have and the extremely high interest rates we have are going to create some enormous areas of trauma for us. Therefore, in attempting to put a budget together, we have had a difficult time.

The Senator's concerns are correct with reference to the credit budget enforcement provisions. These provisions originated in the House. The record of the conference will show that I had serious reservations about including them in the conference report. I was concerned that we were moving too far and too fast in an uncharted area. However, I agree with Chairman HATFIELD that the credit budget needs close attention. I commend him for his efforts in this area, including his cosponsorship of S. 265, which seeks to institute a credit budget.

Why did we accept the House provisions? One simple reason: Section 9 had been pushed adamantly by a large group of House Members whose support for the resolution was crucial. I think the problem of passing any budget resolution in the House was demonstrated in recent weeks and was demonstrated dramatically yesterday when this budget resolution was passed by a razor-thin margin of 210 to 208. The retention of section 9—it was said to me, I say to my friend from Oregon, by leaders in the House who put the coalition together—was critical to many House Members in supporting the resolution.

As the Senator knows, recent budget resolutions have included totals for new direct loan obligations, new primary loan guarantee commitments, and new secondary loan guarantee commitments. Last year, the first budget resolution for fiscal year 1982 subdivided the totals by budget functions. We are not in entirely uncharted waters.

The Budget Act does not require that budget resolutions include any provisions on Federal credit activities. However, as the chairman knows, this segment of Federal financial activity has a very significant impact on our financial markets and, as such, should come under some form of aggregate budgetary control in Congress.

Mr. HATFIELD. I am very grateful to the Senator from New Mexico, the chairman of the Budget Committee, for his explanation as to why this provision was included in the conference substitute.

I must say to the distinguished Senator that I still remain concerned, however, about what impact this provision would have on the timely consideration of appropriations bills this year and the prospects for reversing this violation of what I would consider sound procedural practice. In other words, what about the future? We know now where we are and how we got here, but what would the Senator from New Mexico postulate about the future?

Mr. DOMENICI. I would first say to the Senator from Oregon that, as chairman of the Budget Committee and as a Senator, I am going to continue to work with the Senator in supporting legislative action in regard to credit budgeting rather than the inclusion in future budget resolutions of provisions such as section 9. I agree with the Senator that a procedural step of this importance should be addressed when we amend the Budget Act, and that it should not be done in an ad hoc kind of way.

On the other hand, even if this budget resolution automatically becomes the second budget resolution, pursuant to section 7, it is my studied belief, not just my assumption, looking at the credit budget numbers, that the point of order will create no insurmountable problems this year, because of the numbers in the resolution. I think the Senator's professional advisers conclude as mine have. The amounts in the credit portion are more than ample to cover anticipated credit legislation. I think we all know that.

I further believe, Mr. President, that we should view this provision largely as a dry-run exercise. This is not a precedent. We can evaluate the scorekeeping procedures and then make a judgment on whether to establish such procedures in a future amendment to the Budget Act. Both of us realize, of course, that if the Budget Act is not amended, other Members will undoubtedly seek to include similar provisions in future budget resolutions.

I hope these comments will reassure my friend that I do not consider this to be in any respect a binding precedent.

Mr. HATFIELD. I am very grateful to the Senator. We have had a very fine and cooperative relationship. I wanted to make certain that we had this clearly stated in the RECORD because I did feel that down the road we have to face this in a more pragmatic way as we seek to move the appropriations bills through.

I hope the chairman will be kind enough to move now to another area which concerns me equally about this whole procedure we are following. The chairman of the Budget Committee realizes and knows that there have been differences between the Budget and the Appropriations Committees in the past over the interaction between the cost of entitlement programs and the so-called room provided in the budget resolutions for discretionary appropriations.

We on the Appropriations Committee have often been put in a bind by the growth of entitlement programs which can only be controlled by changes in substantive law. This resolution presents some potential new problems, as I review it.

For instance, the resolution will automatically become a binding second resolution on October 1 unless it is revised before that date. From everything I hear, it seems obvious that this will be the resolution we must operate under until some time next spring. This means that we will not have the normal opportunity to include reestimates and update the resolution for actions Congress has taken.

Also, I understand the conferees did not accept CBO estimates in some areas of spending and instead included lower administration estimates in the resolution. I believe this will also increase the pressure on discretionary programs, which constitutes an increasingly smaller part or portion of the total budget.

If CBO proves to be right, the revised estimates will "eat" the room the budget resolution ostensibly provides for discretionary programs. What I would like to specifically ask the chairman of the Budget Committee is simply, Does the Budget Committee recognize this problem? Is it possible something could be done in the budget scorekeeping system to alleviate what I have outlined as, I think, a very definite problem?

Mr. DOMENICI. Let me again say to my good friend, the chairman of the Appropriations Committee, that I am well aware of the problems he is describing, and I am also aware that there have been some contentions that the budget conferees used artificial estimates to keep outlays down in certain areas and thus hold down the deficit. I am also aware of a concern on the part of members of the Appropriations Committee and others that the upward reestimates of entitlements may squeeze out money for discretionary programs and leave the Appropriations Committee in the position of being unable to fund those programs at the levels assumed in the resolution.

As the chairman has indicted, these concerns are intensified by section 7, that is, that the first budget resolution will become the second on October 1 unless we have adopted a second.

I hope I can provide some reassurance to those concerned about the squeezing out of discretionary appropriations.

During the Senate-House conference a clear record was made committing the two Budget Committees to scorekeeping in such a way that the Appropriations Committee will not have to, to borrow the chairman's words, eat the upward reestimates in the areas in which the conferees did not use CBO estimates.

Let me quote from the official transcript of the conference at page 211:

> Mr. JONES. I would also suggest that for scorekeeping purposes, CBO uses these economic and technical assumptions for scorekeeping. Is there any disagreement to that? Without objection, so ordered.

That does not answer all of the concerns. I appreciate the contention that we should use a scorekeeping convention that attempts to separate entitlement programs from nonentitlement programs in order to evaluate appropriations bills. While substantial disagreement about the definition of entitlement and nonentitlement accounts exists, I believe that a convention based on this distinction most accurately assesses the actions of the appropriations process in those accounts that are completely within its constructive control. I would hope that we could work together to begin to institute such convention. I am directing my staff to work with the Appropriations Committee staff, as well as the staff of CBO and the House Budget Committee, to begin work on an entitlement-nonentitlement breakout. I know that sounds simple, but I think the chairman and I both know that is not simple. They should start forthwith.

Mr. HATFIELD. They will get involved in definitions.

Mr. DOMENICI. I think incorporating this convention in the scorekeeping system and revising budget resolutions are ways to make sure that the actions of the Appropriations Committee are most accurately scored.

The concerns that the chairman has stated have merit. However, with the assurances I have just given, I am confident that the unanticipated growth in the cost of entitlement programs will not result in a greater squeeze on discretionary funding. I assure the Senator from Oregon that the Budget Committee will be circumspect and cautious in the enforcement of the new budgetary procedures included in this resolution.

I want also to assure the chairman and other members of his committee that I will presonally take the lead in supporting actions which are necessary to permit the Appropriations Committee to have available every dollar necessary for nonentitlement-nondefense programs. This could include adjusting the resolution, revising our scorekeeping procedures, adjusting them, and, as a last resort, the use of the section 904 provision in the Budget Act.

Before I conclude and yield back to the chairman of the Committee on Appropriations (Mr. HATFIELD), I want to repeat that I do not think we could have passed budget resolutions, this one or previous ones, that really tried to look at all functions of Government and make some real mandates in certain areas and begin to restrict the inordinate growth of Government without the Senator's cooperation. It is very difficult. This process is cumbersome, as he knows. People expect more of it than it can do and sometimes we get a bit carried away and think it is going to do everything. It cannot.

I want to thank the Senator for wherever he has been able to help make it work. That has been often. I thank him for it.

Mr. HATFIELD. Mr. President, I express my thanks to the Senator, the chairman of the Committee on the Budget, for his gracious remarks. I think we both find ourselves in a situation which, I suppose, would not be of our choosing if we had an opportu-

nity to chart our own course exclusively.

We are faced with very serious economic problems and in many of the things that have happened, including the reconciliation resolution and, to some degree, this budget resolution as well, we have made exceptions and exemptions and have set aside our perhaps better procedures in order to deal with the emergency at hand. I am very hopeful that, one of these days, that emergency will be behind us.

At the same time, I raised these questions in colloguy and I shall work with the chairman and the members of the Committee on the Budget diligently to try to make sure that we do not let these exceptions become the rule or become the pattern to the point where we lose sight of the better ways, the better procedures that have been outlined in precedent and practice, as well as law and Senate rules. I think, as I said when I opened up my remarks today in this colloguy, we ought to face up to the reality that we are amending an act by this resolution, that we are changing House and Senate rules by this procedure and that, really, this is not the best procedure to follow. But under the exigencies of the time, I believe that we have to deal with this problem as best we know how.

I commend the Senator and wish that what the Senator and his committee originated on the Senate side in this resolution could have prevailed more in what came back to us in the package out of the conference. I think the Senate had the better product. That is the reason I raised some of these questions with the Senator from North Dakota. I see the Senator's colleague from New Mexico is probably about to raise more questions.

I assure the Chair that as far as my own views are concerned, I shall continue to, perhaps, hold my nose and do certain things here for the purpose of getting the job done, but certainly not with enthusiasm or anything other than recognizing that as an emergency, that we are doing things under emergency conditions and that these are not necessarily of the chairman's choosing nor of my choosing. But we have to deal with these practicalities and these realities, I suppose, in the best way possible. I thank the Senator for his assurances and I know there is no sense of disagreement as far as our objectives are concerned. For that matter, I do not think there is that much difference, perhaps, in our preference to follow other procedures than what we are forced into at this moment.

Mr. DOMENICI. Before I yield to my colleague, Mr. President, let me say to Senator Hatfield that when we undertook the process last year, the whole subject of reconciliation, Senator HOLLINGS and I introduced the "let us restrain Government" part that was going to become reconcilation. We thought we were doing something that most people would not like and they would never want us to do it again. But we get down here now with a resolution and we hear some say, "We cannot live under this resolution because you did not order somebody to be reconciled."

We never used reconciliation at all before 1980. We used to set targets and say, "Authorizing Committee, Appropriations Committee, or Finance Committee, you had better meet those targets." Now if we do not have reconciliation on some program that we assume is going to grow less rapidly, they ask why we do not order them to do it.

I hope we can get to the point where we do not have to have reconciliation at all. I am not sure we are going to, especially when we look at growth in those programs—entitlements, things that the Senator's committee does not have jurisdiction over. We may never get to it. We may have reconciliation henceforth, as long as we have a process.

Reconciliation in this resolution, as the Senator knows, addresses almost exclusively revenues and entitlements. We did not use again the process of reconciling authorizations to which the Senator called attention last year.

Mr. HATFIELD. Does the Senator say only the second advent will prevent this from happening? If that is our only hope, perhaps we had better pray a little harder.

Mr. DOMENICI. I do not know. Some type of miracle, I guess.

Mr. SCHMITT. Mr. President, my good friend from New Mexico, in his just concluded discussion with the Senator from Oregon, the chairman of the Appropriations Committee, referred to entitlement increases. I ask for the purposes of this record, does that include entitlement increases that are assumed in the budget, either as a consequence of failure to enact reconciliation instructions or the failure of the budget to include reconciliation instructions?

Mr. DOMENICI. It does.

Mr. SCHMITT. On a different subject, I assume that the fiscal 1983 bill from my Subcommittee on Labor, Health and Human Services, and Education will be within the subcommittee's allocation as that is determined, hopefully with some distinction between entitlements and discretionary funds. But that may assume that we do not know everything that we should know at the time that bill is enacted, either on its own or as part of a continuing resolution.

Supplemental appropriations that may appear in the next calendar year would conceivably affect the degree to which this particular bill meets the constraint of a second concurrent budget resolution. How will the new enrollment provision apply to a particular appropriations bill in such a case?

Mr. DOMENICI. Did the Senator assume we would have a second budget resolution?

Mr. SCHMITT. I assume the second budget resolution either will appear or will be automatically this resolution when we hit October 1.

Mr. DOMENICI. Will the Senator repeat the precise question?

Mr. SCHMITT. My question is, When we are within the allocations that would be constrained by that second concurrent budget resolution, will those allocations assume the supplemental appropriations that may come later in the fiscal year?

Mr. DOMENICI. I do not know the precise answer to that. I think I just have to leave it at that at this point. If the Senator is talking about the enrollment, the first time around, without assuming supplementals, obviously there would be no delay in enrollment if it does what the Senator said, because it would not breach it.

Mr. SCHMITT. As the good Senator knows, in this last year, when we dealt with a continuing resolution, certain assumptions were made in order to veto proof that continuing resolution, that everyone who made them knew were going to result in a continuing resolution. To that degree, we had some mythical numbers—guaranteed student loans is the most obvious example, where we deferred over a billion dollars worth of appropriations for a supplemental. That now becomes part of our allocation.

Mr. DOMENICI. I say to my friend and colleague from New Mexico, before I answer his question, let me make a statement here for the record about his concerns and what I think has been very courageous activity on his part.

Part of the genuine concern that his chairman and I discussed with reference to the entitlement-nonentitlement issue comes about because the Senator has made us aware of the extreme problem that he has in his bill with reference to those two. We are aware of it and want to help. We also know how difficult it has been in the past when entitlements grow and you still have to fit the other part in your bill.

Let me answer as best I can. First, if it was after October 1, you either have a second budget resolution newly adopted or this one becomes the second, in which event the delayed enrollment does not apply.

That is how I understand it, because then you are measuring it against a permanent resolution: To wit, you incorporate the second which has been made so by this resolution's conditions being met, or we adopt one.

I think all I can do on the other question, with reference to the supplementals, is tell you that we put them in this resolution as best we could, and the funding we assumed has been crosswalked in accordance with committee jurisdictions.

If there are unanticipated changes in entitlements, I told Senator HATFIELD what we are willing to commit to. We would just have to stand by the proposition that we are hopeful that we have included all of the nonentitlement money in the resolution and the crosswalk numbers. If you use all of it prior to funding essential supplementals, you would obviously have a problem.

That is what I am told by the staff, and I think that makes sense. I hope it helps. I cannot do any better than that.

Mr. SCHMITT. It does, and I appreciate the Senator's concern and it may be that in subsequent discussions between ourselves and the staff we can clarify it even more.

Is it my understanding of what the Senator said earlier that the delayed enrollment process would not apply once we have a second concurrent resolution, by whatever method we achieve that?

Mr. DOMENICI. Page 15 of the conference report, section 4, Miscellaneous Provisions, 4(a):

> No bill or resolution providing new budget authority for fiscal year 1983, or new spending authority described in section 401(c)(2)(C) of the Congressional Budget Act first effective in fiscal year 1983, which exceeds in either the House of Representatives or the Senate, the appropriate allocation or subdivision of such new discretionary budget authority, new budget authority, or new spending authority made pursuant to section 302 of such Act shall be enrolled until after the Congress has completed action on the Second Concurrent Resolution on the Budget required to be reported under section 310 of such Act.

Mr. SCHMITT. And the completion of action on the second concurent resolution would either be by specific action of the Congress or——

Mr. DOMENICI. The date here. The October 1 date.

Mr. SCHMITT (continuing). By the effective action of section 7?

Mr. DOMENICI. That is correct.

Mr. SCHMITT. Finally, I want to compliment the Senator from New Mexico and my good friend and distinguished colleague for what he has been through and the way he has handled it in the last several months. There is much left to go through. As he and I have discussed before, although budget resolutions do not deal with actual appropriation of funds, or in and of themselves change tax laws, they do establish guidelines that I think in good faith the chairmen of various committees on this side of the aisle are going to try to adhere to. As we approach October 1, I am sure things will get even more exciting, whether or not we deal with the specific second concurrent budget resolution or not. As he also knows, the so-called real money bills of an appropriation and tax nature, particularly the appropriations bills, as they approach that magic date are going to have some very, very difficult political times.

I hope that this Congress, this Senate at least, will allow us to act on every appropriations bill, particularly the one for which I am responsible, without creating a monster in effect that violates both the efforts of the senior Senator from New Mexico, and also the needs of the country, because as we know we are going to reach a point where the size of that bill is going to determine whether or not it ever becomes law. This business of dealing with the major labor, health, human services, and education programs of the country on a continuing resolution has to stop some day. Now, whether the Senate is going to be willing to stop that process, I do not know. But it certainly has my commitment to try to make it happen as a regular bill as soon as possible.

Let me repeat once again that in answer to an earlier question the Senator included in his definition of unanticipated entitlement increases the possibility that entitlement action would not be forthcoming due to the reconciliation process.

Mr. DOMENICI. That is correct, I did.

Mr. SCHMITT. Apparently there was some confusion and now the record is very clear.

Mr. DOMENICI. I think I said it, but that clarifies it.

Mr. SCHMITT. Yes, I am sure the Senator said it. I thank the Senator again, and again he has my compliments for his work.

Mr. DOMENICI. I thank the Senator. I am most appreciative.

Mr. HOLLINGS. I yield myself, Mr. President, 2 minutes until the distinguished Senator from Ohio comes back on the floor.

I would comment that this is where the discipline of the budget process begins to deteriorate, crack, fragment, and break apart. The distinguished chairman of the Budget Committee in his reply indicated he would go along with his various committee chairmen and subcommittee chairmen, and colleagues and use the either false figures or the liberal figures, or the inaccurate figures, or the procedures. He is quite candid. He says, "That is the only way we could get the vote." He said, "I tried to oppose it and the record would show that I had serious reservations about including the provision relative to Federal credit activities. And that is the way we got the vote." And then going on with the prepared exchange, the distinguished chairman of the Appropriations Committee talks about artificial estimates to keep outlays down in certain areas. Later in the exchange, it is stated that the concerns of the chairman of the Appropriations Committee have merit.

These are the things that, as the ranking minority member, I had to read, not with any glee or pride but by way of admonishment.

When you have to go around the room and show that the budget does not mean what the budget says, you are in a pretty bad condition. You write your own budget and it does not have a bipartisan approach and thereby not bipartisan support. Later in the implementation we all work, as chairmen and ranking minority members, with a concern and a conscience. But if you are not part of it, then the implementation becomes next to impossible. You get very close, with split-down-the-middle votes in the House and in the Senate; and the confidence in Congress and confidence in the system begin to dissipate and dissolve.

It not only dissipates with the public—as former Secretary of the Treasury Simon says, sham, sham, oh, sham—but also, it dissipates with the membership in Congress. I think that is bad.

The PRESIDING OFFICER. The 2 minutes of the Senator from South Carolina have expired.

Mr. HOLLINGS. I yield myself such time as I may need.

I listened to Senator DOMENICI explain, with the Senator from Iowa (Mr. GRASSLEY), that it is easy to be against everything and easy to be for what they know will not pass. It was not what we knew would not pass. It was our obligation and our duty, as Senator DOMENICI knows, to try to say something on social security.

Mr. DOMENICI. Absolutely.

Mr. HOLLINGS. My mother is 94, and she is a member of AARP. Last week, I received their article, and it really read the riot act to Senator DOMENICI and Senator HOLLINGS. At the top it said "See this," and it was signed at the bottom, "Your Mother." so the AARP is getting its message across to me directly. It was not easy.

The article was not accurate. We were not cutting anybody on social security. They took the projected increases of the CPI over the next 3 years and added up thousands of dollars. Then they made the innocent reader feel as though we were cutting $2,000 and $3,000 from social security benefits. What we were trying to do was to maintain the integrity of social security and not cut them at all, but end up with an increase.

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

Mr. HOLLINGS. I yield.

Mr. DOMENICI. I say for the record that those comments were not intend-

ed for or directed at the Senator from South Carolina (Mr. HOLLINGS).

Mr. HOLLINGS. I know that.

It is easy to be against everything. The Senator from New Mexico finally answered the question.

I confronted a business group that had taken their text from Simon last night, and it is all over Congress.

The statement or description, "so easy to be against everything," does that not describe us here this year, in a general sense? I do not refer to the Senator from New Mexico, as he does not refer to me. The budget has been a very difficult thing.

Last year, the President had a budget; he identified his program; he sold it on TV, and he sold it in appearances all over the country. He got the people behind him, calling in to their Congressmen, and Congress responded.

This year, because they are not doing anything, the business community and the leadership say the infrastructure has broken down. Nothing has happened between last year and this year to the infrastructure. It is just that when you say it is easy to be against everything, nothing has been proposed. On the contrary, the President of the United States says, "If it ain't broke, don't fix it." So he does not think he has a problem. He has not identified any problem over here.

What he has done is to go, like a butterfly, from bush to bush, to each particular budget proposal: "I will back this one, and when that is defeated, I will back that one."

He has had his minions fashioning these documents to get to the vote, and how they do that was vividly described in the exchange between the chairman of the Appropriations Committee and the chairman of the Budget Committee.

But therein is why Congress can take such positions—because we can tell what we are against, and the public cannot identify what we should have been for.

Everybody uses the phrase "lower deficits." But where was the plan to bring about those lower deficits? It has been wanting. Some of us tried but now we are back to the starting line.

As is said in II Corinthians:

> For if the trumpet give an uncertain sound, who shall prepare himself to the battle?

This year, we never really did prepare for the battle. We engaged in internecine warfare and in a struggle to get a political document but not a budget.

I see that the distinguished Senator from Ohio is in the Chamber.

Mr. METZENBAUM. I am trying to obtain a transcript of what my good friend said, so will the Senator continue?

Mr. HOLLINGS. Mr. President, we have a little less than an hour on this side. I heard from the minority leader that other Senators might want to speak, but I do not know who they are. I hope that Senators on the minority side who wish to address this particular amendment, the House amendment in the nature of a substitute, which really constitutes the conference report, will please come to the floor, and we will be glad to yield time to them.

I yield the floor.

Mr. DOMENICI. I yield myself 1 minute.

Mr. President, I hope that Members on this side know that I am unaware of any further statements or comments any of them have to make, except Senator CHAFEE, who wants to make some remarks. I know of no further proposals, motions, or otherwise, on our side, and I have so informed the majority leader. I say that because we may be here asking for some kind of consent based upon that in the not too distant future, and I want to make sure everybody knows this.

I say to my good friend, Senator HOLLINGS, with reference to the article he referred to, which he received from his beautiful mother, and the error they keep putting in, that he and I were mentioned as social security cutters.

I recall that when I proposed the solvency numbers—6, 17, and 17—somebody added them up, divided by the number of social security recipients—the somebody was a Senator on the other side of the aisle—and the number that you get by dividing was assumed to be the cuts. Across the country it went that my proposal would yield a cut of so much in each recipient's benefits.

But what that did not reveal was that before you start to take solvency actions, there is a huge increase that goes into effect. The increase is much bigger than the reduction caused by the solvency requirements, even if you took them all out of benefits and did nothing on the revenue side.

So that if it came out $x$ dollars per check on average, it turned out that they were going up about three $x$ to begin with, and you are taking only one $x$ away; so they are going up twice as much as the reputed reduction before you start to apply it.

We never could make this point. It went across this land, as the Senator has indicated, through that kind of periodical.

I think we are just going to have to wait and convince Americans that those pension programs are not going to have to be cut but reformed and maybe even stabilized for a few years with little or no increases. But it is just a fact of life. Their spendout is such that there will not be enough money for all the increases now scheduled.

Mr. HOLLINGS. If we could only do that here this afternoon the whole picture would change.

Mr. DOMENICI. That is right.

Mr. HOLLINGS. In the entire conference they looked and searched and looked and searched about all of those figures.

But if we could finally control the uncontrollables, as the Senator from New Mexico tried to do, and I commend him for it, and as some here tried to do. If we could only have done at least that this year we would have shown some propensity, as they say, to bite the bullet or to tighten the belt, or be realists which every mayor and every Governor, every labor union, every private industry has been doing all year long. The country just cannot understand why we cannot respond whatsoever.

We are just hiding behind the issue of social security in the context of who can outmaneuver the other one politically when the truth of the matter is this is being disloyal to the fund.

Mr. DOMENICI. That is right.

Mr. HOLLINGS. We never recommended that anyone should get less. We recommended they should get their money, but we see it as very obvious that the trust fund is running out of money. They are borrowing from the health insurance fund. I think the last loan will go out about March of next year. That will be the last check. They are going to have to come up with something.

Mr. DOMENICI. Yes.

Mr. HOLLINGS. I commend the Senator for it. I wish we could have done at least that. I think that would have meant that we had faced our problem in a sober fashion. Our current inaction, coupled together with these tax exemptions for Members of Congress, just makes Congress really appear in a bad light.

But let us find out how badly we really appear from the Senator from Ohio.

Mr. DOMENICI. Yes.

Mr. President, I think we are ready to ask for a quorum call here in a moment, but I do think it is more than appropriate for me to commend Senator HOLLINGS, the distinguished ranking minority member, for his nonpartisan, bipartisan position on social security which he started many, many months ago. I do commend him for it. I think it was a tough thing to do. He has not departed from it one bit, and I think he has probably already taken most of the guff he is going to take, but I do wish to remind Senators that he had a lot of courage. We could have done something on this together, I think, with a little support from the outside.

Mr. HOLLINGS. I thank the distinguished chairman.

If he does not mind I yield now to our distinguished minority leader such time as is necessary.

The PRESIDING OFFICER. The minority leader is recognized.

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

Only a few weeks ago I stated my reasons for voting against Senate Concurrent Resolution 92, the Senate's first budget resolution for fiscal year 1983.

I regret today that I have to say again that I will vote against this budget resolution.

Mr. President, nothing has been done to alleviate the very serious concerns that I have about this budget resolution and its impact on the economy. The economy is still at rock bottom. Business failures are running at a weekly rate of 478, the highest rate of failures since the Great Depression. Long-term interest rates, mortgage rates, and municipal bond rates are higher now than when the administration took office. Mortgage rates last week averaged 16.7 percent. Even short-term interest rates are beginning to rise. The most recent 3-month Treasury bill rate was 12½ percent.

The conference agreement on the first budget resolution for fiscal year 1983 offers no aid to our Nation's economic recovery. I will have to vote against the budget resolution that includes $95 billion in new taxes over the next few years to say nothing of the $3 billion in increased user fees that will affect barge traffic on the rivers in and outside West Virginia which, in turn, will affect the price of coal, oil, and other commodities and inasmuch as this measure does not tell anyone which taxes will be increased and by how much. I cannot vote for a budget resolution that makes deep cuts in necessary programs that have already been slashed, that will result in cuts aimed at our elderly, our veterans, our working people; cuts that will deprive deserving students of the chance to go to college, cuts that will translate into fewer jobs with 10.5 million people already out of work. I cannot vote for a budget resolution that is based on phony numbers and economic assumptions that are jimmied to suit the scenario.

This budget includes so-called management savings of $46.4 billion over 3 years, including $13.6 billion in fiscal year 1983 alone. This is a revival of the phony David Stockman "magic asterisk," the unspecified savings that I warned about last year when I repeatedly offered amendments in the effort to force the administration to disclose and to define the so-called unspecified savings.

I am sorry to say that my warnings on phony budget estimates and radical untested economic theory went unheeded, and as a result the President's deficit for fiscal years 1982 through 1984 has ballooned since September of last year from $66 billion to $296 billion. That is what feeding phony numbers into computers and wild-eyed theories will get us—a fourfold increase in deficits in 6 short months.

It is tragic that those charged with the nurturing of the new budget process are sewing the seeds of its destruction by abandoning a commitment to honest budgeting.

Another example of the many questionable estimates included in this budget resolution is the increase in receipts from oil and gas leases. CBO estimates that the savings included from increased receipts from gas and oil leases on the Outer Continental Shelf were overestimated by $10.2 billion.

So what kind of confidence can anyone have in a budget resolution with such a shaky base?

I cannot vote for a budget resolution that is flawed as this one is, that raises as much new taxes as this one does, and that still carries the highest deficits in our history.

With all of the cuts, tax increases, and faulty assumptions, this budget still has a total $247.8 billion deficit over the next 3 years—$103.9 billion deficit in fiscal year 1983, $83.9 billion deficit in fiscal year 1984, and a $60-billion deficit in fiscal year 1985.

The most disturbing of all this potential disaster is that it was avoidable, if that Kemp-Roth tax scheme, particularly the third year had been delayed or tied to economic performance. The Senate would not now be faced with the vote to make unspecified increases in taxes totaling $95 billion in a recession partly caused by the Kemp-Roth scheme.

I tried to delay the Kemp-Roth tax scheme for the wealthy until the economy could afford it. The Democrats in the Senate tried repeatedly to tie the third year of Kemp-Roth to economic conditions. We did not want to eliminate the tax cut but only to schedule it when we could best afford it if possible.

We argued that there was no sense in adhering to a doctrinaire timetable established by rigid ideologies. I stated at the White House in a conference with the President that the Kemp-Roth plan should be more moderate, that it should pay attention to the needs of our people, not to the needs of theory and that it should be tied to the performance of the economy.

So I will vote against the budget resolution today. It leads not to recovery but to further burdens on our economy. This is not the commonsense approach needed to put the economy on the road to recovery.

I hope at some point we will have the opportunity to vote for a budget resolution that truly restores economic recovery through a policy of prudent tax cuts, prudent spending cuts, prudent defense spending, honest estimating, and a prudent monetary policy.

Mr. President, I yield the floor.

(Mr. SPECTER assumed the chair.)

Mr. DOMENICI. Mr. President, I understand Senator STAFFORD wishes to discuss a couple of issues with me in a colloquy. I yield to him whatever time he needs for that purpose.

Mr. STAFFORD. Mr. President, I thank the able and distinguished chairman of the Budget Committee for yielding to me for the purpose of this colloquy.

Mr. President, in regard to the conference report on the first budget resolution for fiscal year 1983, I would like to ask the distinguished chairman of the Budget Committee to help corroborate for me certain items pertaining to education programs in function 500, and in particular the guaranteed student loan program. This clarification will help guide the Subcommittee on Education, Arts, and Humanities, of which this Senator is chairman, in its activities for the remainder of this session of Congress.

It is my understanding that the conference report assumes certain savings in the guaranteed student loan program in fiscal years 1983, 1984, and 1985, based upon a reduction in interest rates relative to the CBO interest estimates, as well as a new requirement that all students be required to demonstrate financial need in order to receive a guaranteed student loan.

However, I note that the conferees do not require either the Senate Committee on Labor and Human Resources or the House Committee on Education and Labor, which have jurisdiction over the GSL program, to pass legislative changes to achieve these savings—in other words, no reconcilation is required. If this is correct, I am pleased that the chairman of the Budget Committee and his colleagues from this body, especially Senator HATCH, have worked diligently in conference to uphold the Senate position on this important issue; that is, that no further changes beyond those adopted last year in the Omnibus Budget Reconciliation Act of 1981 are required for the guaranteed student loan program.

Finally, I am informed that the conference agreement for function 500 includes increases for certain education programs—specifically title I of the Elementary and Secondary Education Act, the pell grant program, the Education of all Handicapped Children Act, the State block grant, and the vocational and adult education programs—above the fiscal year 1982 funding level. I am greatful to the conferees for agreeing to add funds for these programs to the functional ceiling, and hope that my colleagues on

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the Appropriations Committee will also view these programs as a critical national priority when they consider fiscal year 1983 appropriations legislation later this year.

I deeply appreciate the help of my colleague from New Mexico in clarifying these matters and I ask him if I have correctly stated the situation as he understands it.

Mr. DOMENICI. Mr. President, I say to the Senator that his understanding of this conference resolution is correct. He is right in stating that there is no reconciliation instruction for the Senate Committee on Labor and Human Resources. nor the House Education and Labor Committee, which is its counterpart. This means that we do not require—and I stress that the Senator is absolutely correct—we do not require any changes in the guaranteed student loan program for this year.

I think that this allows students and parents to confidently plan their finances for the coming year. But I would be less than candid if I did not tell the Senator that I still have concerns about the future, not this year, but the future years as far as Federal student aid programs are concerned.

I think the Senator knows that the target numbers in the outyears assume that we must continue to have great concern about the growth of some parts of students aid while the others are being squeezed out. I am concerned because I think we have to continue to provide access, and I am sure the Senator agrees, to higher education for a broad range of students. We must work to preserve funding for the programs that provide the financial assistance to our neediest and our poorest students.

For this reason, I am particularly pleased that the resolution assumes a funding increase of $100 million for the Pell grant program and substantial increases, because of the budget authority and outyear funding, for elementary and secondary education for disadvantaged and handicapped. Of all education programs, it seems to me that these are very high, if not the highest, on the priority list.

I wish to thank the Senator. His interests in this area are well known, as is his cooperation in trying to help us get a budget resolution. He is concerned about the overall economic situation as well as those programs of very specific interest to him. He has cooperated with us and it is appreciated.

Mr. STAFFORD. I thank the Senator very much. Again, I say how much, as chairman of the Subcommittee on Education, Arts, and Humanities, I appreciate the cooperation of the Budget Committee in these very important matters that I agree with the Senator are of high priority.

Mr. RANDOLPH. Will the Senator yield? Mr. President, who has the floor?

Mr. DOMENICI. I control the time and I yielded to the distinguished Senator from Vermont.

Mr. STAFFORD. I am happy to yield to the Senator from West Virginia.

Mr. DOMENICI. Did the Senator want some time?

Mr. RANDOLPH. No, I just wanted to make a brief comment.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. RANDOLPH. The colloquy between Senators DOMENICI and STAFFORD, just concluded, pertaining to a decision not to require reconciliation of the guaranteed student loan program, is going to stimulate many, many small colleges, private and independent especially, throughout America, to take that knowledge to parents and to students within the next week or two.

I think that other Senators, if I may suggest, have had correspondence and personal contacts, with parents, students and college officials from our States expressing concern over the GSL Program. I have been visiting colleges in West Virginia that face a loss, I say to the able Senator from South Carolina (Mr. HOLLINGS), a loss in one institution alone of 250 students in September because of the problems they have encountered in obtaining student financial assistance. In my own alma mater in West Virginia, Salem College, we have had three emergency meetings of the board of trustees within the past 6 weeks. The night before last we met from 6 in the evening until 2 o'clock in the morning, knowing that at that institution of higher learning we do have worthwhile young men and young women who need to remain in college as well as those who hope to enter college in the fall. I am grateful for the concern and understanding of Salem's dedicated faculty and board of trustees, as well as a patient and cooperative student body as we all work to help each other during these troubled times for higher education's goals.

We understand across America that our public institutions are vital, but they have the financial support of States, as well as the Federal Government, in providing tuition aid to students. Often, I say to Senator HOLLINGS, Senator DOMENICI, and Senator STAFFORD, there are large church constituencies that are able to help these colleges that are denominational in nature. But there are many like the college of which I speak in the town in which I was born that do not have church backing. I look back and it is not wrong for me to say here today that Salem College was brought into being because of a group of 11 men who formed the college a long, long time ago, before the turn of the century. My grandfather was the first chairman of that college board of trustees. He had only five winters, I say to Senator HOLLINGS, five winters of schooling, but he saw the need to help the young people of West Virginia, men and women who would hold positions of trust and responsibility in leadership in the years ahead. So that was the contribution that he and hundreds of others have made across this country in bringing into the rural sections, as well as to the great metropolitan areas, the existence of small private colleges like ours.

In a State like West Virginia, with its hills and valleys, there is tucked in my hometown a valley of learning. There young men and young women are participating, they are pursuing studies not only in the arts and sciences, but the career education programs as well.

Students can come there and learn to be an airline mechanic. They can come there and learn to fly an airplane. They can come there and study at Salem's School of Equestrian Sciences—the only liberal arts college in the country to offer such study to my knowledge.

That is just a part of the innovative programs that we have at Salem College in more than 35 what I call the "options in education," while keeping the basics of the arts and sciences.

I rise in earnest commendation of my colleagues, Mr. President, to say that what has been achieved by the Budget Committee is an effort by men of good will; men who are well reasoned. The protections provided for the student loan program has the backing of the Senate membership and the House membership, and hopefully will be supported by the White House. How happy I am as a member of the Subcommittee on Education, having been on those committees in the House and Senate for 38 years. We cannot forsake our college youth. As the budget resolution indicates, we have not let the youth of this country down who need financial assistance even though they themselves are working to help earn their way. And sometimes, in the college I speak of, students are holding down two or three jobs and still pursuing their studies. But the aid that is available through the programs mentioned today. Programs we have agreed not to scuttle, indicates our realization of their value. This reaffirmation of our support for higher education is not only comforting to me, but I believe represents an honest expression of that which is best in the building of a better America.

I am also earnest, Mr. President, when I thank my colleagues, Senators DOMENICI, HOLLINGS, and HATCH, of the Budget Committee, and the able

chairman of our Education Subcommittee, Mr. STAFFORD, for having the compassion and courage to increase, even modestly, funding for the Pell grant program, and for title I of the Elementary and Secondary Education Act for disadvantaged and handicapped children.

I thank the Senator from New Mexico for yielding his time to allow me to comment at this time.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, before the distinguished Senator from Vermont leaves I want to again thank him here on the floor for his dedicated work in the field of education, but apropos to today's activities for his cooperation with the Budget Committee not only in his work on education but also for his cooperation as chairman of the Environment and Public Works Committee. I want to express that publicly. The Senator has been most attentive, cooperative, and concerned about the problems that we have that he shares in as chairman and as a senior member of two of our most important committees.

Mr. STAFFORD. Mr. President, if the Senator will yield, I want to express my deep appreciation to the most able chairman of our Budget Committee for his very kind words. It is always a pleasure to work with him on the Budget Committee and in the Environment and Public Works Committee on which we have served for a number of years together.

Mr. DOMENICI. Mr. President, I yield as much time as the distinguished junior Senator from Washington desires.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mr. GORTON. I thank the chairman of the Budget Committee.

Mr. President, we are now within an hour of the time at which we will vote on the last step of what is nevertheless only the first round of the budget process for fiscal years 1983, 1984, and 1985.

I wish to take this opportunity to suggest strongly to my colleagues that they support the budget resolution. I do not do so because I feel that the balance in this resolution or the bottom line it contains is as satisfactory as was the budget proposal which I introduced in early February. I do not do so because I think that it is as good as the proposals made by the chairman of the Senate Budget Committee at various times, all the way from last October through May of this year. I do not do so even because I feel that the resolution as it appears before us now is as judicious and as well-balanced as was the resolution when it was originally passed by the Senate.

I do so, however, because I believe that this resolution does represent an appropriate compromise between various competing considerations in both Houses of the Congress and proposals made by the President himself.

To an even greater extent, I recommend that my colleagues vote in favor of this resolution because I believe that the alternative to its passage would be a situation of chaos and disorganization which would have extremely adverse effects on the economy of the United States as a whole.

In other words, after some 6 months of working, we have come up with a product with which I am not entirely satisfied, and with which the chairman of the Senate Budget Committee is not entirely satisfied. I do not think any individual Member of this body harbors anything other than the belief that he or she could do better were he or she able to write such a resolution alone. This budget resolution is, nevertheless, a result of the political process, a result of compromise. It represents a significant and major step forward in the proper control of Government spending.

I would wish that more controls had been imposed upon the growth of entitlement programs, retirement programs, and others as well. I would wish, frankly, that we had put somewhat more restraint on the national defense budget during the course of the next 2 or 3 years, as necessary as these increases in national defense are. I had hoped that we would have done slightly better in continuing the level of funding for many of the discretionary programs which will, very bluntly, be hurt by the success of this resolution.

Nevertheless, taken as a whole, the balance of spending reductions and revenue increases included in this resolution is probably better than the balance contained in the resolution passed by this body and by the Congress for fiscal year 1982.

We must recognize the fact, of course, that, with the successful passage of this resolution, we have completed only the first round in this year's budget process. The much more difficult process of keeping the promise represented by this resolution still remains to be done. Every Member of this body surely must know that we are unlikely to have any tremendous impact on the economy or interest rates in the United States unless that promise has been kept by performance.

Too often, the Congress has made promises about performances which have not been kept. We are the inheritors of those who have failed in their promises. Until we have kept them, until we have crossed all the "t's" and dotted all the "i's", we are not likely to see affirmative results.

Nevertheless, a deficit of $104 billion or slightly more, if the estimates are off, is infinitely preferable to a deficit of $180 billion. The deficits projected for 1984 and 1985 have an even wider disparity, to the good side, from those projected. Therefore, in a world in which the perfect is too often the enemy of the good, it is incumbent upon us, as Members of the U.S. Senate, to take the better of the two choices facing us this afternoon, to vote for this budget resolution and to carry out that promise with our performance over the course of the next few weeks and months.

Mr. METZENBAUM. Will the Senator yield?

Mr. HOLLINGS. Mr. President, I yield to the distinguished Senator from Ohio.

Mr. METZENBAUM. Mr. President, I do not intend to respond to the distinguished chairman of the Committee on the Budget, but I think it is important that I correct the RECORD as to this Senator's votes in the past that pertain to budget resolutions.

In 1978, I voted for the first Senate concurrent resolution for fiscal year 1980.

In 1979, I voted for the second concurrent resolution.

In 1980, I voted for the first resolution for fiscal year 1981. In 1980, I also voted for the second resolution.

In 1981, I voted for the first resolution for fiscal year 1982. When Senator HOLLINGS presented a resolution, the second one, for 1981, I did have differences with respect to the COLA limitations and did not vote for that particular resolution. I have not supported the Reagan administration budgets.

I did want the chairman of my committee to be well aware of what the facts are and I know he would not intentionally have misstated the facts.

Mr. DOMENICI. Mr. President, the Senator is correct; I would not have intentionally misstated the facts. So, those are the correct facts. Now I shall state my general assessment; therefore, it cannot be questioned, because it is nothing but mine.

The distinguished Senator from Ohio has a very exciting approach to government. He always has his own approach, but he never has to produce it and have government run under it. So I leave him with this challenge: Since he wants to increase taxes and increase the levels of expenditures that he has talked about today even more than we have, I wish he would produce a budget and show it to everybody here, in the Senate—where he is going to get the money from increased taxes, what programs he is going to increase, and which he is going to cut.

I think it would be an exciting thing for us to know, for everyone to know, just how he is going to do that. We have about 35 minutes left on this amendment, as I understand it after having talked with the leadership on the other side, I am sure that we would all be delighted to hear that proposal before we vote here today, if my good friend from Ohio could do that.

Mr. METZENBAUM. Mr. President, will the Senator from South Carolina yield to me?

Mr. HOLLINGS. Yes, I yield.

Mr. METZENBAUM. Mr. President, I point out to my friend from New Mexico that many, many months ago, I came before the Committee on the Budget. He had his black book of budget cuts and he and Mr. David Stockman obviously had the necessary votes to prevail and were very successful in getting those budget cuts through. At the same time, I offered to share with him a white book. The white book did provide the very answers about which he speaks.

I know that he did not have the time to listen to my remarks today, but I know that had he listened, he would have been able to recognize that I was not talking about tax increases; I was talking about closing tax loopholes. There are $31.5 billion of tax loopholes alone in connection with the oil industry, billions of dollars in other kinds of tax loopholes.

I am happy to say that the distinguished chairman of the Committee on Finance (Mr. DOLE) has been addressing himself to some of these issues. Obviously, he is having difficulty putting together the necessary votes in order to have a majority of his committee because of the effectiveness of some of the business lobbies. But it is possible to balance this budget or at least to move farther in that direction than we have done by just slashing, slashing, slashing.

Even having said that, Mr. President, I do not want the Senator from New Mexico to misunderstand the point of the Senator from Ohio. The Senator from Ohio addressed himself today to the lack of feeling, of humanity, of compassion that has prompted this kind of budget. It is not one single detail. It is a record of the last 17 months in office of this administration.

When I talked this morning about some of the wasteful practices of some of those in the Cabinet at the present time, it was not because I thought or anybody else would think that that would be the way to balance the budget, but merely an indication of where this administration is coming from and what it is all about. Unfortunately, where it is coming from and what it is all about do not serve the purposes of America and the people of America well. I think that is the sad part of this entire budget discussion.

I thank the Senator for yielding.

Mr. DOMENICI. Mr. President, I want, while the Senator is here, to indicate that I am sure the color of the book had a lot to do with the budgets. I think the white book was good for everyone and the black book was bad for everyone.

Mr. METZENBAUM. Maybe we ought to integrate them.

Mr. DOMENICI. Perhaps we should have adopted his white book. When we talk about closing loopholes and not raising taxes, I am reminded that when Mr. Stockman talked about raising revenue, the good Senator from Ohio was very critical because he used some new words. "Revenue enhancement," he said. You know that meant raising taxes.

Very quickly, those who opposed what he was suggesting said, "Why don't you tell the truth? Revenue enhancement is raising taxes."

Mr. President, I stand on what I have said. Whether it is $100 billion or $150 billion or $160 billion that the distinguished Senator from Ohio would like to increase our revenue base by over the next 3 years, it is either a revenue enhancement or tax raising. He can choose and the people who listen to him can choose and decide which it is. It appears to this Senator that, no matter what you call it, the Committee on the Budget has no authority to line-item taxes. So when you put in $40 billion or $50 billion or $30 billion a year in tax increases, you are sending a message to that committee called Finance that they are to raise taxes. There is not any other way to do it.

One can sit around and have a whole sheet of tax loopholes and say only those that I do not like, or that sound good to a lot of people, are the ones I had in mind. But you just cannot change the nature of the issue; it is raising taxes.

I have nothing further, Mr. President. I think we are ready on our side but for Senator CHAFEE, who will be here shortly, to indicate, if my good friend (Mr. HOLLINGS) agrees, that I am prepared to yield back my time until 3 o'clock, which should be time for a vote. If we do that, I understand he, too, will be prepared to yield.

Mr. HOLLINGS. Mr. President, that is what we shall be prepared to do. I have checked with the minority leader and have been checking with the Senators on this side whether anyone has a desire to speak further on this particular amendment. If no one does, along with the Senator from New Mexico, we shall yield back our time and hope to vote at 3 o'clock.

Mr. President, let me respond to the distinguished Senators now that I have a chance.

The Senator from West Virginia (Mr. RANDOLPH) was eloquent in his description of the needs of education. I join with him in commending the distinguished Senator from Vermont (Mr. STAFFORD), the chairman of the Committee on Education. We are very, very much concerned in all of these budgets, not just for the financial deficit, but that we do not end up with an intellectual deficit as well. That is the reason I was hesitating at the time he was addressing me, trying to thumb through and get a copy of an article recently published about the Japanese children. By all the various tests at particular levels, and particularly in the early ages, where there would not be environmental or educational but differences in intelligence, the differences will be due to nutrition and the development at the early stages of birth, they are intellectually more advanced than American children.

If we are going to compete, we are going to have to get intellectually competitive.

With respect to the very scholarly Senator from Washington (Mr. GORTON), I could not help but remember, when we were working on the budget in the early part of the year and we were all coming up with solutions to the problem, the atmosphere at that time. The atmosphere here today has totally changed. In February we were all going to get the ox out of the ditch. Even as late as April we knew how to solve the problem. The distinguished Senator from Washington (Mr. GORTON) was asking for over $195 billion in revenue increases. They were not new taxes. At that time, my own plan called for about $175 billion. Other Senators called for similar increases.

The way we could do that, of course, was to put a tourniquet on the revenue hemorrhage caused by the excessive personal tax cuts of last year. We were thinking in February of canceling or reducing not just next year's tax cut but even this July's cut, to stop the revenue hemorrhage so that the deficits and the interest rates could come down.

So, when the Senator claims that this is an appropriate compromise between both Houses, I must take exception. This is an appropriate compromise within his own ranks, within his own party. His party leader, the distinguished President of the United States, gave us the caveat, and put the limits on what we could do earlier in the year. It was copper-fastened on the Gang of 17. Under no circumstances were they going to get over $95 billion in revenue increases. They edged up just a bit, with user fees, to $98 billion, but the White House cap—as I pointed out yesterday in discussing the invasion of the budget process by the executive branch—rules the

day. They put that $100 billion cap on, and all Republicans thereafter stuck with that cap, and that is where they stayed in compromise with themselves. They marched in lockstep when we suggested that we could save $77 billion more by repealing next year's scheduled tax cut.

Is there anyone here worried about a tax cut beginning in July 1983? Absolutely not. They are all worried about survival this summer.

They would vote almost unanimously to forgo that tax cut were it not for the intent of this administration to, come what may, stick to that particular brand of so-called supplyside economics.

The distinguished Senator from Washington said without this particular compromise it would be chaos in the Congress.

That could occur. It is not so bad to have chaos. It is much better that we have chaos in the Congress than economic and social disaster in the land.

I had figured all along I would just see where the parties were, and the various motivations and pressures were, and where the administration would try to cap us. And they did—we could not touch defense, social security, or the tax cut. I thought we would end up with chaos, and then we would come back to our senses. I was ready then to play my card, offer my plan, and get some order out of chaos and a budget that we could live with—a budget, Mr. President, if you please, that we could implement.

I was waiting either for that situation to occur or for the President to come around. I do credit the President of the United States for his sincerity. I thought certainly his was a political plan to squeeze the Congress as much as possible and then give the economy a chance to breathe by giving in on things that would not really matter. We could defer, not cancel, but defer, the third year, pick up $77 billion there. We could freeze some of the increases in defense and save $20 billion. You would still have $10 billion more for defense spending than last year. With those kinds of real savings, you begin to pick up large savings from lower interest costs. You could save a little more by getting rid of the abuses of Safe-Harbor leasing of tax credits, and some of the other things that we wanted to clarify with respect to the accelerated depreciation allowance. Then there would be a recognition by the markets that, "At last, now we are beginning to solve the problem."

That has not occurred. I think that it would have been better to have had either the chaos in Congress to bring us to our senses, on the one hand, or to have had the President loosen up slightly on the reins of this supplyside animal to give it a chance to get off to a trot and maybe a gallop. But right now, as best described by his sidekick, the Secretary of the Treasury, this animal is dead in the water. That is the way it is.

Mr. DOMENICI. What about, what is it, the ox?

Mr. HOLLINGS. The ox is still in the ditch, and there we are. We have gone through a nice exercise, but it is still there.

We had some chances, I say to the Senator, and if he changes his mind and proposes again what he was ready to support in February and March, he would be surprised.

I counseled yesterday when he argued and said he could not get the votes and there was not any reason to meet with us. I had the distinguished Senator from Arizona come over. I had persuaded him. He said, "You are right. I am going to vote for you. I am not going to vote for this conference report." I think the Senator and I could have done a little bit better job maybe of persuading colleagues on both sides of the aisle. But we had the President of the United States and his minions over here lockstepping us all the time. The Senator could not move. I could not move. He got frustrated. We could not move after that.

That is sort of a sad tale, but that is the fact, and we did not get a chance to persuade anybody about anything. We have a political document here that will not stand the light of implementation. The Senator does have the troops. He does not have the votes. It is sort of sad to me that the distinguished chairman has had to explain to all the chairmen and subcommittee chairmen how the budget figures are not the budget figures and will not apply to their particular programs.

The PRESIDING OFFICER. Who yields time?

The Senator from New Mexico.

Mr. DOMENICI. Mr. President, again I want to state that we are prepared to yield our time at 3 o'clock and have a vote on final passage at that point.

Let me just say a few words. Hopefully we are going to approve this budget today. We have had a rather amazing turn of events over the past 15, 16 months. When we first started attempting to use the budget resolutions as instruments for some real significant change in policy, there was kind of a hue and cry, "Let us not mandate anything." I was sort of amazed yesterday, just by way of general observation, that some Senators now look at targets that we used to regard as the only means of implementing and saying, "Since you have not ordered any reconciliation, we sure cannot get there."

Just a short while ago, nobody wanted anything but targets and just said that Congress, in its wisdom, will somehow get its job done. Well, we have accommodated the view that instructions are necessary. The Finance Committee has been instructed to make changes in law that will cause savings in programs such as medicare and medicaid and AFDC, and tax code changes that will increase revenues.

Other committees have been instructed. For the most part, these instructions have to do with saving money in entitlement programs including holding certain cost-of-living adjustments (COLA's) to a 4-percent increase. It is the first time we have assumed COLA cuts and instructed committees through reconciliation to report legislation saving the dollars involved.

This is not to say that it is as much as we wanted to do through the reconciliation process. We have narrowed the COLA assumptions down to retired Federal employees, military retirees, and a few other smaller groups.

The distinguished Senator from South Carolina is correct. It will be difficult to implement. But I hope that instead of gazing up and saying if we had more to reconcile and if we could make bigger savings and bigger tax increases, we might get the job done, the committees will assume that this is enough of a challenge this year and will show the American people they can at least do this much. I hope they do.

There are those who say that the numbers are not accurate, that we have changed some estimates.

I say to the Senate, and for the RECORD, that if the committees of the Senate and Congress do what they have been asked and/or told to do, we will have no apology to make when we round up the numbers. They will be pretty close to what we have.

However, I can guarantee the Senate that without committees of this body and the other body doing what is either directed or obviously implied, the number will indeed be off; and they will not be off because we estimated wrong. They will be off because we do not have the courage, the fortitude, or the strength to do what we are asking ourselves to do, and in some instances ordering ourselves to do, when we vote for this resolution.

Likewise, the House, by majority vote, slim as that might be, ordered itself to do some things. I would be remiss if I did not say here today that I am not as concerned about the authenticity of the estimates as I am about the authenticity of the intentions of leaders in the other body. Do they intend to ignore or abandon the responsibility that this resolution imposes on them? I hope not.

I can say honestly that the cuts are not that severe. The tax increases are not that tough. Yet I think there will be a good response in the marketplaces of America if we do it.

So, to those who are saying that it has been voted in but we wash our

hands of it, I can say, as one Senator who worked for all these months to get it done, that their refusal to do what they have voted on themselves will not go unnoticed. Those who want to sit by and say, "It passed, but let somebody else implement it," will not get by without the American people knowing who is responsible for not doing it.

I am not the least bit reluctant to acknowledge that I do not have the same responsibilities as the President of the United States. In fact, I tell the story to many of my friends about my little daughter, who once told me, when I was sort of ordering her around, "Daddy, you is no king. You is just a Senator."

Well, that is all I am. But I can say that as a Senator and as chairman of this committee, I could propose a much better budget—at least, I think so—and I could run around and tell everybody it is the greatest and it would cure everything. The problem is that it would not pass.

I understand the President supports basically what we are getting through up here. There would be some items in my budget that he would not like, just as there are some items in this one that I do not like and I am sure some the President does not like.

However, as to the budget we have before us, I suggest that even if we are slightly off in our estimating, this budget will bring the deficit down, and with social security reform, which is inevitable, the deficits will be even less than we now show.

The deficits in this budget are down substantially—down from $182 billion if we do nothing this year to less than $104 billion. This budget will get us to $84 billion in 1984 and $60 billion the following year. And none of these numbers includes social security solvency reform.

I do not think the American people, I do not think the opinion makers of this country, are going to excuse nonperformance by anyone in a position of leadership who says, "We did not get what we want, so we are not going to carry out this one."

The American economy, the people unemployed who are waiting for the economy to come back, the business people who want to grow again and invest again, the industries in the United States waiting for interest rates to come down so that people can purchase again and invest again in productive things, are not going to take that kind of excuse. They expect us to perform.

Mr. HOLLINGS. Mr. President, may I use a minute, while we wait for Senator CHAFEE?

Mr. DOMENICI. I yield the floor. On my side, I wish Senators to understand that we have about 10 or 12 minutes, and it is our intention, Senator HOLLINGS and I, with the support of the leadership, to vote in about 10 minutes.

Mr. HOLLINGS. Mr. President, I think the Senator has made the plea and used the word "responsibility," and has said people will be watching us to carry out what has been agreed to. I have to take exception to that.

Archibald MacLeish said, "Truth is not truth until it is felt." A hundred will die on the streets of Calcutta today. Unfortunately, while that is a fact, we do not feel it in that sense. It is not a truth to us. In contrast, yesterday a little child fell down a well, and we are all looking at the news and turning on the TV to find out whether the little child will be rescued from the bottom of the well. That is a truth.

With respect to the budget figures, having spent the major part of the day explaining that they are flexible, that they are not true, that we know there was too much of a squeeze, that there will be overruns, for us to be interrupted in the middle of this debate and have from the other body a supplemental—now, come. Where is the responsibility? We do not carry out the budget. We enact supplementals; none of the figures is adhered to. We are in the middle of supplementing what we had as a responsibility, as the Senator sees it.

His description almost mimics the approach of the administration that the only way are spending cuts. Let me point out again that when I first recommended a freeze, it was a freeze at current policy. I had no cuts in mind below current policy. The reason we did not is that we had heard from the distinguished Senator from Vermont. He was not going to cut any more in education. Senator DOLE said $1.2 billion was all that he could save in the food stamp program. The Republican chairmen of the Subcommittees on Appropriations, when forwarding their requests to the Budget Committee earlier this year, rather than asking for cuts asked for increases—$18 billion more than the President wanted. Stumbling, bumbling, fumbling along we were ready to get toward a balanced budget and I certainly thought it would have been under President Reagan. That is the disillusionment. We are talking about responsibility for a $104 billion deficit, and the distinguished chairman implies that since the other body has now adopted a budget by a two-vote margin and this body by a four- or five-vote margin, that we have established our responsibility to work for it. We do not believe that. The news media do not believe that. The people do not believe that. No one believes that.

We do not believe it ourselves. We have been explaining it away.

Therein is the point I have been trying to make. When you try to establish a discipline and get a bipartisan solution, it is tough, it is very tough. When you have $365 billion to save, over the 3-year period, it would be difficult enough for a unanimous body to implement. But when the body politic has not worked its will, and when approval is that close, and the budget has so many exceptions, and its supporters promise so much flexibility, and make so many explanations, you just cannot talk about responsibility. I say to the distinguished chairman, it really makes me doubtful of the credibility of the Congress. No one really believes there is responsibility now, and that is the problem.

Now, it would be a happy day if the President could keep his troops in lockstep to vote for those tax increases. We certainly should not expect the Senators who took the rap on social security and tried to defer this year's tax cut and everything else to all of a sudden come up with the grocery list of new taxes. We are not going to vote for those. The President took over this budget system, he took over the maneuvers, he took over the compromise, and he now has his budget. He got his entire program last year, over this Senator's objection. I did not object to the spending cuts. The Senator from New Mexico and I cosponsored those. But with the enactment of the revenue hemorrhage, he got his so-called Reaganomics, he got his indexing and everything else. And now he has his program 2 years in a row; at 3 o'clock he will have it.

I hope then that he will continue to send Stockman over and tell us the way he has been telling us how we are being responsible. I want that fellow Stockman to continue to describe in Congress how it is working out and we have not changed course and we are all responsible when even JACK KEMP has offloaded from this nonsense, I can tell you that right now. Is not that an irony? You have Kemp-Roth now in the law, but KEMP is gone. He is not around, I can tell you that.

And let us talk to the President and send him a note. I will join in the letter and say:

> Mr. President, please hold the foot to the fire that you have been holding for the last 3 months around here where we could not touch revenues, could not touch defense, could not touch social security and say, "If it ain't broke, don't fix it."

The PRESIDING OFFICER. Who yields time?

The Senator from Rhode Island is recognized.

Mr. CHAFEE. Mr. President, I wish to address several questions to the distinguished chairman of the Budget Committee (Senator DOMENICI) relating to the conference compromise budget resolution. In particular, I would like to inquire about programs which have been of special interest to me. These programs relate to educa-

tion, health, especially medicare and medicaid, and maternal and child health and immunization programs; and low income energy assistance and weatherization programs.

With regard to education, the Senate budget resolution made no cuts in the guaranteed student loan program, and provided that other education programs would continue essentially at the levels of budget authority provided for fiscal year 1982.

Am I correct in that?

Mr. DOMENICI. The Senator is correct.

Mr. CHAFEE. Now I have two specific questions.

First, the conference report apparently assumes cuts in the guaranteed student loan program, I believe by the amount of $31 million. Yet it is my understanding that there is no reconciliation instruction in the conference report that would require that these cuts be made. Is it possible for the chairman to clarify that situation?

Mr. DOMENICI. I think I have already in the RECORD clarified it, but I will be pleased to do it again. The Senator's understanding is correct. The resolution assumes a very modest savings, and it is nothing more than an assumption in the guaranteed student loan program but the authorizing committee is not instructed to produce the savings. I can tell the Senator that for the year 1983 I personally thought it was not the right thing to do to instruct the committee because the instruction would be so small, that there was not any assurance where the savings would be made.

So it appeared to me and I took the lead in arguing that we should assume some modest savings and leave it up to the committee to either make reforms or for the Appropriations Committee to make the savings.

Mr. CHAFEE. I thank the Senator.

Second, it is my understanding that funds for other education programs, title I of the Elementary and Secondary Education Program Act, the Pell grant program, Education of All Handicapped Children Act, the State block grant, and the vocational and adult education programs, have been increased in the conference report by nearly $300 million. Is that correct?

Mr. DOMENICI. The Senator is correct.

Mr. CHAFEE. Yet I note on page 23 of the conference report the level of outlays in function 500, that is the education, training, and social services, is cut by about $800 million from the level of the Senate resolution. I would appreciate it if the chairman could explain how we can retain and even increase funding levels for these education programs, yet experience an outlay cut $800 million for the coming fiscal year?

Mr. DOMENICI. I am pleased to answer that. We arrived at the broad functional totals and to the best of our ability we matched programs and outlays. Then the entire budget amount is cross walked to the Appropriations Committee. It is up to the Appropriations Committee to then determine the appropriate fix of programs and outlays. We deal in the broad totals. They deal in the specifics of individual programs.

I remind my good friend from Rhode Island that the education programs are forward funded, meaning that increases in fiscal year 1983 budget authority result largely in increases in fiscal year 1984 outlays for these programs. Our resolution reflects this. There is nothing we can do other than to assume that is the way it will go because that is what increased budget authority in that function fits best with.

Mr. CHAFEE. Is there something about the savings that are going to come from CETA in that function 500?

Mr. DOMENICI. I do not have an answer for that.

Mr. CHAFEE. All right. With regard to the health programs, as the chairman recalls when we debated this budget resolution on the floor, I offered amendments that increased the outlays over the next 3 fiscal years for the immunization program and for the maternal and child health programs, and the chairman of the committee was gracious enough to accept those on behalf of the committee.

Mr. DOMENICI. That is correct.

Mr. CHAFEE. Now, referring back to that same table on page 23 under function 550, health, the outlays provided in the conference report are increased by about $165 million above the level of the Senate resolution.

It is my understanding that this increase represents increased outlays as a result of entitlements, but that discretionary health programs would suffer a decrease by perhaps $100 million. I would appreciate the chairman's comment. I wish to do everything possible, as the chairman knows, to retain the levels of funding in the Senate resolution for these programs that I believe to be of great importance. Was there a discussion in the committee of conference on how this $100 million cut will be made if, in fact, it is necessary?

Mr. DOMENICI. Let me say to the Senator that I share his concern on the funding level for maternal and child health care block grants and the child immunization program. As he knows, the resolution allocates enough appropriations for domestic discretionary programs to fund them at least at the 1982 level. In fact, as I said in my opening statement yesterday, the conference agreement for domestic discretionary programs is actually $400 million in 1983 outlays higher than a strict freeze would permit.

Some existing programs will be stopped and others will receive reduced funding. The funds available due to such decisions could also be used to fund programs such as the two I have just described, the maternal and child health block grants and the childhood immunization program.

But I know the Senator understands that I could not promise him that the programs will be funded at the levels that he proposes. That is going to be up to the appropriators. I think we will all work together to see if it can be done.

Mr. CHAFEE. Mr. President, the next subject is with regard to medicare and medicaid. I must say that I was very disappointed with the result of the conference. When I voted for the Senate resolution, which provided for combined cuts in these two programs of $4.7 billion, there was an exception, and I might say, and I know the chairman recalls, a very strong expectation in the Senate that the House would pass a level of cuts in these two programs much less than that provided in the Senate resolution. This expectation was much discussed on the Senate floor, and I engaged in a colloquy with the distinguished chairman of the Finance Committee, the senior Senator from Kansas, in this regard.

As that colloquy indicated, there was an exception that House cuts would be in the area of $2 billion, and there was thus the expectation that a House-Senate compromise would be in the area of $3.5 billion. I expressed the view at that time that even that level of cuts would be very hard to achieve without affecting beneficiaries adversely. The conference report provides for combined medicare/medicaid cuts of $3.8 billion with an additional $510 million expected to be obtained by administrative savings within the power of the administration to achieve without legislation. This is a very high figure, it seems to me. I wish to serve notice that, as a member of the Finance Committee, I am going to be very diligent, very watchful about the nature of the cuts we make and make every effort to protect the beneficiaries.

Finally, with regard to the low-income energy assistance and weatherization programs, I would appreciate the chairman's guidance about the effects of the conference report on these two programs; namely, the low-income energy assistance and weatherization programs.

Mr. DOMENICI. Mr. President, our assumption is that these programs would be held at the fiscal year 1982 budget authority levels.

Mr. CHAFEE. Mr. President, I thank the distinguished chairman of the Budget Committee for his answers to the questions I have posed.

Mr. DOMENICI. Mr. President, let me say that I am most appreciative of the Senator's help and cooperation. I am aware of his genuine interest, particularly in the area of medicare and medicaid, as he has expressed here today. His cooperation in helping us get through this very difficult time is appreciated. Wherever I can be of assistance I will do so. I thank the Senator very much.

Mr. CHAFEE. I thank the Senator.

Mr. CRANSTON. Mr. President, when Reagan's budget was originally proposed it was rejected by everyone in Congress. Yet this so-called compromise between Senate Republicans and House conservatives preserves many of its worst features.

It is unfair, extravagant, and fiscally irresponsible, and will not alleviate the human suffering and economic loss from rising unemployment, high interest rates, and triple-digit deficits.

It is unfair because it preserves all of the Kemp-Roth-Reagan tax giveaways to the wealthy, while continuing to grind away at basic Federal services to middle-income and needy people.

It is extravagant because it increases spending on the military budget by more than we can afford or really need.

It is fiscally irresponsible because it can doom us to $100 billion deficits for the rest of Reagan's term.

I do not support it.

Mr. HOLLINGS. Mr. President, after looking over the budget the President released in February, I assumed things could not get much worse. While I was prepared to roll up my sleeves and help create a more sensible budget, I still believed that the administration would come up with something better on its own.

After looking over the conference report before the Senate, I now realize you should never underestimate the ability of OMB to make a sow's purse out of a sow's ear.

If anything, this budget is worse than the first one and the economy is in worse shape than February. Interest rates have not come down, still hovering at 16.5 percent. Bankruptcies are at record highs. Unemployment is nearing record levels. Yet none of this has shaken the White House belief in their economic program.

Their economic program is just as shakey as the budget now before us, a budget with as much face-saving as real saving. This resolution will cost the congressional budget process. And that is a true irony because it is not a product of that statutory process. The resolution, like all of this year's Republican budget predecessors, is largely the work of the sorcerer's apprentice, David Stockman.

Whatever this resolution costs the budget process, it will exact a price from Congress, as well. Congress was too timid; not too timid to see the President's February budget was unrealistic; but just timid enough to avoid making the basic decisions that would have given us a budget we could believe in.

We could have done it. It would not have taken the courage of a gladiator. The gumption of a bold legislator would have been enough. But there was not enough of that to go around.

Even so, this is not a congressional budget. It is a budget turned on a supply-side lathe. It is—from the start and at the finish—a budget of the Laffers, by the Stockmans, for the Reagans.

Do not doubt for an instant that the President was deeply involved in this budget. Beneath his mask of detachment, the President was like the smiling woodchopper who throws a skunk in the bunkhouse then whistles past the window saying it sure smells in there. While Republican Members of Congress came flying out the window after every new budget skunk, the Democrats were left inside to be accused of causing the disruption.

If the President was not always involved in a person-to-person way, his presence was made known at every turn by his Budget Director, David Stockman. You would think Mr. Stockman would have been a little penitent after the way things fell apart for him last year. In 1981, he managed to convert a Presidential pledge to balance the budget into a Presidential admission that, for the sake of supply-side economics, huge deficits were at least tolerable.

And you would think Mr. Stockman would have learned something from his celebrated confessions in the Atlantic Monthly that he did not add up all the numbers of last year's budget.

But I am afraid neither last summer's phantom budget, nor last autumn's Atlantic interview have rehabilitated David Stockman. If he learned anything at all last year, it was how to practice self-hypnosis. As this year's budget numbers grew worse, the Budget Director grew better at defending them. And David Stockman was defending them as fast as he could create them.

The President's February budget was the work of David Stockman.

During the 13 private talks between White House aides and Members of Congress on the budget, White House Chief of Staff James Baker got the ink, but David Stockman dealt the cards.

On the evening of May 5, while the Senate Budget Committee worked to mark up a budget resolution, Chairman DOMENICI announced that the President would support a new compromise the chairman had just announced. That compromise was the work of David Stockman who had met early in the afternoon to work it out with the Senate Republican leadership.

By the time the Stockman budget reached the Senate floor, it was already dead. Public opinion killed it. Yet, while the leadership held the Senate in day-long recess, Stockman lieutenants counseled with the Republican leadership to produce still another Stockman budget.

What the Budget Director did in the Senate, he did in the House, as well. In mid-May, it was David Stockman who spent 2 days in private meetings pushing for a compromise budget. And after the House of Representatives defeated all the budget options, it was David Stockman who fashioned the Latta budget finally approved by the House.

The budget resolution before the Senate right now rests on David Stockman numbers, and hidden beneath those numbers are extra Stockman deficits.

This budget will have hard consequences for the economy, just as the process used to create the budget will have a bad effect on the congressional budget process.

Since Ronald Reagan came to office, the congressional budget process has been treated like a vacation home. The Republican leadership has shown up from time to time, but they never lived within the process. Every major decision was made outside it—in private meetings—in private rooms—then handed back as a fait accompli.

After the Senate Budget Committee reported a budget resolution in May, I called it nothing but a truce among Republicans that the committee was asked to ratify. That is really all it was. Yet, the President tells the public the process was a "Mickey Mouse operation."

Looking back on it, the President was right. But it was an operation created at Disneyland East, the one at 1600 Pennsylvania Avenue. Former Treasury Secretary William Simon had a piece in this morning's Washington Post in which he called the budget a sham. He was half right. I agree the numbers are illusions. But Mr. Simon thinks it the fault of the congressional budget process. The only trouble with the congressional process is that the White House invaded and ransacked it. They worked from the book called "Stockman's Rules of Order." It ruled out of order any tourniquets on the revenue hemorrhage, any cuts in defense, any controls on controllables, anything that included Democrats, or differences with supply-side thinking.

Had the White House allowed the formal budget process to work its will, we would have a very different, more realistic budget than the one we have right now.

So there are two important facts about this budget we should all keep

in mind. First it is a sham document based on numbers calculated to the best advantage of supply-side dogma.

Second, with the economy in terrible shape, this budget does not fairly distribute the sacrifice needed for recovery. It is a budget that divides the very poor from the very wealthy by multiplying the distance between them.

In the face of terrible economic problems, what we needed most this year was a budget built on a serious concern over what was happening to the country. Washington needed to listen and boldly respond to what the American people were saying about the problems in the economy.

Unfortunately, the legion of dissenting voices were muffled by the louder shouts of supply-side advocates, and their chants about the evils of deviation from supply-side thinking.

So, what we have is not a credit to open government as much as it is a testament to the closed loop of Kemp-Roth taxes and Laffer curves.

The administration's only positive claim so far about the effect of its economic program has been the drop in inflation. But the question remains, is the lower inflation a durable product of the Reagan program, or a reaction to the Reagan recession? Moreover, of what benefit to many of the most important sectors of the economy is a lower inflation rate if real interest rates are at historic high levels?

The consumer price index increased by 1 percent in May, an annual rate of over 12 percent—an inflation rate back in double digits. During the first 4 months of this year prices had increased by only 0.4 percent, or an average of 0.1 percent per month. Much of the slowdown in inflation early in 1982 was the result of good luck in food prices as food supplies were plentiful; recession and a worldwide oil glut reduced the price of energy products; and continued high-interest rates and a recession in the construction industry that stopped the rise in house prices.

These effects were necessarily temporary and substantially overstated the progress achieved in reducing inflation. Unless the administration was proposing a permanent recession, the low inflation rates in early 1982 could not be maintained.

The administration does not have a program to lower inflation except through considerable economic pain. Just look at the rates of real interest we have now compared to historic trends. In 1980, real interest rates were minus 2 percent. In May of this year the real interest rate was plus 5.7 percent. The lower inflation may be good for the economy but that does not mean much to the housing industry, manufacturers of durable goods, industries which borrow to make capital investments needed to improve productivity, and other interest-sensitive sectors of the economy who are living—and dying—with the highest real rates of interest in the Nation's history. This country needs a program to increase productivity growth and a long-term reduction in inflation. And that requires a meaningful budget.

Reviewing the history of this year's budget process, there are enough doubtful economics to suggest that the "last Laffer" may yet take the form of a plague on both Houses of Congress. There are serious problems with this budget, just as there were serious problems with the Republican budgets that preceded them. We need to take a close look at those problems beginning with the President's February budget.

REAGAN-STOCKMAN FEBRUARY BUDGET

By any measure, the President's February budget was a disaster. Senator LAXALT called the projected deficits, numbing. Senator ARMSTRONG, a Republican member of the Senate Budget Committee conceded, "We cannot live with deficits of the magnitude of those projected in the President's budget." Allen Sinai of Data Resources, Inc., cautioned, "We are walking the brink and it is very worrisome. One thing is for sure. Without adjustments now in the current thrust of policies, the U.S. economy runs the risk of a major collapse, unprecedented in the post war period."

As bad as the budget looked on the surface, it was even worse when analyzed:

The Reagan-Stockman budget relied on unrealistic economic assumptions. Even the Gang of 17, with is relatively optimistic assumptions—based primarily on CBO economics—was more realistic about the likely economic outlook:

REAL GNP

[In percent]

| | 1982 | 1983 | 1984 | 1985 |
|---|---|---|---|---|
| Reagan | 0.2 | 5.2 | 5.0 | 4.7 |
| Gang of 17 | −.9 | 4.5 | 4.1 | 3.7 |

REAL GNP

CPI

[In percent]

| | 1982 | 1983 | 1984 | 1985 |
|---|---|---|---|---|
| Reagan | 7.3 | 6.0 | 4.6 | 4.8 |
| Gang of 17 | 6.9 | 6.9 | 6.9 | 6.4 |

INTEREST RATES—3-MONTH T-BILLS

[In percent]

| | 1982 | 1983 | 1984 | 1985 |
|---|---|---|---|---|
| Reagan | 11.7 | 10.5 | 9.5 | 8.5 |
| Gang of 17 | 12.4 | 13.2 | 11.3 | 9.4 |

Using these unrealistic economic assumptions, the administration artificially lowered its spending estimates by $105 billion over fiscal years 1983 to 1985.

The budget also assumed lower spending for many other programs based on technical factors. CBO calculated that the administration underpriced its spending by $77 billion over fiscal years 1982 to 1985 for these technical reasons.

The budget assumed $54 billion in receipts from OCS leasing fiscal years 1983 to 1985, over $13 billion more than estimated by CBO.

Interest costs were underestimated this time by $50 billion over the 3-year period.

Defense spending was artificially low. CBO calculated the time level of spending would be $8.9 billion higher over fiscal years 1982 to 1985 than the administration stated.

Farm price support payments were underpriced by nearly $16 billion over the fiscal years 1982 to 1985 period.

In addition, the Reagan budget made a series of spending cuts which had no possibility of enactment or could be classified as creative accounting.

The budget assumed $9.8 billion in new user fees—fiscal years 1983 to 1985—which are extremely unlikely to be enacted.

Reagan proposed cutting education programs and student assistance by almost half compared to fiscal year 1981, food stamps by $7 billion over 3 years—on top of the $2 billion in cuts made last year—and child nutrition programs by $1.5 billion over 3 years.

The budget assumed cuts in Amtrak, mass transit, and Coast Guard capital improvement programs despite widespread support for these activities.

Reagan proposed cuts of $5 billion in medicare and medicaid in fiscal year 1983 and in the aid to families with dependent children by $1.2 billion next year.

A total savings of $16 billion over 3 years was attributed to creative accounting in the sale of Federal land—$9 billion—unspecified debt collection—$4 billion—and reduction in waste fraud, and abuse—$3 billion.

Worst of all, the Reagan budget did not put us on a glide path to a balanced budget, but rather insured that we would have $130 billion deficits in each of the next 3 years.

STOCKMAN'S SENATE BUDGET

The budget assumed the full $16 billion administration savings from sale of Federal land, reduction in waste, fraud, and abuse, and unspecified debt collection despite no clear or convincing plan on how they will be achieved.

It succeeded in producing a fiscal year 1985 deficit of $67.2 billion, an inappropriately large deficit and a far cry from the balanced budget some of us started to write only a few months ago.

The budget assumed $108 billion in increased taxes yet left the third year of the personal tax cut off-limits, thereby making it extremely improbable that the full amount of the increased revenue will even be realized.

The budget does not make fair cuts where they are needed—in the automatic cost-of-living adjustments and in the defense budget. It singles out Government employees, past and present, and veterans for COLA reductions and gives the Defense Department 7 percent growth.

LATTA-STOCKMAN BUDGET

In addition to the policies embodied in the House-passed budget, it was fraught with technical errors and clerical mistakes.

The budget understated the deficits by $28.3 billion over 3 years because it underestimated defense spending—$5.5 billion—overestimated receipts from OCS leasing—$10.2 billion—and understated interest costs—$7.1 billion. It also made over a dozen other technical errors which, together, understated spending by $5.2 billion over 3 years.

In fiscal year 1982 alone, the budget underestimated outlays by $14.6 billion by rejecting CBO estimates of spending for defense, farm price support payments, medicare, social security, OCS leasing, and interest on the public debt.

The budget assumed cuts that were practically or politically unattainable:

Space and science programs were funded at levels that would have required a 25 to 30 percent cut in the number of Space Shuttle flights over the next 3 years, many of which are related to national security.

The budget assumed $7.5 billion in user fees from such sources as inland waterways and deep water ports, nuclear waste disposal, recreation and boating.

The dairy price support program was assumed to be cut by $1.7 billion over 3 years yet no mention was made of how this could be accomplished.

The budget assumed the administration's estimate of savings from unspecified debt collection and reduction of waste, fraud, and abuse. It went further than the administration by assuming $0.3 billion from sale of Federal land on top of the $9 billion in the Reagan budget.

The budget assumed $2.4 billion in savings from foreign aid over 3 years, again without any indication of where these cuts could be made.

The Federal subsidies for the Postal Service were eliminated—$2.7 billion—and employment and training programs were cut substantially—$1.6 billion—funding for the guaranteed student loan program was reduced—$1.2 billion—and law enforcement activities would have been cut—$1 billion.

STOCKMAN CONFERENCE AGREEMENT

The conference agreement suffers from the worst of both House and Senate budgets. It ignores reality, misdirects limited resources, and sweeps the rest of the problem under the rug.

The conference agreement budget understates the true size of the deficit. Even if all the policy assumptions in the resolution become law—which is highly improbable—the deficits, as estimated by CBO, would be $113.8 billion in fiscal year 1982, $116.4 in fiscal year 1983, $104.6 in fiscal year 1984, and $92.7 billion in fiscal year 1985.

According to the CBO, the budget overstates revenues, even with the $98 billion in assumed tax increases, by $39 billion in fiscal year 1982 to 1985 and understates outlays by $35 billion over the same period.

CBO estimates of spending are rejected, leading to artificially lower spending in areas such as defense—$8.9 billion—OCS receipts—$11.4 billion—civil service retirement—$1.3 billion—social security—$0.4 billion—unemployment insurance—$0.6 billion—and interest costs—$11.9 billion.

In addition to underpricing the defense budget, the conference agreement assumes unrealistically low inflation in defense procurement and it ignores the historical cost growth of weapons programs due to design changes.

The defense budget assumes 50 percent absorption of the DOD pay raise, an historically unprecedented level. The 10-year average absorption is about 20 percent and in fiscal year 1982, no absorption was required.

The combination of high absorption and unrealistic outlay estimates could lead to cuts in defense readiness next year of over $3 billion more than contained in the conference report. Underestimates of defense spending nearly always made up for by cutting readiness programs.

The conference agreement assumes more savings in entitlement programs than it requires to be saved through reconciliation. In fiscal year 1983, for instance, the budget assumes cuts in medicare of $3.6 billion yet the Finance Committee is directed to save only $3.16 billion. Similarly, the budget assumes cuts in food stamps of $949 million yet requires the Agriculture Committee to save only $779 million. Further, guaranteed student loans are assumed to be cut yet there is no reconciliation directive to the Labor and Human Resources Committee at all. This lack of enforceability is a critical flaw in this budget resolution.

The budget assumes $7.5 billion in user fees similar to those in the House-passed budget. Many committees rejected similar user fees last year and these user fees are not reconciled to any committee, thereby further decreasing the likelihood that any will become law.

The budget assumes large unspecified reductions in programs ranging from foreign aid to general government. As was demonstrated last year, unspecified savings have an uncanny ability to disappear at the last moment.

Despite all its faults, House Republican Leader ROBERT MICHEL has said of this conference report, "With all the blood, sweat, and tears that went into this thing, I think we can sell some people on swallowing hard and voting for it in sufficient numbers."

Maybe so. But he will not be able to sell the Nation on the insufficient numbers the budget itself contains. This budget is a squandered opportunity. It wastes the chance to make some honest corrections in the economy. It is not tough enough. We had a chance to do better.

Just 2 days after the President released his February budget, I offered a substitute. My plan was tough and credible. But it was also fair and reasonable, a plan Federal Reserve Chairman Paul Volcker said, "would have a galvanizing effect on the markets." The plan contained three central features.

First, it would have moderately reduced the growth in defense spending without jeopardizing readiness. The fact is no matter how much we might be willing to spend, we can only buy so much in a given year. As evidence of that, I would point to the $33.8 billion in unobligated balance for defense at the end of fiscal 1982. That figure would have grown to $43.1 billion under the President's February defense budget for fiscal 1983.

Second, my plan would have put a 1-year freeze on the automatic cost-of-living adjustment (COLA) on social security and several other entitlement programs. The social security COLA freeze would have been a temporary, specific suspension of benefit increases—not a cut in benefit. And it would have produced results, strengthening the trust funds without inflicting hardship on beneficiaries.

It is important to remember that the automatic cost-of-living increase was not even put into operation until 1975. We did not increase social security in the Great Society when Lyndon Johnson provided the last balanced budget in 1968-69.

The temporary freeze would have not been a penalty directed at anyone. Rather, it would have been a realistic way of preventing inflation-driven annual increases from threatening the welfare of either the beneficiaries or the system itself.

Third, my plan would have canceled the third installment of the Kemp-Roth tax cut. It was not a step to increase taxes, but rather would have

simply let stand the two tax cuts already provided under last year's tax legislation. But that feature of my plan met intractable opposition from the White House.

I argued—and continue to maintain—that whatever modest gain taxpayers might derive from a slightly smaller tax bill, they will lose still more to deficit-driven high-interest rates on anything they buy on credit. If there is any doubt about the relative trade-off between a tax cut and high interest rates, consider this example.

A one-earner married couple with two dependents and an income of $20,000 will receive $371 in calendar 1983 as a result of the tax cut. Let us say that same family has a mortgage at 17 percent. If that mortgage rate declined to 14 percent—a rate estimated by a Salomon Bros. economist as the level necessary to trigger a recovery in the housing industry—that family would save $1,685 annually on a $60,000 mortgage.

This is, of course, only an illustration. But there is a sizable difference between the $371 the family will get because the President has stubbornly insisted on his tax plan, and the $1,685 the family will not get because the President has stubbornly insisted on his tax plan.

If we had cut the deficit by eliminating the third year of the tax cut, people could have profited more from lower interest rates than from the tax cut itself.

The President would argue, as he has so many times before, that the tax cut will lead to greater personal savings upon which business will be able to draw for investment in job-producing expansion.

Will it?

The evidence suggests that families do not tend to save personal tax reductions which occur because of lower tax rates. In 1981, the personal savings rate was 5.3 percent. In the first quarter of 1982, the rate is 5.5 percent, not a statistically significant change.

Moreover, Murray Weidenbaum, the Chairman of the President's Council of Economic Advisers is telling us we will need a high level of consumer savings to sustain a recovery, while the chief economist of the Commerce Department is saying "a lot of people in the administration might hope that all of the tax cut will be spent."

Supply-side economics has become a theoretical rubberband, with purists arguing that everyone will save their tax cuts to save the economy, while another group of supply-siders says they hope everyone will spend their tax cut to save the reputation of supply-side economics. Supply-siders have their fingers crossed that the rubberband will not snap until November 3.

With all the serious supply-side problems, people were still reluctant to buck the President. So Congress would not go along with my plan. In fact, some people in my own party told me to keep still, and not make waves. Yet, the fact is my plan would have brought us a balanced budget by 1985 because it made cuts where the big outlays were. People did not want to hear that because they worried about the political risks involved. Well, I remember Harry Truman saying once that, "I never give them hell. I just tell the truth and they think it's hell."

The basic truth of the Hollings plan was that it would have put our feet to the fire. No doubt about it. But that is why we are here, to make the hard choices for the benefit of the overall picture. I see no reason why we could not have taken the steps already taken by many States, cities, and private organizations.

In the face of rough economic weather, Oregon called a special session of its legislature to cut its budget and raise taxes to head off its projected State deficit. Among the steps they took was to save $34 million in revenues by postponing for 6 months the planned lowering of State income tax withholding rates.

Other States have also acted. Wisconsin has raised taxes. A recent Tax Foundation estimate shows that 18 States have increased their taxes by a total of $4 billion. Michigan, Minnesota, Nebraska, Vermont, and Washington have all raised State income taxes.

The upshot of these changes is that while State governments understand that increases are unpopular, they have shown the vision and discipline necessary to see their States through the economic downturn.

Cities have taken similar steps. In January the Joint Economic Committee of the Congress sampled 50 large cities to examine what actions they had taken to balance their budgets. The survey found that 40 percent of the responding cities had increased their tax rates. Only four of the cities had reduced taxes. When the U.S. Conference of Mayors polled 100 cities early last November they found that 41 percent of the cities they contacted had raised taxes.

What the cities and States are doing at the public level, both business and labor have been doing in the private sector. Businesses have increased management savings. Labor has joined in with givebacks. In January of 1981, General Tire and the United Rubber Workers worked out a wage cut package. In October of 1981, International Paper and the International Woodworkers of America agreed to a 20-percent wage cut to avert a plant closing. This year, Ford and the UAW negotiated a pact dealing with wage increases and cost-of-living adjustments.

None of these steps, public or private, have been easy to take. But all share a common characteristic. They illustrate what happens when concerned groups clearly identify a problem and do what needs to be done to correct it.

Washington has been unable to do those things this year largely because the White House was not a willing partner. This budget was played out from a White House game plan under White House rules.

What we have in this conference report is a budget that is not believable, and a congressional budget process heaped with ridicule. We already know what the President thinks of the process. His top counselor, Ed Meese, has even suggested that the President be given a line-item veto. I do not know why. The White House with its deferral and rescission powers and buttoned-down budget procedures already dominates the budget to an imperial extent.

So it is a White House budget, and you would expect the administration would be dripping confidence. But, Ed Meese told reporters in May that the White House might have to look at alternative measures if the program did not work out. He want on to say, however, "It is better not to discuss" those alternatives.

Next, we have Treasury Secretary Regan telling the Washington Post that, for the last 3 months, he has been putting together other plans because, in his words, "* * * you cannot wait until someone says, you know, we are in a crisis, let us change. And you say, to what?"

Along comes House Minority Leader BOB MICHEL putting a big distance between himself and the budget. "I think it has been overemphasized as to how much we, in what we are doing here on the budget thing, influence the money markets."

But, it was left to other guiding forces behind this budget, the White House political director, Edward Rollins, and Republican national chairman, Richard Richards, to have the final word on the budget's authenticity. They have told their party leaders not to expect an economic upturn, and to go ahead and shift the blame for the recession to the Democrats.

The economy has been choking on the supply-side menu while the White House has decided to let it cough a little more in the hope that everything will come out all right. It makes you think the White House is more concerned about their restaurant than about the patrons.

Amid all the doubts about this budget and the process that created it, we are hearing again about a constitutional amendment to balance the budget. Such an amendment might work, and I am willing to give it a

chance. But, it is no guarantee the budget will be balanced. Furthermore, the problem is here and now—not 2 or 3, or 6 years from now.

If the public wants a constitutional amendment to balance the budget, it is fine with me. My point is that no new layer of arcane procedures will improve the situation. We already have procedures enough. If we will use them, if the White House will honor them, we will have just as good a chance of balancing the budget as we would with an amendment. But, that decision will be made in a few days. The decision we must make now is on this conference report.

I am afraid that choice has already been made. It was made the day the White House took over the budget process, and the pollsters took over politics. We got ourselves trapped between the Reagan rule and the pollsters rule. The Reagan rule says, "No way, but our way," and the pollsters' rule says, "If you have to make a choice, find another issue."

Together, they have left Congress with a budget that cannot be trusted, and a budget that will not work.

I will vote against the conference report.

Mr. THURMOND. Mr. President, I rise today in favor of adopting the fiscal year 1983 budget as set out in Senate Concurrent Resolution 92.

The total outlays called for in this budget are $769.8 billion, with $665.9 billion in revenues, resulting in a projected deficit for fiscal year 1983 of $103.9 billion. This is a much higher deficit figure than I would like, particularly when it will bring the public debt figure up to $1.29 trillion.

Nevertheless, Mr. President, we must not lose sight of the fact that spending, the tax burden, and the deficit would be far, far higher if it were not for the actions undertaken by this administration and carried forward under this budget resolution. This budgetary blueprint calls for additional spending reductions of approximately $14 billion in domestic programs, including measures to restrain runaway growth in the cost of various entitlement programs. It calls for cutbacks in defense spending of $5.5 billion from the levels originally sought by President Reagan. Frankly, this is more of a defense cut than I would like, considering the ominous nature of the Soviet threat, and the need to rebuild our defense strength after years of neglect under the Carter administration; however, I recognize the necessity of budgetary restraint in all areas if we are to hold down the size of the deficit, thereby reducing Federal borrowing and the pressure on interest rates.

In addition to these spending cuts, Mr. President, this budget resolution provides for legislative action to increase tax revenue. Again, this is a step that I regret to be necessary, but it is in fact necessary that some additional revenue be raised in order to narrow the gap between spending and revenues. Yet, we must guard against simply shifting the burden to the taxpayers, as that would inhibit economic recovery, stifle productivity-enhancing investments, and completely abdicate the need for Congress to exercise fiscal responsibility on the spending side of the budget.

Mr. President, this budget is not perfect, but as indicated by the surge in the stock market when the House passed this resolution, it should send a signal to the financial markets that the Federal Government is serious about reducing Government spending. It makes clear that the goal of both the President and Congress is to bring the budget into closer balance without unnecessarily increasing taxes. This goal will be accomplished by reducing Government spending in all areas, especially those where waste, abuses, and spiraling program growth are present.

The initiatives embodied in this budget are but another step toward greater fiscal responsibility, which should reinforce monetary restraint and help trigger a substantial decline in interest rates. This lowering of interest rates will allow many Americans to purchase homes, automobiles, and other durable goods that have been beyond their reach due to the high rates on mortgage and consumer loans. This in turn will put many Americans back to work in the housing, automobile, and related industries. With the increased business activity, other businesses will be able to recall workers that have been temporarily unemployed. Moreover, the recent high levels of business bankruptcies should be reduced, as the economy revives and interest costs diminish.

Mr. President, this budget is essential to the recovery of the American economy. While it is not everything that I would like, I think it is imperative that the Senate pass this measure, in order that we can move forward with the even more critical decisions on upcoming appropriations bills and legislation to restrain growth in the entitlement programs. I would also reiterate my strong support of the balanced budget constitutional amendment which is now pending on the Senate Calendar. I am pleased to be the principal author of this proposal and am firmly convinced that such an amendment is necessary if we are to be successful in the ultimate objective of balancing the budget and keeping it in balance. It is my hope that the Senate will take up and pass this proposed amendment within the next few days.

Mr. HOLLINGS. Mr. President, yesterday the chairman of the Budget Committee told us of letters he received from Secretary of Defense, Caspar Weinberger, and Interior Secretary, James Watt, defending the use of the administration estimates of defense spending and OCS receipts contained in this conference agreement.

Dr. Alice Rivlin, Director of the Congressional Budget Office, has stated that the administration estimates are exaggerated in both these areas. The nonpartisan CBO, which we have relied on for impartial analysis since the beginning of the budget process, estimates that defense spending in the resolution is understated by a total of $8.9 billion over the fiscal year 1982-85 period. Likewise, CBO states that receipts from OCS leasing are overstated by $11.9 billion. These two elements alone contribute to an artificial deficit reduction of $20.8 billion.

The CBO estimate of defense spending for the current year is not based on a letter from the Secretary of Defense. It is based on 8 months of actual spending data. Using actual spending through May 1982, CBO estimates that DOD outlays for fiscal year 1982 are already running at a $185.5 billion annual rate. To meet the DOD estimate, defense programs in the remaining 4 months of this year would have to be cut by $4 billion. I ask, how likely is that to occur?

On the matter of OCS receipts, the CBO is not alone in believing the administration is overly optimistic. The General Accounting Office, in a report dated June 8, 1982, stated that it is not likely that the administration estimates of OCS receipts will be achieved for fiscal year 1983. This conclusion is based primarily on the administration's use of a new and untested methodology to predict OCS bonuses. This new method resulted in fiscal year 1983 estimates that are twice the level expected to occur this year, an increase which the GAO terms "unprecedented."

It is ironic that the chairman of the Budget Committee rejects a CBO methodology for forecasting revenues yet accepts without question an untried administration method for predicting OCS receipts which even the GAO has said yields unprecedented results.

Mr. President, I ask that a copy of the summary of the GAO report be printed in the RECORD.

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

THE COMPTROLLER GENERAL'S REPORT—OUTLOOK FOR ACHIEVING FISCAL YEAR 1983 OFFSHORE REVENUE ESTIMATE—POSSIBLE BUT NOT LIKELY

DIGEST

In February 1982, the Administration announced that projected Outer Continental Shelf revenues would be $18 billion for fiscal year 1983. While offshore revenues are expected to increase under Interior's accelerated leasing program, various groups

have taken exception to the magnitude of the projected increase suggesting that achieving the $18 billion was improbable and that the large estimate was, in reality, a technique to reduce projected budget deficits.

Subsequently, in April 1982, the Administration announced that it had reduced its $18 billion estimate to $15.7 billion. Approximately $400 million of the reduction resulted from Interior's decision to postpone one lease sale and to drop another from the lease schedule for fiscal year 1983. The remaining $1.9 billion reduction is not allocated to a specific sale or provision of the program but, according to the Office of Management and Budget (OMB), is an overall reduction reflecting the uncertainty of the estimate, in view of the current oil price situation; the public concern that the $18 billion estimate was too high; and the fact that Interior is proposing an all new leasing program that may be impacted by litigation.

Chairmen from two House Subcommittees asked GAO to review the Administration's original $18 billion estimate. Their questions focused on the assumptions, data, and methodology used in developing the estimate; the relationship of the estimate to prior years' receipts; the accuracy of past estimates (over the last 10 years) in relation to actual receipts; the role of the Office of Management and Budget in developing the estimate; and the difference between the Administration's estimate and the lesser estimate developed by the Congressional Budget Office (CBO).

The analysis contained in this report is predominantly based on the Administration's original $18 billion estimate, but is applicable to the subsequent reduction. The reduction was not based on a specific change in the assumptions, data, or methodology used to develop the estimate and did not affect the two major uncertainties that are key to achievement of the estimate—the substantial increases in bonuses from two Gulf of Mexico sales and the release of escrowed funds from prior sales. Thus, given these factors, the questions and concerns raised in the report are applicable to both the original $18 billion estimate and the current $15.7 billion figure.

As requested, GAO did not solicit agency comments on a draft of this report.

NEW METHODOLOGY USED TO FORECAST BONUSES

Revenues from offshore lands consist of bonuses received from oil and gas companies through the competitive bidding process used to award leases, royalties received from hydrocarbon production on leased lands, and rental revenues from land under lease.

Because of the increased acreage to be offered under the accelerated leasing program, the Administration developed a new methodology for forecasting bonuses. Prior estimates were based on the leasing experience of prior years. However, under the Administration's area-wide lease offering approach, sale sizes will increase substantially over what has been offered in the past. Interior had no prior experience for projecting bonuses under this concept. Thus, a new methodology was developed to forecast bonus receipts. Bonus estimates, under the new methodology, are based on the discounted value of the total hydrocarbons believed to be contained in a lease sale area. That is, the value of the hydrocarbons is discounted to compensate for a number of risk and uncertainty factors associated with offshore leasing. The methodology is new, untested, and its predictability cannot be determined at this time.

The methodologies for developing royalty and rental estimates were the same as those used in prior years.

HIGH AND UNPRECEDENTED ESTIMATE

The Administration's high revenue estimate for fiscal year 1983 is unprecedented. The $15.7 billion estimate far exceeds receipts from prior years of leasing and represents about a twofold increase over the current fiscal year 1982 estimate. About $13.2 billion of the original $18 billion estimate is projected to come from bonuses which is almost twice that of the previous record bonuses of $7.8 billion received in fiscal year 1981. The projected increase in royalty receipts is only 10 percent over the previous year's projection and seems more in line with past trends.

The realization of the Administration's revenue estimate depends largely on how precisely it has estimated bonuses for two sales in the Gulf of Mexico. These sales account for $8.7 billion—66 percent of the original bonus estimate. Bonuses of this magnitude seem questionable since most of the Gulf areas have already been considered by industry in the past and include some deepwater tracts of high economic risk and uncertainty. Also, the resource estimates for these two sale areas, the primary basis of their bonus estimates, vary widely. Furthermore, the last two sales in the Gulf of Mexico have brought in substantially lower bonuses than anticipated.

DIFFICULTY IN FORECASTING OFFSHORE RECEIPTS

Interior's track record of estimating offshore revenues shows that the prospect of accurately forecasting receipts for any 1 year is very difficult. Interior substantially underestimated revenues for 6 of the 10 years between 1972 and 1981 and overestimated revenues for 4 years. For example, Interior overestimated actual receipts by about $3.6 billion for fiscal year 1977 and underestimated actual receipts by about $4.6 billion for fiscal year 1974. Indications are that 1982 receipts will be less than originally projected. Such fluctuations indicate the possible margin of error in forecasting offshore revenues.

OMB REVISED INTERIOR'S ESTIMATE TO REFLECT DIFFERING ASSUMPTIONS

OMB used Interior's methodology for developing bonus, royalty, and rent estimates for fiscal year 1983. OMB's February estimate, however, was about $1.2 billion higher than Interior's original October 1981 estimate. OMB's bonus estimate was about $495 million higher than that of Interior and its royalty estimate was about $832 million less than Interior's forecast. These differences were the result of differing assumptions as to inflation rates, future prices of oil and gas, and the timing of bonus payments to the Government. The major difference between the two estimates, however, was that OMB assumed that about $1.5 billion held in escrow accounts from prior year sales would be released to the Treasury in fiscal year 1983.

CONGRESSIONAL BUDGET OFFICE'S ESTIMATE IS SUBSTANTIALLY LOWER

The Congressional Budget Office has estimated that the receipts from offshore leasing activities for fiscal year 1983 will be about $5.2 billion lower than the Administration's $18 billion estimate. CBO's estimate is based on different projections for bonus and royalty receipts and different assumptions about the release of monies held in escrow accounts.

CONCLUSIONS

Achievement of even the latest Administration offshore revenue estimate for fiscal year 1983 is possible but not likely. Primarily, in GAO's opinion, substantial increases in revenues from Gulf of Mexico leasing and the release of escrowed funds, which are key to achievement of the estimate, are uncertain. The Gulf of Mexico sales and the escrow releases account for $10.2 billion—57 percent of the original $18 billion estimate. Also, the bonus estimates for the Gulf of Mexico sales are based on resource estimates that vary widely.

Other factors to also be considered in assessing the reasonability of the estimate are (1) the methodology for estimating bonuses is based on resource estimates which are subjective, and differ by methods of assessment and degree of supporting data; (2) increases in offshore revenues will probably be more closely tied to the economics of oil and gas development, which has recently been on the downturn, than to larger and more frequent acreage offerings; (3) Interior's accelerated program is clouded with the threat of litigation which could delay or limit acreage offerings in planned sales; (4) in the past, accurately forecasting offshore revenues for any 1 year has proven very difficult; and (5) the fiscal year 1983 revenue estimate goes far beyond the receipts ever received for a single year in the past.

RECOMMENDATION TO THE SECRETARY OF THE INTERIOR

GAO believes that the Secretary of the Interior should improve the Department's offshore revenue forecasts and recommends that the Secretary evaluate future leasing experience to verify the methodology and assumptions used in its budget model. Such analyses should lead to validations or adjustments needed to increase the reliability and confidence in future revenue estimates.

RECOMMENDATION TO THE DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET

The Director of the Office of Management and Budget should provide concurrently with future offshore revenue estimates a full discussion and accounting of the estimate to Congress. The discussion should include complete descriptions of the various factors that could impact on the accuracy of the estimate; type and quality of the data used to develop the estimate; and likelihood of achieving that level of revenue.

Mr. BRADLEY. Mr. President, I voted against this budget resolution on May 21 because it did not provide a balanced mix of revenue increases, defense spending cuts, and nondefense spending cuts.

The Tax Act of 1981 reduced revenues below the levels necessary to support the congressional mandated level of Government activity. We could not afford that reduction last year when we considered the tax legislation; we could not afford it last month, when we considered the first budget resolution; and we cannot afford it today as we consider the conference report.

The defense spending cuts reflected in the first budget resolution did not address the real problem facing our national defense. That is the imbalance between conventional and strategic programs. Urgent, tough, and good-

faith negotiations are necessary for arms control. Our defense establishment needs a credible conventional capability so that increased reliance on nuclear weapons is rendered unnecessary. These priorities were not found in the defense spending plans of the budget resolution we considered last month. They are not found in the conference report we address today.

The nondefense spending cuts reflected in the first budget resolution would reduce our opportunities for economic growth. Investments in people and research represent our real hope for an ability to compete in world markets. Yet the Senate proposed to cut nondefense discretionary programs by $27 billion and entitlements by $26 billion over 3 years. The conference report cuts nondefense programs by $35 billion and entitlements by about the same as the Senate-passed level. These cuts were too large last month and are larger today.

So, Mr. President, I can find no reason to support this conference report. The Senate-passed version was not one I could support. This version is worse. I shall vote nay.

Mr. HELMS. Mr. President, a little over a month ago, the Senate considered its budget resolution which was, in many ways, identical to the one we have before us today. It is a credit to the Senate Members of the Senate Conference Committee that they worked fast enough and with such skill as to be able to bring this resolution before the Senate today.

A month ago, the argument was heard that the budget resolution as constituted was imperative because if we did not pass such a resolution, the financial markets would not be calmed and interest rates would stay high. In fact, it was argued by such economists as Henry Kaufman that a budget resolution would bring down interest rates. Several times that argument was heard in the Senate.

Mr. President, since that budget resolution was passed, interest rates have not declined. In fact, they have risen.

One wise analyst said that the markets are not so much panicked by the threat of high deficits as by the threat of Congress panicking over the threat of high deficits.

I fear that this budget resolution embodies Congress panic.

Mr. President, the tax increases are intolerable. We appear to be accepting the repudiated theory that Congress can "tax our way to prosperity." It is as if the economics of this budget resolution are not caused in large part by the recession—that, somehow, we should raise taxes in the face of a recession. The last time a Congress really raised taxed in the face of a major recession was almost exactly 50 years ago. In June of 1932, a bipartisan coalition moved to raise taxes to balance the budget and the economy took an 8-year nose dive.

But what of spending? Much of the spending in this budget is in the so-called uncontrollables—the entitlement programs. Though they serve an important purpose for many people, for many others, Federal handouts serve as a major disincentive to work and productive effort. By refusing to deal seriously with the massive entitlement programs, we are saying that we will pay for more leisure and less work on behalf of the recipients of these programs. In addition, by refusing to cut these programs, we are telling future generations that there will be greater Federal indebtedness, thus greater taxation and, thus, fewer rewards in the future.

Mr. President, as I stated in my statement on the Senate budget resolution, a Senator must sometimes choose between what he feels is right and being misunderstood. My opposition to this budget is that I am convinced that it embodies the wrong public policy prescriptions; and second, that no budget resolution would be better than this one.

● Mr. LEVIN. Mr. President, I oppose the conference report on the first budget resolution for fiscal year 1983. This conference report continues the administration's policy of huge increases in defense spending, full continuation of an unwise and unfair tax cut program, and slashed spending for programs and people who already bore the brunt of the spending cuts which were enacted last year.

Further, this economic program is pushed in a far different, far more unfavorable, context than last year's first wave of Reaganomics. It is being pushed in an environment when the first fruits of Reaganomics are becoming obvious to all. The unemployment rate has increased from 7.5 percent to 9.5 percent in 1 year, with the number of unemployed increasing by 2.3 million people. Three thousand more businesses have failed this year than did last year by this date. The average mortgage rate has remained stuck at 16.7 percent, with the result that the housing industry is a disaster area. And the inflation rate, which the administration has pointed to with pride over the past several months, is now on the rise again.

A prudent person would look at this current economic environment and pause before agreeing to round 2 of Reaganomics. Last year the President received virtually his entire economic program. Last year in describing his budget, and its optimistic forecasts, the President said,

> In fact, if each portion of this comprehensive economic program is put in place—quickly and completely—the economic environment could improve even more rapidly than envisioned in these assumptions.

This year, the roof seems to be falling in, and the President and this conference report are offering us just more of the same.

I cannot support this. During the Senate's deliberations on the budget last month I gave my support to a bipartisan budget plan. I did not agree with every aspect of the plan, but I was willing to swallow my disagreements because on the whole I thought it was the best and most equitable option available. Furthermore, since it was bipartisan, I believe that it would have been a better basis from which to operate when we get down to passing the legislation which would be necessary to actually implement the budget resolution. That legislation is going to involve hard choices, and without a bipartisan consensus backing it, the chances of passage are going to be slim. I hope that the Congress will be able to return to a bipartisan approach.

There is one thing else which I find unacceptable. The President continually says that his budget does not make any cuts in spending. It only reduces the rate of increase, he says. But in doing this the President engages in a semantic sleight of hand. When talking about the need for greater defense spending he points to the need to keep to a certain level of real growth, so that even after inflation is taken into account, the Pentagon is still getting substantially more money this year than it did last year.

However, when talking about spending for nondefense programs, the President talks about increases in spending, which fails to factor in the effects of inflation. It would seem to me that what is good for the defense goose is good for the nondefense gander. But after looking at the numbers it becomes clear why the President fails to take into account inflation when he is talking about his support for domestic programs.

What the numbers show is that the programs funded under the income security function of the budget resolution—which includes social security, unemployment compensation, child nutrition and Aid to Families with Dependent Children—will be cut by $800 million in constant dollars in fiscal year 1983, and not increased by $18 billion which would be the case if we ignored inflation. What these numbers show is that programs funded under the health function of the budget resolution—which includes medicare and medicaid—will be cut by $2 billion in constant dollars in fiscal year 1983, and not be increased by $4.1 billion. When we look at the energy function, we find that this conference report will result in a real decrease in spending of $2.2 billion.

So, let us make it clear. This budget does cut spending in real terms. People

will experience real cuts in services. People will be hurt. And if there is one thing worse then hurting people, it is to hurt them and not be candid with them about it. It is to hurt them and to deny the existence of pain.

Mr. President, I ask that a table detailing the real effect on spending of this budget resolution by functional categories be included in the RECORD.

The table follows:

THE CHANGE IN SPENDING FROM FISCAL YEAR 1982 TO FISCAL YEAR 1983 AFTER TAKING INFLATION INTO ACCOUNT[1]

[In billions of dollars]

| Function | Fiscal year 1982 | Fiscal year 1983 (current dollars) | Fiscal year 1983 (constant dollars) | Fiscal year 1982/fiscal year 1983 (change in constant dollars) |
|---|---|---|---|---|
| Defense: | | | | |
| BA | 218.2 | 253.5 | 233.5 | +15.3 |
| O | 187.5 | 213.9 | 197.1 | +9.6 |
| International affairs: | | | | |
| BA | 16.7 | 15.9 | 14.7 | −2.0 |
| O | 11.4 | 11.5 | 10.6 | −0.8 |
| General science, space and technology: | | | | |
| BA | 7.0 | 7.8 | 7.2 | +0.2 |
| O | 7.0 | 7.6 | 7.0 | |
| Energy: | | | | |
| BA | 4.8 | 4.8 | 4.5 | −0.3 |
| O | 6.4 | 4.5 | 4.2 | −2.2 |
| Natural resources and environment: | | | | |
| BA | 10.3 | 9.5 | 8.8 | −1.5 |
| O | 12.8 | 10.9 | 10.1 | −2.7 |
| Agriculture: | | | | |
| BA | 9.9 | 6.6 | 6.1 | −3.8 |
| O | 13.8 | 9.0 | 6.3 | −7.5 |
| Commerce and housing: | | | | |
| BA | 9.4 | 7.1 | 6.6 | −2.8 |
| O | 3.7 | 2.8 | 2.6 | −1.1 |
| Transportation: | | | | |
| BA | 20.8 | 21.4 | 19.8 | −1.0 |
| O | 21.3 | 19.9 | 18.4 | −2.9 |
| Community development | | | | |
| BA | 7.0 | 6.9 | 6.4 | −0.6 |
| O | 8.5 | 7.7 | 7.1 | −1.4 |
| Education, training, social services: | | | | |
| BA | 25.4 | 26.8 | 24.7 | −0.7 |
| O | 28.1 | 26.2 | 24.2 | −3.9 |
| Health: | | | | |
| BA | 78.5 | 79.5 | 73.3 | −5.2 |
| O | 73.7 | 77.8 | 71.7 | −2.0 |
| Income security: | | | | |
| BA | 256.7 | 274.7 | 253.0 | −3.7 |
| O | 250.3 | 270.8 | 249.5 | −0.8 |
| Veterans' benefits: | | | | |
| BA | 24.8 | 24.5 | 22.6 | −2.2 |
| O | 23.8 | 23.8 | 22.0 | −1.8 |
| Administration of justice: | | | | |
| BA | 4.5 | 4.5 | 4.2 | −0.3 |
| O | 4.6 | 4.6 | 4.3 | −0.3 |
| General government: | | | | |
| BA | 5.2 | 4.8 | 4.5 | −0.7 |
| O | 5.0 | 4.6 | 4.3 | −0.7 |
| General purpose fiscal assistance: | | | | |
| BA | 6.4 | 6.5 | 6.0 | −0.4 |
| O | 6.3 | 6.5 | 6.0 | −0.3 |

[1] The inflation rate assumed is the GNP deflator of President's Feb. 8, 1982, budget.●

Mr. DECONCINI. Mr. President, I voted against the first concurrent budget resolution for fiscal year 1983 (S. Con. Res. 92) when it passed the Senate on May 21. The level of deficit financing it contemplated was much too high; its programmatic implications were unacceptable in several critical areas such as foreign aid, veterans affairs and law enforcement; and, taken as a whole, it did not provide the framework for the kind of genuinely bipartisan fiscal plan that, in my view, is a precondition for sustainable economic recovery. Unfortunately, I will be forced to vote against this conference report for the same reasons.

I cannot endorse a budget plan that projects, on the basis of what may charitably be called optimistic economic and technical assumptions, $247.8 billion in deficits over the next 3 fiscal years coupled with a Federal debt exceeding $1.5 trillion by fiscal 1985. Continual fiscal indiscipline can only compound the financial pressures behind the high interest rates that have thrown thousands of businesses into bankruptcy, hundreds of homeowners into the streets, and millions of workers out of their jobs. Significantly, interest costs alone, under the conference agreement, will amount to $342.7 billion over the fiscal year 1983-85 period. This, it should be noted, is $94 billion more than would be required to eliminate the fiscal year 1983-85 deficit. Interestingly, it also assumes that interest rates, which just a day or so ago Secretary Regan said are headed back up, will fall sharply over the next 3 years. Indeed, lower interest rates account for $54.9 billion of the savings contained in the resolution before us. I cannot support a scheme that, on the one hand, adds over one-quarter of a trillion to $1 trillion national debt and, on the other, saves $55 billion from reduced Federal financing costs. Whom are we trying to kid?

Nor can I support a fiscal frame that contains so many programmatic distortions. A couple of examples illustrate the point very nicely. Under the conference substitute, disabled veterans would be required to absorb $619 million in reduced pension benefits; the aged poor along with sightless and disabled persons who, because of their handicap, are destitute would, under this budget, see the pittance they now receive cut an additional $200 million. Further, the conference substitute would require veterans and military and civilian retirees to contribute $5.4 of their prospective pension benefits to the deficit reduction effort. Beneficiaries of social security and railroad retirement would, however, receive the full COLA to which they are entitled. It is patently unfair to single out those who have served their Government, often at great personal risk and sacrifice, for cuts in pension benefits. They, too, should be able to count on the pension rights they have earned.

I cannot endorse deep cuts in law enforcement at a time when serious crime is reaching epidemic proportions throughout the country. The Senate version of this resolution would have provided a total of $15 billion over the fiscal year 1983-85 period, an amount that is probably, judging by the gravity of the situation, far short of adequate. The conference substitute would provide a little over $13.5 billion for this function for the same period. If we are really committed to doing something at the Federal level about the skyrocketing crime rate, a $1.5 billion cut is hardly the place to start.

Finally, Mr. President, a bipartisan budget coalition cannot be built on funny numbers. The financial markets are not going to be convinced that we are really serious about fiscal restraint so long as we resort to Stockman-like manipulation of economic and spend-out projections. The capital markets, like other institutions, are accustomed to dealing in quantities. Thus this agreement would achieve savings of $46.4 billion via management initiatives, many of which the nonpartisan Congressional Budget Office has already characterized as wildly optimistic. Another $8.8 billion cut simply reflects a change in the technical approach to estimating outlays—a paper cut if ever there was one. Examples could be multiplied but it is clear what is going on here. Budgeteering with blue smoke and mirrors may be politically expedient; it will not fool the markets. Mr. President, I urge rejection of the conference report.

Mr. MITCHELL. Mr. President, as the Congress has considered the fiscal year 1983 budget in recent months, the U.S. economy has deteriorated. Nearly 10½ million workers, comprising 9.4 percent of our work force, are out of work. The high rate of business failures and bankruptcies, and the depressed state of the auto, housing, and forest products industries highlight the failure of current economic policies.

Not only are our budget policies failing, but they are also unfair. Recent public opinion polls show that an increasing number of people share the belief that last year's budget and tax cuts benefit the wealthy at the expense of the middle and lower income classes.

The administration ignored these trends in formulating its 1983 budget. Rather, the administration recommended a budget that continued along the same path that has led us to where we are now. The President recommended record budget deficits, further steep cuts in domestic programs, an excessively rapid increase in defense spending, and no compromise on his income tax program.

That budget proposal was greeted with criticism immediately, and was considered dead before Congress even began consideration of the 1983 budget. The final blow was delivered by the Senate Budget Committee which, even though controlled by Republicans, rejected the President's budget by a vote of 20 to 0.

The way out of our budget impasse would have been to devise a bipartisan alternative to the President's budget. Unfortunately, the conference report approved by the Senate today does not

reflect such an approach. This budget is clearly inadequate. It does not make sufficient progress toward lower deficits, thus setting the stage for higher interest rates and, at best, a weak recovery. Furthermore, this budget still fails the fairness test.

The single most important reason to approve a budget, we have been told, is to reassure financial markets that Congress is determined to act responsibly on the budget. Yet this budget lacks the reliability necessary to provide this assurance. According to the Congressional Budget Office, this budget resolution understates the actual deficit over the next 3 years by nearly $66 billion.

Once adjusted for these overly optimistic budgetary assumptions the deficits contemplated in this budget are simply too high. The CBO estimates that the deficit will fall from $116 billion in 1983 to only $93 billion in 1985. By contrast, the alternative budget I favor would have much smaller deficits.

In addition, this budget has spending cuts in the wrong areas, spending increases in the wrong areas, and continues an unfair tax policy.

The budget cuts anticipated by this resolution place a heavy burden on our Nation's elderly, disabled, and disadvantaged. Savings would be achieved by shifting a greater share of health care costs to the elderly and by imposing further cuts on the working poor, food stamp recipients, and other needy recipients under Federal programs.

I reject the notion that cutting these programs represents the only solution to correcting our economic problems. Rather, these cuts are being promoted to finance an excessively rapid increase in defense spending and an ill-timed reduction.

Just as many domestic programs will face reduced funding, rapid increases in defense continue abated. This resolution contemplates a substantial increase in budget authority for defense beyond that necessary to compensate for inflation.

I agree that we need to devote more resources to build a stronger national defense, particularly in the area of conventional force readiness. Yet a slower, steadier buildup makes more sense for the economy, and it buys better defense in the long run as well. Not only would a steadier increase in defense contribute to lower interest rates, but we would avoid bottlenecks in key sectors and encourage a more efficient use of the funds available. The amendments to this budget that I supported would still have provided for a significant increase in real defense spending but would not neglect human needs in doing so.

Similarly, this budget exhibits an inflexible approach to tax policy. While I strongly support the 1982 tax reduction as a needed stimulant to our stagnant economy, I believe that the scheduled 1983 tax cut should be deferred until the economy improves. I recognize the need to reduce taxes for all working Americans, but again moderation is in order. Implementing the third stage of the tax cut before interest rates have fallen and we have achieved control over Federal deficits could set us back in our efforts to resume sustained economic growth.

Furthermore, the tax cut should be modified to give more relief to middle-income families who pay the greatest amount of taxes but will receive a disproportionately small share of the scheduled tax cuts. Such a move would help reverse the growing perception that our budget policies are unfair to middle-income Americans.

American taxpayers want and deserve a balanced, moderate approach to reducing the deficit. This budget resolution offers instead more of the same—an imbalanced program involving sharp cuts in domestic programs and excessive defense and tax policies. Until we can fashion a more equitable budget, our policies will not and should not enjoy the support of the American people.

Mr. PELL. Mr. President, the budget adopted by the Congress for the U.S. Government is more than a simple plan of how the Government should spend its money during the coming year. The budget is a vitally important statement of the policies of the American people and of the Government. The budget is a statement also of the priorities of our Nation.

I voted against the budget resolution considered by the Senate today because I believe this budget is based on mistaken policies and sadly misplaced priorities. The budget proposal before the Senate is unrealistic and economically unsound.

The budget, while providing for continuation of an unprecedented increase in military spending, places a heavy burden of new budget cuts on nondefense programs. In 1983 alone, the resolution would require a cut of $3.6 billion in medicare, $700 million in medicaid, and $900 million in child nutrition and food stamps for the needy. Over the next 3 years, the resolution would require cuts of $25.3 billion in these and other entitlement programs.

In addition, the resolution would require budget reductions of $35.3 billion in nondefense programs during the next 3 years. The resolution squeezes $5.4 billion out of the retirement and pension checks of veterans, and military, and civilian retirees, by capping the inflation adjustments of those pensions.

In all, the proposed budget requires cuts in spending totaling $280.2 billion during the next 3 years, but of that total less than 10 percent—just $26.3 billion—will be taken from the huge increases proposed in military spending.

I believe these budget cuts represent a tragic error in our national priorities, especially when we consider that Federal programs for education, food, housing, for health care and for the elderly have already been subjected to deep budget cuts during the past 2 years. These budget cuts will also bear heavily on the programs of transportation, roads, water resources, and other investments important to the economy of our Nation.

And yet, despite all of these reductions, the budget resolution still provides for unacceptably large Federal deficits for the next 3 years. This budget would add $247.8 billion to the Federal debt over the next 3 years. Those deficits will make it very difficult to bring down the very high interest rates that are suffocating the American economy. It is those high interest rates, which threaten to undermine any strong recovery from the current recession. It is those high interest rates that condemn millions of Americans today to unemployment.

Regrettably, this budget resolution provides no solution to the problem of high interest rates, but threatens to continue the damage being done by high interest rates.

Mr. President, I believe it is time we recognize that it is the economic policies of the administration that have caused and are causing economic hardship, unemployment, and bankruptcies throughout the Nation. Faced with the failure of the administration's economic policies, we should not now approve another dose of the same policies and prescribe more of the same medicine.

This budget resolution promises more of the same economic misery we have suffered through for the past year.

For all of these reasons I voted against the resolution.

Mr. BAKER. Mr. President, could I inquire of the managers of this measure if perhaps they would be in a position to go to the consideration of the substitute? I know of no other amendments to be offered. While there may be time remaining, I think this is a good time, for the convenience of Members on both sides of the aisle, to consider that important vote. Would the managers be in a position to yield back time at this time and proceed?

Mr. HOLLINGS. We would be.

Mr. DOMENICI. I am prepared to yield back my time.

Mr. BAKER. I thank the managers.

Mr. President, I ask for the yeas and nays on the motion to concur in the House amendment.

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

The yeas and nays were ordered.

Mr. HOLLINGS. Mr. President, I yield back the remainder of my time.

Mr. DOMENICI. Mr. President, I yield back the remainder of my time.

A parliamentary inquiry. The issue, then, is our agreement to the House amendment?

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the motion to concur in the House amendment. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Nevada (Mr. CANNON), is necessarily absent.

I further announce that, if present and voting, the Senator from Nevada (Mr. CANNON) would vote "nay."

The PRESIDING OFFICER (Mrs. HAWKINS). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 54, nays 45, as follows:

[Rollcall Vote No. 194 Leg.]

YEAS—54

| | | |
|---|---|---|
| Abdnor | Gorton | Packwood |
| Andrews | Grassley | Percy |
| Armstrong | Hatch | Pressler |
| Baker | Hatfield | Quayle |
| Boschwitz | Hawkins | Roth |
| Brady | Hayakawa | Rudman |
| Chafee | Heflin | Schmitt |
| Cochran | Heinz | Simpson |
| Cohen | Humphrey | Specter |
| D'Amato | Jepsen | Stafford |
| Danforth | Kassebaum | Stennis |
| Denton | Kasten | Stevens |
| Dole | Laxalt | Symms |
| Domenici | Lugar | Thurmond |
| Durenberger | Mattingly | Tower |
| East | McClure | Wallop |
| Garn | Murkowski | Warner |
| Goldwater | Nickles | Zorinsky |

NAYS—45

| | | |
|---|---|---|
| Baucus | Exon | Melcher |
| Bentsen | Ford | Metzenbaum |
| Biden | Glenn | Mitchell |
| Boren | Hart | Moynihan |
| Bradley | Helms | Nunn |
| Bumpers | Hollings | Pell |
| Burdick | Huddleston | Proxmire |
| Byrd, Harry F., Jr. | Inouye | Pryor |
| Byrd, Robert C. | Jackson | Randolph |
| Chiles | Johnston | Riegle |
| Cranston | Kennedy | Sarbanes |
| DeConcini | Leahy | Sasser |
| Dixon | Levin | Tsongas |
| Dodd | Long | Weicker |
| Eagleton | Mathias | |
| | Matsunaga | |

NOT VOTING—1

Cannon

So the motion to concur in the House amendment was agreed to.

Mr. BAKER. Madam President, I move to reconsider the vote by which the motion was agreed to.

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

The motion to lay on the table was agreed to.

CORRECTION OF TYPOGRAPHICAL ERRORS

Mr. DOMENICI. Madam President, there are some typographical errors in the star print of the conference report and the statement of the managers on Senate Concurrent Resolution 92. I ask unanimous consent that the following list of corrections be printed at the appropriate place in the RECORD and that an errata sheet be printed and distributed with the conference report and the statement of the managers. Further, I ask unanimous consent that the crosswalk allocations in the conference report be deemed to conform to the errata sheet as printed.

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

The list of corrections ordered to be printed in the RECORD follows:

(1) On page 5, paragraph numbered (3), fiscal year 1982, line (B) Outlays, strike out "$7,000,000" and insert "$7,000,000,000".

(2) On page 12, under the heading Senate Committees, paragraph numbered (2), the line beginning "and to reduce" strike out "$1,231,00,000" and insert "$1,231,000,000".

(3) One page 16, subsection (b), item numbered (1), strike out "401(a)(1)(B)" and insert "401(d)(1)(B)".

(4) On page 17, section 9(b)(2), after the words "committee of each House," add the word "shall".

(5) On page 20, in the heading of the first table on the page, strike out "985" and insert "1985".

(6) On page 24, in the table Fiscal Year 1984—Budget Aggregates and Functional Categories, on the line Change in Public Debt Limit, strike out "127.9677" and insert "+127.9677".

(7) On page 29, in the line Revenue Inceases: Ways and Means, strike out "−36,000" and "−41,400" and insert "+36,000" and "+41,400", respectively.

(8) On page 30, under the heading Credit Budget, first paragraph, after the words "The conference substitute provides", strike out "$63.3" and insert "$63.6".

(9) On page 36, in the table Senate Committee Credit Allocations Pursuant to Section 9 of S. Con. Res. 92, Fiscal Year 1983, on the line Banking, Housing, and Urban Affairs Committee, strike out "5" and "75" and insert "924" and "20,997", respectively. In the same table, on the line Veterans' Affairs Committee, strike out "1,042" and "20,922" and insert "123" and ". . .". respectively.

Mr. BAKER. Madam President, I wish to express my deep appreciation to the distinguished chairman of the Budget Committee and the distinguished ranking member for their expeditious handling of a matter which was full of controversy and difficulty and which represents the best efforts of this committee and of the conferees and good faith cooperation on both sides of the aisle. I am pleased that this matter has been brought to a successful conclusion, and I congratulate all members of the committee, all Members of the Senate, and express my personal appreciation for their good work.

## EXTENDING UNEMPLOYMENT BENEFITS

Mr. MATHIAS. Madam President, today I am pleased to be added as a cosponsor to S. 2550, a bill introduced by the distinguished senior Senator from Pennsylvania, JOHN HEINZ. This legislation would provide 13 additional weeks of unemployment compensation to those who had exhausted their benefits under the extended benefits program. If this legislation is not passed, hundreds of thousands of jobless Americans will soon be ineligible for further unemployment compensation. For many, a tragic situation is getting worse each day.

The statistics are depressing enough, but the effect of unemployment on individuals and on our society is devastating. People are losing their homes, their life's savings, and their self-respect. This cannot continue. Something must be done about it.

The State of Maryland has been particularly hard hit by unemployment. For example, in the western part of the State, Garrett County has an official unemployment rate of 18.5 percent; in Allegany County it is 13.5 percent. On the eastern shore, in Somerset County, the official unemployment rate is 24 percent, and in the city of Baltimore it is 11.5 percent. As these figures reflect, the entire State is suffering, but they do not tell the whole story. They do not include the tens of thousands of Marylanders who have stopped looking for work altogether, who have given up because jobs just are not there to be had.

As of June 12, almost 66,000 Marylanders were receiving regular unemployment compensation benefits. Another 24,500 Marylanders have applied for funds under the extended benefits program. What happens to these people when the benefits run out and there is still no work to be found? That is a frightening question, and it is incumbent on us to answer.

It is up to the U.S. Congress to address this deplorable condition of our economy and to devise solutions that will put people back to work. But, as we work toward this goal, we must not forget those who have already fallen victim to our ailing economy. That is why passage of S. 2550 is so important. We must sustain our jobless fellow citizens through this dark night. Passage of S. 2550 will contribute to that end.

I urge all my colleagues to join in this effort and work for immediate Senate consideration of this much needed legislation.

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

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

ORDER OF PROCEDURE

Mr. BAKER. Madam President, I understand there is a message at the desk from the House on a supplemental appropriations bill; is that correct?

The PRESIDING OFFICER. There is a bill from the House.

Mr. BAKER. A bill from the House entitled an urgent supplemental appropriations bill?

The PRESIDING OFFICER. The Senator is correct.

Mr. BAKER. Madam President, I am prepared to proceed to the consideration of this matter at this time, and I see the distinguished chairman of the Appropriations Committee is here.

May I inquire, is he prepared to proceed to the consideration of the supplemental?

I understand that certain conversations are going on in that respect. I will ask the Chair shortly to lay that bill before the Senate. For the moment, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

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URGENT SUPPLEMENTAL APPROPRIATIONS FOR FISCAL YEAR ENDING SEPTEMBER 30, 1982

Mr. BAKER. Madam President, I am advised that a bill from the House is at the desk. I ask unanimous consent that the Senate proceed to the consideration of H.R. 6645.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 6645) making urgent supplemental appropriations for the fiscal year ending September 30, 1982, 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.

Mr. HATFIELD. Madam President, I was on the floor this morning in a colloquy with the chairman of the Budget Committee, the Senator from New Mexico (Mr. DOMENICI), in obtaining clarification on matters relating to this stopgap type of action we find ourselves in, in passing the budget resolution. Little did I expect that twice in 1 day I would stand on the floor of the Senate and indicate that I was very unhappy and distressed by the procedure we found ourselves forced to follow because of circumstances and because we are really, in a sense, being victimized by such circumstances at this moment.

So I very reluctantly, but with realism, have to stand here today, on the Senate floor, and urge the Senate to adopt what is really an interim stopgap measure.

I must say to the Members of the Senate that the Senate and House conferees have acted, and the House and the Senate, as individual bodies, are presently at loggerheads over some issues of congressional living expenses and limitation on outside earned income.

However, rather than delay further on those issues and jeopardize some essential operations of Government, the House this morning passed—and I now recommend that the Senate pass—H.R. 6645.

Madam President, the measure provides funding for a number of activities considered most urgent, ones for which funds are required sometime between now and the end of July. Except for EPA construction grants, NOAA weather stations, guaranteed student loans, CAB payments to air carriers, and ICC directed rail service, the funds appropriated by this bill are to be made available for obligation only until July 20, 1982. I emphasize and underscore that this is until July 20, 1982, the lapse date that the House used for obligation of the appropriations contained in this bill. I assure my colleagues that we have no intention of abandoning H.R. 5922, which is the urgent supplemental that was acted upon by the Senate and sent back to the House with an amendment in disagreement.

That was the original urgent supplemental. There are many issues that bill addresses that are of interest to numerous Senators. I assure each of them and the Senate as a whole that we will return to that vehicle after the expiration of the recess; and I can assure my colleagues that I will seek early action on that vehicle.

In other words, by adopting this interim stopgap H.R. 6645, we are preserving the original vehicle of the urgent supplemental. This is an emergency measure.

Therefore, I urge my colleagues that we act upon it without amendments. We are not in position to entertain amendments because of the timeframe in which the House of Representatives expects to adjourn either tonight or tomorrow at the latest. We must act before the House of Representatives adjourns, because any changes we make in this vehicle will require further action by the House of Representatives.

Therefore, again I find myself in a very untenable position, having to urge upon my colleagues, with great distaste, the kind of action that is necessary to fill the gap and preserve the present bill, H.R. 5922, and to deal with those issues which are not dealt with in this interim measure.

These appropriations have to be in place to fund the truly essential activities for the next few weeks. I think it is important to indicate to the Senate what is included in this urgent interim stopgap measure. I do not know what kind of acronym that may spell out. I have other ideas as to what kind of acronym I should like to apply to it, but I will not engage in that luxury at this moment.

First of all, what is in the bill? Employment and Training Administration, $8,742,000; Employment Standards Administration, $4.2 million; Bureau of Labor Statistics transfer, $5.6 million; Department of HHS, Office of Inspector General, $13.9 million; student loan insurance, $1.3 billion; housing programs, the rescissions, minus $4 billion; payments for low-income housing projects, $198 million; Government National Mortgage Association, $150 million; Environmental Protection Agency, for construction grants, $2.4 billion; Civil Aeronautics Board, $28.4 million, directed rail service, ICC, $8 million; Bureau of Government Financial Operations, $81.6 million; Bureau of Alcohol, Tobacco, and Firearms, $23.8 million; Merit Systems Protection Board, $4 million; U.S. Tax Code, $1.5 million; National Oceanic and Atmospheric Administration, $2 million; food stamp program, $335 million.

Funds cannot be obligated beyond July 20—I underscore this—except for certain items for whch funds are to be made available until expended.

Madam President, I have a list of some 46 other items and programs which are deleted, which are not in this. Many of these are of great importance to the Members.

I had a call today from Secretary Baldrige, and he indicated that there have been omitted from this present vehicle moneys for the Department of Commerce, which would require him to cease the services of a number of his inspectors general, lawyers, and other very important personnel.

Our understanding from the House side is that that perhaps was inadvertent, at least, if that had been looked at on the second go-round, they would have included it. That is $3.1 million.

I understand that there was a misplacement or perhaps an inadvertent changing of a date in a HUD program from October to September which would affect some 70,000 units of housing which in itself when brought to the attention of certain staff of the House of Representatives indicated that at least to our understanding they might not have deleted that but this was put together under very adverse circumstances on the House side. Certainly no one is to be criticized. They, again, I think were all victims to a great extent of circumstances.

Another very important item, and I see the Senator from Indiana on the floor, is the deletion of $3 million of the housing stimulus program that was sponsored by Senator LUGAR of Indiana.

Next is the Coast Guard, $48 million, and I as a member of the delegation from a coastal State can certainly attest to the importance of that Coast Guard program to our State, especially as we are now in the season of recreation in which a great part of that Coast Guard funding is for search and rescue of distressed vessels, recreational and commercial fishing vessels.

I look at many others. We have the U.S. Secret Service with $2.7 million, Customs Service with $14 million and highway aid programs of $91 million.

Madam President, I am only illustrating the fact that there are many, many worthy and important programs that have been deleted by the House action and in which I feel by just sheer necessity and practicality we must undertake to correct these deficiencies and these deletions before the expiration of this vehicle on July 20. In other words, I again want to give my full assurance to the colleagues that this will be our number one priority on the Appropriations Committee, to try to work out the differences with the House of Representatives on the present vehicle of H.R. 5922.

I might say to the membership further that there are certain issues that are not at stake here. Howard University funds, Hawaiian lands, FTC, ICA, balanced budget amendment, university affiliated facilities, Brazil—IMET, technical amendments re heading, section, and so forth changes. Those were dropped in conference.

So I am trying to lay out here what this is and what it is not. If there are those who wish to have me respond to a special program, as I say I have a list of 46 of them that are not included and a list of 17 that are included and that is why I must lay before the Senate this bill at this time urging the Senate's adoption of this measure as purely a stopgap measure with full assurance that we are going to address these vital issues that are not included, and I want to say to my good friend the Secretary of Commerce as much as I would like to accommodate his particular need I am hopeful that he can cripple through until the 20th until we get back and address these issues which are so very important.

Mr. President, this is not a happy day. But this is the situation we are in.

Mr. PROXMIRE. Madam President, I have admiration, respect, and affection for my good friend from Oregon, the chairman of the Appropriations Committee, and I know how very, very much he wants to simply pass and act on this bill now within the next few minutes. I wish I could accommodate him.

I think, however, we should consider the situation a little further. The legislation before us is a dramatically stripped-down version of H.R. 5922, the urgent supplemental that is now before the Senate. Yet, even this bare bones bill makes some substantial increases in the President's budget request.

For example, the bill exceeds the request for student loan funds by $322 million. It includes $150 million for GNMA tandem funds that were not requested by President Reagan. It provides $198 million for public housing operating difficulties that were not in the President's budget.

I might say, also, that I think the Senator from Oregon has made a very persuasive argument that through oversight, through the fact they had to move very rapidly and did not have opportunity to check this out as carefully as they should some absolutely essential actions were not taken by the House of Representatives.

Furthermore, one provision that would save the taxpayers money is not in the bill and while the saving is not significant the symbolism is enormously significant, and I am talking about the $3,000 ceiling on tax deductions for Members of Congress.

Both bodies resoundingly opposed the present tax break for Members that we put on the books late last year and it is still in the law. The support for its repeal was far stronger than the support for any other part of the urgent supplemental; in this body we voted 70 to 23 against substituting another amendment that would have taken off the ceiling and require a substantiation of D.C. deductions.

In the House of Representatives it was even more. It was even more emphatic. They voted first 366 to 43, almost 10 to 1 against the substitute. And then on the issue itself they voted 378 to 7. Only seven Members of the House of Representatives opposed this measure.

Madam President, why should we not include this in the bill? The House of Representatives has just overwhelmingly indicated their willingness to repeal the tax break that we gave Members of Congress last year. Certainly, it would not risk a Presidential veto. There is no expression of opposition on the part of the President to going back to the $3,000 limit that we had for 30 years in Congress, and I am sure there will not be.

As I say both bodies have gone emphatically on record for it. The President has no objection to it. It would answer the overwhelmingly negative reaction of the public to this special advantage for Senators and Congressmen and would get the issue behind us. It would also permit Congress to act de novo based on settled law under which we have operated, as I say, since 1954.

We would not be put in the position of stalling to keep alive that $50 or $75 per day deduction for Congress through another year and then indefinitely.

UP AMENDMENT NO. 1040

(Subsequently numbered amendment No. 1904.)

Purpose: To reinstate the $3,000 ceiling on business expense tax deductions by Members of Congress)

Mr. PROXMIRE. Madam President, I send to the desk an amendment on behalf of myself, Senator DECONCINI, Senator EXON, and Mr. RIEGLE and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Wisconsin (Mr. PROXMIRE) for himself, Mr. DECONCINI, Mr. EXON, and Mr. RIEGLE proposes unprinted amendment numbered 1040.

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

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

The amendment is as follows:

At the end of the bill insert the following:

SEC. 202 (a) The last sentence of section 162(a) of the Internal Revenue Code of 1954 (relating to trade or business expenses) is amended by inserting ", but amounts expended by such Members within each taxable year for living expenses shall not be deductible for income tax purposes in excess of $3,000" after "home".

(b) Paragraph (4) of section 280A (f) of such Code (relating to coordination with section 162(a)(2)) is amended to read as follows:

"(4) Coordination With Section 162(a)(2).— Nothing in this section shall be construed to disallow any deduction allowable under section 162(a)(2) (or any deduction which meets the tests of section 162(a)(2) but is allowable under another provision of this title) by reason of the taxpayer's being away from home in the pursuit of a trade or business (other than the trade or business of renting dwelling units).".

(c) Subsection (a) of section 139 of the Act of October 1, 1981 (95 Stat. 967), is hereby repealed.

(d) The amendments made by this section shall apply to taxable years beginning after December 31, 1981.

Mr. PROXMIRE. Madam President, this is the identical amendment that the Senate has acted on before and that the House of Representatives has overwhelmingly approved. It is an amendment that we debated at some length before. In fact, we debated it earlier when Senator ARMSTRONG offered the amendment a month or more ago, and we had some 10 votes on this amendment.

The leadership opposed the Armstrong amendment at that time which was originally the bill I put in and BILL ARMSTRONG offered it as an amendment at that time, and the

Senate consistently and persistently insisted on supporting that amendment.

At that time, as I think the chairman of the Appropriations Committee will remember, I urged Senator ARMSTRONG not to offer it on that particular vehicle, that was the continuing resolution, and I think it would have been a disaster if we had done it on that. However, since it was offered, it was my original bill, and I supported it.

I do think, however, we now have an entirely different situation. How hypocritical really the Senate looks, if we go on record in favor of repealing the tax break overwhelmingly in the Senate and even more overwhelmingly in the House of Representatives and then somehow we just drop it when both bodies have acted on it, we both dropped it, and we continue to benefit from that tax break. I think that it is a very bad indication of the sincerity of the Members and I hope under these circumstances we can act on it.

I am prepared to vote and vote promptly on it.

Mr. HATFIELD. Madam President, I guess we might as well join the issue at this very moment, and I appreciate the Senator from Wisconsin in spite of my plea for not offering any amendment at least we can join the issue and get that behind us because I must say to the Senate and this is in no way to be interpreted as a threat or anything else but once we open this vehicle for any amendment we have opened the floodgates and I must say there are amendments that concern me deeply that I am as deeply committed to that I wish to offer. I know there are other Senators who feel deeply about amendments that if we start taking one they are going to be forced into a position to offer their amendments.

No Senator here with any integrity can refuse to offer an amendment for which he has gone on record and out to the public to sponsor in the past and will say if you accept one where were you in offering the ones that I am concerned about to different constituency groups?

I cannot go home to my coastal State of Oregon and say that I had acquiesced or moved to accept an amendment from the Senator from Wisconsin on this tax matter and not have offered an amendment to restore the money for the Coast Guard at a time and season when the Coast Guard search and rescue programs are so vital to the people who use the oceans, both in pleasure craft and commercial.

And there are many other programs here, so I do think we have to join the issue. I want to say, as I started to say, without any effort to threaten the Senate, if we accept any amendments, I am going to ask the leadership to pull the vehicle down, pull this down and take it off the calendar. Then we will have to stand accountable to the people in these various urgent programs that are included in this vehicle.

But I cannot, in good conscience, say that we are going to stand here today and select and accept certain amendments of Senators that may be very important politically, regionally, parochially, nationally, economically, socially, or any other thing. Because there are health programs—the Senator from Vermont has amendments here in which he was deeply involved, in maternal and child health care. My gracious, I do not know how we could say yes to a tax amendment and turn down maternal and child health care. That is motherhood.

Mr. ANDREWS. Will the Senator yield?

Mr. HATFIELD. I yield.

Mr. ANDREWS. Madam President, I think the Senator is making a great point for the Senate. Actually, one of the things that should be pointed out is that these are not only important parts of the bill as they left the Senate, but they are important from the standpoint from the taxpayers because if the House had kept most of these in, if not all of them, they would save the taxpayers of this country a good deal of money in getting them in place. The Coast Guard, which is in my subcommittee, as my distinguished chairman pointed out, we are going to lose money by postponing the urgent needs of the Coast Guard for another month or another month and a half or another 2½ months. The bridges, the highways, the infrastructure that this Nation needs to move into the years ahead are all suffering because of the dilatory tactics the other body took in dropping many of these needed items from the bill.

I commend my chairman and I join him in his remarks.

Mr. HATFIELD. I thank the Senator from Oregon.

Mr. PROXMIRE. If the Senator will yield, I agree with much of what the Senator from North Dakota has said and suggest that a prudent policy would be simply, when these amendments come up, if we accept them, put them in at the conference level. After all, the conference agreed to most of these, virtually all of these amendments. Why not put them in at the conference level that was agreed to? It seems to me there is a good chance, under those circumstances, that the House would not have to go back to conference.

Mr. HATFIELD. But, of course, I remind the Senator from Wisconsin that the conference did not agree with his amendment.

Mr. PROXMIRE. They did not agree with my amendment, that is true. They agreed with my amendment, but they added a little extra language on honoraria.

Mr. HATFIELD. As reported in disagreement.

Mr. PROXMIRE. Nevertheless, they overwhelmingly supported my amendment in rollcall votes on the floor. The Senator would concede that, I am sure.

Mr. LEAHY. Madam President, the Senator from Vermont has been referred to in this colloquy. I wonder if I might have a moment.

Mr. HATFIELD. I am happy to respond to the Senator from Vermont and yield for a question.

Mr. LEAHY. Madam President, the distinguished Senator from Oregon was kind enough to refer to my amendment and refer to it approvingly. I appreciate the support the distinguished chairman of the Appropriations Committee gave that.

That amendment on health care is extremely important to me. I think it is extremely important to anyone from any rural area, especially, in this country. It is a matter of some urgency because of the planning necessary. We either get the money in there fairly soon or we have a number of health centers that are just going to have to close down and probably will not open up again in rural areas desperately underserved.

So I note that I am very concerned about the problem of the Senator from Oregon in trying to get this bill through. I respect his intention to pull it down if amendments are added to it. But I should note for my chairman that if amendments do start going onto this vehicle, I am going to be constrained to offer that amendment, as I suspect others will on other things they feel equally strong about.

Mr. HATFIELD. I thank the Senator from Oregon.

Mr. PROXMIRE. Will the Senator yield so I may get the yeas and nays?

Mr. HATFIELD. Yes.

Mr. PROXMIRE. Madam President, I ask for the yeas and nays on the pending amendment.

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

The yeas and nays were ordered.

Mr. HATFIELD. Madam President, I yield to the Senator from Indiana.

Mr. LUGAR. Madam President, I will simply state for the sake of this colloquy on affirmative action that clearly in the event the amendment of the Senator from Wisconsin is adopted, I will offer the housing stimulus amendment. I suspect it has been debated even more than the amendment of the Senator from Wisconsin. I anticipate it would pass and I hope that it would pass.

I would simply say for the record that the House of Representatives, simply by agreeing to the action we took yesterday, could have already sent to the President the whole busi-

ness. It is a very simple maneuver by the House presently without going through all of what we are constrained to do.

I think Senators will understand clearly my position. But so there will not be any mistake, I have the amendment ready and I hope that it would pass rapidly and join a number of other meritorious amendments.

Mr. ANDREWS. Mr. President, if I might point out to the chairman, as I mentioned before, many of these sections of the bill, as they left the Senate, are extremely important. This is not a matter of parochial interest to me, but I intend to offer the amendment if other amendments are passed, that restore funding for the Coast Guard. Coming from North Dakota, which has all kinds of advantages, we even have to admit that we do not have much Coast Guard, so this is not a personal thing for the people of North Dakota. But it is a very important thing to the people of this Nation and for the long-term protection of this Nation.

Madam President, I would like to point out that I intend to offer that amendment if amendments are going to be made, because I think it is important.

Mr. HATFIELD. Madam President, I thank the Senator from Indiana and the Senator from North Dakota for providing the evidence of my thesis that I have tried to carry here, very painfully and very unhappily.

I want to say again that I think the Senator from Wisconsin is correct. We have debated this particular amendment many times. I do not think we are in any way moving to cut off debate, but I would try to seek a confrontation on this whole question of whether we accept amendments by calling for a tabling motion of the amendment of the Senator from Wisconsin, and I ask for the yeas and nays.

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

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Oregon (Mr. HATFIELD) to table the amendment of the Senator from Wisconsin (Mr. PROXMIRE). The yeas and nays have been ordered and the clerk will call the roll.

The bill clerk called the roll.

Mr. STEVENS. I announce that the Senator from New Hampshire (Mr. RUDMAN) and the Senator from Wyoming (Mr. SIMPSON) are necessarily absent.

Mr. CRANSTON. I announce that the Senator from Nevada (Mr. CANNON) is necessarily absent.

I further announce that, if present and voting, the Senator from Nevada (Mr. CANNON) would vote "nay".

The PRESIDING OFFICER (Mr. GOLDWATER). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 21, nays 76, as follows:

[Rollcall Vote No. 195 Leg.]

YEAS—21

| | | |
|---|---|---|
| Baker | Goldwater | Matsunaga |
| Brady | Gorton | McClure |
| Cochran | Hatfield | Packwood |
| Cranston | Hayakawa | Percy |
| Dodd | Humphrey | Stevens |
| Dole | Inouye | Symms |
| Garn | Laxalt | Tower |

NAYS—76

| | | |
|---|---|---|
| Abdnor | Exon | Mitchell |
| Andrews | Ford | Moynihan |
| Armstrong | Glenn | Murkowski |
| Baucus | Grassley | Nickles |
| Bentsen | Hart | Nunn |
| Biden | Hatch | Pell |
| Boren | Hawkins | Pressler |
| Boschwitz | Heflin | Proxmire |
| Bradley | Heinz | Pryor |
| Bumpers | Helms | Quayle |
| Burdick | Hollings | Randolph |
| Byrd, Harry F., Jr. | Huddleston | Riegle |
| Byrd, Robert C. | Jackson | Roth |
| Chafee | Jepsen | Sarbanes |
| Chiles | Johnston | Sasser |
| Cohen | Kassebaum | Schmitt |
| D'Amato | Kasten | Specter |
| Danforth | Kennedy | Stafford |
| DeConcini | Leahy | Stennis |
| Denton | Levin | Thurmond |
| Dixon | Long | Tsongas |
| Domenici | Lugar | Wallop |
| Durenberger | Mathias | Warner |
| Eagleton | Mattingly | Weicker |
| East | Melcher | Zorinsky |
| | Metzenbaum | |

NOT VOTING—3

| | | |
|---|---|---|
| Cannon | Rudman | Simpson |

So the motion to lay on the table Mr. PROXMIRE's amendment (UP No. 1040) was rejected.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon is recognized.

Mr. HATFIELD. Mr. President, I would like to yield momentarily to the Senator from Indiana for the purpose of offering an amendment.

UP AMENDMENT NO. 1041

(Purpose: To provide mortgage assistance payments)

Mr. LUGAR. Mr. President, I send to the desk a second-degree amendment to the Proxmire amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Indiana (Mr. LUGAR), for himself, Mr. RIEGLE, Mr. JACKSON, Mr. BOSCHWITZ, Mr. GORTON, Mr. METZENBAUM, and Mr. PACKWOOD, proposes an unprinted amendment numbered 1041.

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

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

The amendment is as follows:

At the appropriate place in the amendment insert the following:

EMERGENCY MORTGAGE INTEREST REDUCTION PAYMENTS

For emergency mortgage interest reduction payments, $3,000,000,000, of which $2,500,000,000 shall be available for use in connection with mortgages or loans involving dwellings referred to in section (g)(3)(A), not more than $400,000,000 shall be available for use in connection with mortgages or loans involving dwellings referred to in section (g)(3)(B), and $100,000,000 shall be available for assistance payments with respect to that portion of the principal obligation of mortgages or loans assisted under this heading which exceeds $77,625, to remain available until expended. Such amount shall be made available under the terms and conditions of the following paragraphs:

(a) For the purpose of assisting middle and lower income families in acquiring a home, a manufactured home, or membership in a cooperative association operating a housing project or in substantially rehabilitating a home or a unit in a cooperative housing project, the Secretary of Housing and Urban Development, hereafter referred to as the Secretary, is authorized through the Government National Mortgage Association, to make and to contract to make periodic interest reduction payments on behalf of such families. Such assistance shall be accomplished through payments to mortgagees and lenders or their transferees holding mortgages and loans meeting the requirements of this heading.

(b) The Secretary may not enter into any contract to make emergency home mortgage interest reduction payments under this heading during any month unless the Federal Home Loan Bank Board's home mortgage interest rate index for conventional home mortgage loans closed, based on the moving average for the most recent two-month period, exceeds 12.5 per centum per annum.

(c) To be eligible for emergency interest reduction payments under this heading, the first mortgage or loan secured by the property, manufactured home, or shares in a cooperative must meet the requirements of or be insured under section (g).

(d) Assistance payments under this heading may be made over a period of not to exceed five years with respect to any mortgage.

(e) The amount of all emergency interest reduction payments made under this heading shall constitute a second lien on the property or shares with respect to which the payments are made and shall be repayable—

(1) when the property is sold;

(2) when the property ceases to be the principal residence of the mortgagor or borrower;

(3) upon any other disposition of the property specified in regulations of the Secretary; or

(4) upon the refinancing of the first mortgage or loan on the property or shares,

except that the amount repaid may not exceed 60 per centum of the homeowner's net equity, as determined by the Secretary.

(f) The amount of the emergency mortgage interest reduction payments with respect to any mortgage or loan shall be an amount not exceeding the lesser of—

(1) the difference between the amount of the monthly payment for principal and interest which the mortgagor or borrower is obligated to pay under the mortgage or loan, and the monthly payment for princi-

pal and interest which the mortgagor or borrower would be obligated to pay if the mortgage or loan were to bear interest at the rate of 11 per centum per annum; and

(2) the difference between the amount of the monthly payment for principal and interest which the mortgagor or borrower is obligated to pay under the mortgage or loan, and the monthly payment for principal and interest which the mortgagor or borrower would be obligated to pay if the mortgage or loan were to bear interest at a rate four percentage points less than the rate specified in the mortgage or loan.

(g) Notwithstanding any other provision of law, the Secretary may assist or may insure a mortgage or loan which shall—

(1) be executed by a mortgagor or borrower whose total family income did not exceed $30,000 during the year preceding the application for the mortgage or loan and who intends to occupy the property as a principal residence, except that the Secretary may increase the limitation contained in this paragraph by such amount as the Secretary determines to be necessary to enable mortgagors and borrowers to qualify for increased principal amounts established by the Secretary pursuant to paragraph (2).

(2) have a principal obligation not to exceed $67,500 except that the Secretary may establish increased principal amounts not to exceed the maximum principal obligation insurable in the area pursuant to section 203(b)(2) of the National Housing Act;

(3) involve a one- to four-family dwelling the construction, substantial rehabilitation, or manufacture of which (A) commenced on or after the date of enactment of this section heading and was substantially completed by November 30, 1983, or (B) commenced no earlier than one year prior to the date of enactment of this heading and was substantially completed by November 30, 1983, and which has never been sold other than to the mortgagor;

(4) provide for complete amortization over a period of not to exceed thirty years, but provide that (A) the mortgage or loan payment shall be adjusted for the second, third, fourth, fifth, and sixth years of the mortgage or loan by increasing the payment required during each such year by 0.75 per centum of the original principal obligation, and (B) the amount of the increase will be applied to reduce the principal obligation;

(5) provide, after the sixth year, for equal monthly payments in the same amount as the amount required in the sixth year, but only for the period necessary to pay off the remaining principal obligation;

(6) have been accompanied by disclosures of the scheduled adjustments in the monthly payment and of the requirements of section (e);

(7) be originated by a mortgagee or lender who is responsible and able to service the mortgage or loan properly;

(8) in the case of a manufactured home loan, comply with the regulations issued under section 501(c) of the Depository Institutions Deregulation and Monetary Control Act of 1980; and

(9) bear interest and contain such other terms and conditions as the Secretary may prescribe.

(h) The Secretary shall allocate the amount available to carry out this program among the States on the basis of a formula so that—

(1) one-third of such amount is allocated on the basis of the ratio of the population of each State to the population of all States;

(2) one-third of such amount is allocated on the basis of the percentage decline in one- to four-family housing starts, measured from 1978 to 1981, of each State relative to the percentage decline for all States; and

(3) one-third of such amount is allocated on the basis of the ratio of each State's number of unemployed persons for the most recent three-month period for which data are available prior to the allocation to the number of unemployed persons for all States for such three-month period.

(i) Any mortgage insured or assisted under this heading shall be eligible for purchase by the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation.

(j)(1) The Secretary shall assure that the amounts allocated pursuant to subsection (h) are made available in a manner which maximizes participation by eligible lenders and borrowers.

(2) The Secretary shall maximize timely utilization of authority under this heading by limiting the time within which a firm commitment may be issued to ninety days after the commitment (other than a firm commitment) is made.

(3) Notwithstanding any other provision of law, the Secretary shall issue final regulations, make allocations, and begin to issue commitments pursuant to this heading not later than thirty days after the enactment of this Act.

(k) The funds provided under this heading shall remain available for commitment until January 1, 1983.

Mr. LUGAR. Mr. President, the amendment I have sent to the desk is the stimulus housing legislation as approved by the conference. I think all Members are acquainted with the legislation, and I am hopeful that it will have the support of all Members.

The PRESIDING OFFICER. Will the Senator for Indiana repeat that? I do not think Senators heard him.

The Senate will be in order, please. The Chair cannot hear.

Mr. BUMPERS. Mr. President, the Senate is still not in order.

The PRESIDING OFFICER. I agree, The Senate will be in order.

Mr. LUGAR. Mr. President, I appreciate your bringing the Senate to order. Let me repeat, the amendment that I have just sent to the desk is the stimulus jobs-housing legislation precisely as passed by the conferees as a part of the other supplemental legislation, a second-degree amendment now to the Proxmire amendment, and I ask the support of all Members for the amendment.

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

Mr. LUGAR. I am happy to yield to the Senator for a question.

Mr. PROXMIRE. The Senator says this is as it was accepted by the conferees?

Mr. LUGAR. Yes.

Mr. PROXMIRE. In other words, it is a compromise; it is less, substantially less—what, $2 billion or $3 billion less—than it passed the Senate?

Mr. LUGAR. It is $2 billion less than passed the Senate. It is a $3 billion piece of legislation.

Mr. PROXMIRE. It would require a payback?

Mr. LUGAR. Yes; it would require a payback.

Mr. PROXMIRE. I thank the Senator.

Mr. RIEGLE. Will the Senator yield?

I should like to ask the Senator if he would list me as a cosponsor on his amendment.

Mr. LUGAR. I ask unanimous consent that the Senator from Michigan be added as a cosponsor.

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

Mr. JACKSON. Will the Senator yield?

I should like to join, too, as a cosponsor.

Mr. LUGAR. I ask unanimous consent that the Senator from Washington (Mr. JACKSON), the Senator from Washington (Mr. GORTON), and the Senator from Minnesota (Mr. BOSCHWITZ) be added as cosponsors.

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

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

Mr. LUGAR. I am happy to yield to the Senator for a question.

Mr. JOHNSTON. Is this legislation on an appropriation bill?

Mr. LUGAR. I would not want to respond to that question without further clarification, but I presume that the status is precisely as it was before, namely, that this was ruled as legislation on an appropriation bill, and clearly that was the condition in which it passed the first time. Then, after we were in the cloture situation, we had a suspension of the rules, had a two-thirds majority, the rules were suspended, and it was added a second time. We are back in a precloture situation. I presume the Senator from Louisiana recalls the history of the legislation.

Mr. JOHNSTON. I asked the Senator that question sort of to get him in the right mood to answer this question. I wonder if the Senator would take a slight modification to his amendment, which would be to add on the Coast Guard to the tune of $48 million? I am dead serious about it, because this is a matter of life and death. It is a clear oversight on the part of the Members of the House. There is no opposition to it. It is in the regular supplemental.

The situation is that you are either going to have to lay off a huge number of people or you are going to have to stop search and rescue, stop the VTS, which is the vectoring service on ships in the New Orleans area as well as in other areas around the country. I think if we can combine that, it will make your amendment even better.

Will the Senator consider that?

Mr. ANDREWS. Mr. President, will my colleague yield?

Mr. JOHNSTON. Yes.

Mr. ANDREWS. It was my intention to offer as an amendment, since amendments have now been made to this bill, the transportation section of this bill.

I said in a colloquy earlier that I committed to that, that it will restore the Coast Guard and other transportation functions at the level that they were in the conference reported bill, which is essentially the level they emerged from the Senate, because I think they are extremely important. We are having that amendment drafted and it will be presented, might I assure my colleague and good friend from Louisiana. Although I do not have too much presence in the Coast Guard, I recognize how important it is, because these ships and these men are doing the job of drug interdiction on the high seas, these ships that have been ordered are the ones that will stand out in the Caribbean and do the job for this Nation. It is idiotic not to have them as part of this bill. That is why they were in the bill as we sent it to the other body, and that is why they were in the conference report, and we will restore, if that meets—and I am sure it does—the approbation of my good friend from Louisiana and others, the section as it emerged from the conference which does just that.

Mr. JOHNSTON. That is exactly what the amendment would do. I am wondering if my friend from Indiana would agree to that?

Mr. LUGAR. I am not in a position to agree to that for the moment. I would want to consult with the distinguished chairman of the Appropriations Committee and perhaps others. I appreciate the question that is being raised, but I want to make certain that we are on the proper parliamentary course, working through difficult rocks and shoals as it is.

Mr. BUMPERS. Will the Senator yield?

Mr. LUGAR. I am happy to yield for a question to the Senator from Arkansas.

Mr. BUMPERS. I really wanted the attention of the majority leader. Apparently, he just left the floor. However, I see the assistant majority leader on the floor. I should like to ask if I may just direct a couple of questions to him.

My question is this: We passed the supplemental. We put the housing bill on it, which I strongly supported. We took the pay for the Senators off of it. We have been told, at least on this side of the aisle, that we were going to pass a clean bill this afternoon in order to get it to the President so the Government could keep operating, and now we are going around the mulberry bush on every one of the same amendments that were on the bill the President says he is going to veto; am I correct?

Mr. STEVENS. Mr. President, the Senator has a point. I must say that in the process of clearing this supplemental appropriations bill, that is before us now, I, unfortunately, have carried a message to the House that apparently is not correct I refer to the representation at least that we had gathered from the Members we spoke with that this bill could go through without amendments, with the understanding that the expiration date was July 20 at which time we would be able to get back to the issues, the controversial issues, including the Proxmire amendment and the Lugar amendment, in connection with the remainder of the items that are not included in this bill but were included in the supplement we sent from the Senate earlier.

The majority leader is now conferring with the House leadership to see what their preference would be. We have discussed this with the distinguished chairman of the Appropriations Committee. Basically, it will be his recommendation, I am sure, that the Senate will follow in terms of what to do with the supplemental now that it is apparent that it may be amended. If it is amended, we lose the facility of getting money to some of the agencies of Government before the recess without a veto. When we knew that the original supplemental in all probability was going to be vetoed, we sought to get money to some of the agencies where there was an emergency.

If that process fails, we have still not gotten there. But the Proxmire amendment was not tabled. It is my understanding the Senator from Indiana has an amendment to that amendment. If the Senate would table both of these and let this bill go, at least some of the agencies of Government will have the money before the recess, and by July 20 we will have to operate on the rest of them.

To the best of my knowledge, the House informed me that the amendments they took out of this bill when they sent the stripped down supplemental back were for items that did not require money before July 20.

Mr. BUMPERS. We have another bill coming, as I understand it, on July 20. As strong as I support the amendment of the Senator from Indiana on housing, it will wait until July 20.

Mr. STEVENS. So will the amendment of the Senator from Wisconsin on expenses away from home. It does not affect anyone until next year.

Mr. BUMPERS. It seems to me we are getting to the point here where we are going to openly confess that we are engaged in legislating selectively.

Mr. LUGAR. The Senator from Arkansas is presumably asking a question about the housing stimulus bill and whether it would last until——

Mr. BUMPERS. Let me ask this question. Is there anything in the housing bill that will not hold until July 20?

Mr. LUGAR. The answer is it will not hold until July 20, and that is the reason why I have been rising frequently in the last few weeks.

What we have to understand is that we are in the middle of not moving through the housing season. The point of having housing stimulus in this season is to resurrect houses and jobs now, not in the hereafter, not July 20, August 20. Clearly, the action taken by the House this morning was to kill the housing stimulus bill.

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

Mr. LUGAR. I yield.

Mr. BUMPERS. Is it not an ironclad certainty that the President of the United States—your President—is going to veto this bill if that housing measure is on it?

Mr. LUGAR. No; that is not ironclad certain.

Mr. BUMPERS. Then, I have been misled by Members on your side of the aisle, all of whom tell me that the President is going to veto the bill with that on it.

Mr. LUGAR. Many of the President's advisers have said he would do that; indeed, they have advised him to do that. We sat with the President yesterday, with some of the advisers who were advising him to do that.

The President of the United States, to my knowledge, has never made a comment publicly about this particular legislation, and it seems to me to be important simply to state that categorically, having visited with the President within the past 24 hours.

Mr. BUMPERS. One further question, and I will quit asking questions.

Let us assume that the President is going to veto it. Let us assume that the Senate adopts your amendment this afternoon, which means we have to send this bill back to the House. Let us assume further that the House accepts your amendment as well as the one of the Senator from Wisconsin. Let us assume further that it goes to the President and he vetoes it the day after tomorrow or some other day in the next 3 or 4 days.

The House will have gone home for 2 weeks, and that means some of the agencies to which we are trying to get money right now are going to be out of money before the second supplemental we are talking about can be considered. Is that correct?

Mr. LUGAR. That is correct. This is a good reason why, in my judgment, the President will be glad to sign the bill. Clearly, this is one reason the housing legislation has been attached to this particular urgent supplemental, because there are a number of things here that are important to the country, to us, and to the President.

I yield the floor to the distinguished chairman.

Mr. HATFIELD. Mr. President, I yield for a moment to the Senator from Colorado.

Mr. ARMSTRONG. Mr. President, it is not my purpose at this moment to debate the merits of the proposal by the Senator from Indiana, but I do wish to make a point of order against the amendement he has offered, which violates section 4 of rule XVI, in that it is legislation on an appropriation bill.

The PRESIDING OFFICER. Will the Senator from Oregon yield for a point of order?

Mr. HATFIELD. I yield for a point of order.

The PRESIDING OFFICER. The Senator will state the point of order.

Mr. ARMSTRONG. The amendment which the Senator from Indiana has offered constitutes legislation on an appropriation bill, in violation of the provision I have cited.

The situation is not analogous to the earlier occasion on which the Senate considered this matter, because on the earlier occasion when this issue came before us, the House had included in its appropriation bill the subject of housing, a matter which is not included in the present legislation.

As the Presiding Officer reflects upon this parliamentary point, I recall the precedent set by the then majority leader, Mr. ROBERT C. BYRD, in which, upon his recommendation, the Chair declined to submit the issue of germaneness to the Senate, on the ground that, first, a threshold determination must be made as to whether or not there is any House language in the bill on which the proposed amendment could possibly be considered germane.

So, Mr. President, that is my point of order, and I ask, therefore, that the Chair rule——

Mr. STEVENS. Mr. President, will the Senator yield before making that request?

Mr. ARMSTRONG. I yield.

Mr. STEVENS. Will the Senator consider making that point of order to the Proxmire amendment as amended by the Lugar amendment and withholding it until that time?

Mr. ARMSTRONG. I think the proper time for me to make it is while the amendment is pending.

Mr. STEVENS. I think the Chair will advise the Senator from Colorado that it is proper to make the point of order after the Proxmire amendment is adopted; and if the Senator from Colorado is successful, we will be back to a clean bill.

Mr. ARMSTRONG. I understand the Senator's point; but, having made my point of order, I ask that the Chair rule on it.

The PRESIDING OFFICER. The point of order is well taken.

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

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

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is, Will the Senate sustain the ruling of the Chair?

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. 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.

Mr. BAKER. Mr. President, a parliamentary inquiry. Were the yeas and nays ordered on the appeal?

The PRESIDING OFFICER. The yeas and nays were orderd.

Mr. BAKER. A vote of "aye" supports the Chair?

The PRESIDING OFFICER. A vote of "aye" supports the Chair.

Mr. BAKER. I thank the Chair.

The PRESIDING OFFICER. The question is, Will the Senate sustain the ruling of the Chair? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON: I announce that the Senator from Nevada (Mr. CANNON) is necessarily absent.

I further announce that, if present and voting, the Senator from Nevada (Mr. CANNON) would vote "nay".

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

The result was announced—yeas 33, nays 66, as follows:

[Rollcall Vote No. 196 Leg.]

YEAS—33

| | | |
|---|---|---|
| Armstrong | Hart | Percy |
| Baker | Hatfield | Roth |
| Brady | Hayakawa | Simpson |
| Byrd, Harry F., Jr. | Helms | Stennis |
| Cochran | Humphrey | Stevens |
| Cohen | Johnston | Symms |
| Dole | Kassebaum | Thurmond |
| Domenici | Laxalt | Tower |
| East | Long | Wallop |
| Goldwater | Mattingly | Warner |
| Gorton | McClure | |
| | Nickles | |

NAYS—66

| | | |
|---|---|---|
| Abdnor | Danforth | Heinz |
| Andrews | DeConcini | Hollings |
| Baucus | Denton | Huddleston |
| Bentsen | Dixon | Inouye |
| Biden | Dodd | Jackson |
| Boren | Durenberger | Jepsen |
| Boschwitz | Eagleton | Kasten |
| Bradley | Exon | Kennedy |
| Bumpers | Ford | Leahy |
| Burdick | Garn | Levin |
| Byrd, Robert C. | Glenn | Lugar |
| Chafee | Grassley | Mathias |
| Chiles | Hatch | Matsunaga |
| Cranston | Hawkins | Melcher |
| D'Amato | Heflin | Metzenbaum |
| Mitchell | Proxmire | Sasser |
| Moynihan | Pryor | Schmitt |
| Murkowski | Quayle | Specter |
| Nunn | Randolph | Stafford |
| Packwood | Riegle | Tsongas |
| Pell | Rudman | Weicker |
| Pressler | Sarbanes | Zorinsky |

NOT VOTING—1

Cannon

So the decision of the Chair was rejected.

Mr. HATFIELD. Mr. President, if I could have the attention of the body, I find myself in one of those very interesting and somewhat amusing situations, I guess, where I am standing here as an advocate of a Democratic proposal. It is not getting very much support from the Democratic side of the aisle.

As the Senate knows, this is a vehicle that the Democratic leadership, Speaker O'NEILL, devised and had passed in the House and sent over to us to get us through the recess period in order to act on the regular urgent supplemental that is still preserved in this bill, 5922.

We have tried to accommodate the Speaker and the House of Representatives in the timeframe in which we operate, in which they are operating, because they are hoping to go out tonight and, if not tonight, at least tomorrow early at the latest.

So at this time, reluctantly on behalf of the managers of the bill, we accept the Lugar amendment as a second-degree amendment to the Proxmire amendment.

I would yield to the Senator from North Dakota, Mr. President, for an amendment——

Mr. JOHNSTON. Mr. President, point of order. The distinguished chairman has no right to parcel the floor out to whom he wishes. I have been on my feet asking for the floor.

Mr. HATFIELD. I would be very happy to yield the floor to the Senator from Louisiana.

Mr. JOHNSTON. Has the amendment been acted on yet?

Mr. ANDREWS. Mr. President, I was on my feet trying to obtain the floor.

Mr. HATFIELD. Mr. President, let me ask what is the pending business?

The PRESIDING OFFICER. The Senator from Oregon has the floor. The question is on the amendment.

Mr. HATFIELD. On which amendment?

The PRESIDING OFFICER. The Lugar amendment.

Mr. HATFIELD. I ask that we vote on it.

The PRESIDING OFFICER. Does the Senator want the yeas and nays?

Mr. HATFIELD. I do not want the yeas and nays.

Mr. ARMSTRONG. Mr. President, if I may be heard——

Mr. HATFIELD. Mr. President, what is the parliamentary situation?

The PRESIDING OFFICER. The Senator from Colorado.

Mr. ARMSTRONG. Mr. President, the pending business is the Lugar amendment to the Proxmire amendment?

The PRESIDING OFFICER. That is correct.

Mr. ARMSTRONG. Mr. President, it is evident that the emerging strategy for the management of this bill is to now, having determined that we are going to go ahead and accept the Lugar amendment or at least that is the disposition of the managers, and it is obviously not the disposition of the Senator from Colorado, we are now going to be treated to a series of amendments to the Proxmire amendment, the evident objective of which is to so load up the Proxmire amendment that it will ultimately fall of its own weight.

I guess this was the tactic that was pursued successfully a few weeks ago on this very same issue. I am not going to speak at any length on either the procedure or the substance of it. We have had a good full debate on it. But I do not think we ought to kid ourselves on what we are doing. This is not a routine or benign act to accept the Lugar amendment. It does two things: First of all, it accepts an amendment which, if finally left in the bill in its final version, undoubtedly will invoke a Presidential veto. There is no doubt about it, and no beating about the bush on it.

Somebody said a few moments ago that the President has not spoken on it. He has made it unmistakably clear that if this provision is contained in the bill when it gets to his desk it is going to be vetoed. Frankly, that does not hurt my feelings one way or another. There is nothing in this bill that cannot wait until we come back. But if you want to have a veto, the surest way is to put this thing on it.

Anybody who does not have any doubt about the effect of putting the Lugar amendment on the Proxmire amendment is to kill the Proxmire amendment, let me say that a vote for the Lugar amendment at this point is a vote to kill the Proxmire amendment. If you want to do that that is fine. I am against the Lugar amendment for two reasons: First, what it does to the taxpayers, and second, what it does to the Proxmire amendment.

Just for the record. I ask for the yeas and nays on the Lugar amendment.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. PROXMIRE. Mr. President, will the Senator from Colorado yield?

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

The yeas and nays were ordered.

Mr. PROXMIRE. Mr. President, may I say to my good friend from Colorado I do not think it is fair to say that the Lugar amendment is an attempt to kill the Proxmire amendment. It passed overwhelmingly, passed by more than a 2-to-1 vote. It passed twice here and it has overwhelming support.

I would agree with the Senator that it does not make any sense to amend an amendment over and over again, because otherwise all amendments may fall if we have other amendments. But I think if we act now, having the Lugar amendment before us, adopt that and then act on that amendment, then the bill will be open for other amendments with respect to the Coast Guard and other proposals.

Mr. ARMSTRONG. Mr. President, let me just remind my friend from Wisconsin, in an almost identical parliamentary situation involving what I believe to be an entirely identical amendment which was offered by the Senator from Colorado, that precisely the tactic that was used to defeat the tax treatment amendment on that occasion is what we are seeing unfold right now; that is, when my amendment was pending, they added a series of other amendments. That is all right. As far as I am concerned, if that is the disposition of the body, that is fair pool. That is the parliamentary situation we are in.

Mr. PROXMIRE. Mr. President, I thank the Senator from Colorado for calling attention to that. But, at that time, as I recall, there were a number of amendments added, including a reduction in Senators' pay by 10 percent and a lot of other amendments were put on it. These are all amendments which go to the substance which has already been approached, as I understand it, in most cases. The amendment the Senator from Louisiana and the Senator from North Dakota are offering is noncontroversial. I think the Senator is right, that those amendments should stand on their own and other amendments that are offered to the underlying bill and that we can act on the Proxmire amendment, as amended by Senator LUGAR, and move ahead.

Mr. ARMSTRONG. In order to remove any vestige of doubt as to the possible effect of the Lugar amendment and to permit it to stand on its own merits, why do we not just detach it from the Proxmire amendment which was pending previously? As far as the Senator from Colorado is concerned, I do not wish to drag out the consideration of the Lugar amendment. If he wants to offer it separate from the Proxmire amendment, I will not even ask for a rollcall vote. We have had a full debate on it. Everybody knows the issue. We can put it to a voice vote. It is going to be vetoed by the President.

I am not trying to delay this, but I will say to my friend from Wisconsin at this point, the issue of the Lugar amendment, as far as I am concerned, is settled. We know how we feel about it. We know what is going to happen at the White House. It is the amendment of the Senator from Wisconsin that they are after at this point. So I would encourage him not to be too eager to accept this amendment.

Mr. WALLOP. Will the Senator yield?

Mr. ARMSTRONG. Mr. President, I will yield the floor except to ask if the yeas and nays have been ordered.

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

Mr. ARMSTRONG. Mr. President, let me observe that if it is the desire of any Senator to detach the Lugar amendment from the Proxmire amendment, I would be happy to vitiate the request for the yeas and nays and not ask for any further rollcalls. We have had enough votes on this issue, in my opinion.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. WALLOP. Mr. President, let me say that I voted not to table the Proxmire amendment because clearly to remove the automatic $75-a-day Member's deduction is preferable to where we are now. But that would still leave us with a $3,000 automatic deduction which no other citizen in the United States is entitled to.

Last Friday, the Finance Committee held hearings, which is the appropriate means of dealing with these issues, on the tax treatment of Members of Congress. The Finance Committee will report a tax bill, by the 12th of July.

I intend to offer a proposal in the Finance Committee regarding the tax treatment of Members of Congress which would treat us the same as all other taxpayers in America. I supported in the past, and continue to support, the Mattingly-Specter approach to this issue and not that of Senator PROXMIRE. While it is preferable, I agree, to go back to the $3,000 automatic deduction rather than to remain where we are. It is absolutely not appropriate to continue to treat us still differently than other members of the public at large.

I will be voting against the Lugar amendment should it stay on there for reasons of consistency. But, nonetheless, I do not think that a vote on Proxmire and Lugar together should be interpreted as an attempt to defeat the Proxmire amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Indiana (Mr. LUGAR). The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. The 15 minutes allowed for voting have expired. Do any other Members of the Senate desire to vote?

The legislative clerk resumed and concluded the call of the roll.

Mr. STEVENS. I announce that the Senator from Utah (Mr. HATCH), and the Senator from Pennsylvania (Mr. HEINZ), are necessarily absent.

Mr. CRANSTON. I announce that the Senator from Nevada (Mr. CANNON), is necessarily absent.

I further announce that, if present and voting, the Senator from Nevada (Mr. CANNON), would vote "yea."

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

The result was announced—yeas 70, nays 27, as follows:

[Rollcall Vote No. 197 Leg.]

YEAS—70

| | | |
|---|---|---|
| Abdnor | Ford | Mitchell |
| Andrews | Garn | Moynihan |
| Baucus | Glenn | Nunn |
| Bentsen | Gorton | Packwood |
| Biden | Grassley | Pell |
| Boren | Hawkins | Pressler |
| Boschwitz | Heflin | Proxmire |
| Bradley | Helms | Pryor |
| Bumpers | Hollings | Quayle |
| Burdick | Huddleston | Randolph |
| Byrd, Robert C. | Inouye | Riegle |
| Chafee | Jackson | Rudman |
| Chiles | Jepsen | Sarbanes |
| Cochran | Kasten | Sasser |
| Cranston | Kennedy | Schmitt |
| D'Amato | Laxalt | Specter |
| Danforth | Leahy | Stafford |
| DeConcini | Levin | Stennis |
| Denton | Long | Stevens |
| Dixon | Lugar | Tsongas |
| Dodd | Mathias | Weicker |
| Durenberger | Matsunaga | Zorinsky |
| Eagleton | Melcher | |
| Exon | Metzenbaum | |

NAYS—27

| | | |
|---|---|---|
| Armstrong | Hart | Percy |
| Baker | Hatfield | Roth |
| Brady | Hayakawa | Simpson |
| Byrd, | Humphrey | Symms |
| Harry F., Jr. | Johnston | Thurmond |
| Cohen | Kassebaum | Tower |
| Dole | Mattingly | Wallop |
| Domenici | McClure | Warner |
| East | Murkowski | |
| Goldwater | Nickles | |

NOT VOTING—3

| | | |
|---|---|---|
| Cannon | Hatch | Heinz |

So Mr. LUGAR'S amendment (UP No. 1041) was agreed to.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. HATFIELD. Mr. President, let me explain the situation we are in now.

Mr. ARMSTRONG. Mr. President, may we have order in the Senate? The Senator from Oregon cannot be heard.

The PRESIDING OFFICER. The Senate will be in order. Those Members speaking to each other will please move to the cloakroom.

The Senator from Oregon.

Mr. HATFIELD. Mr. President, I should like to have the attention of all Senators, because I think they would like to know where we are going from here. I think I know—at least, I have an idea I would like to share.

We are in a situation in which the House has sent us a stripped-down version of their urgent supplemental, which we passed on Monday in the Senate and sent to the House. As I indicated before, this was a product of the Democratic leadership of the House. It was very obvious that it is not acceptable to the Senate.

Now, with further consultation, it appears that the House leadership will accept the Senate version that was sent to them on Monday, but they have asked that we reconstitute it in the vehicle that we have before us tonight.

Consequently, what is happening is that the staff of the Committee on Appropriations is going through the entire, many-paged bill and redrafting an amendment which I shall then offer, to strike everything in this proposed vehicle that we have before us and to reinsert the total Senate version of the conference report we sent them on Monday—including all the Senate amendments. The only difference between the House and Senate versions at that point would be that we remove the Fazio amendment which put a cap on honoraria.

We are then informed that the House will move to agree with the Senate version and send it down to the White House. I understand the President may have his veto stamp ready, even perhaps tonight.

Then the House will act upon the veto tomorrow and then, based on what their action is, we shall either take subsequent action or the action may have been completed by the House, depending on how they vote.

If the Senate will bear with us for just a little while, I think we shall have that paperwork finished so that I can formally submit the amendment to this vehicle which reconstitutes the original Senate conference version we passed on Monday.

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

Mr. HATFIELD. I yield.

Mr. ROBERT C. BYRD. I think I heard the Senator clearly. This will include the moneys appropriated for public broadcasting, will it not?

Mr. HATFIELD. Yes.

Let me say for the distinguished minority leader, it will include from this document the 17 items included in the present vehicle plus the 46 items which were deleted from the present one, of which public broadcasting is one such item.

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

Mr. HATFIELD. I shall be happy to yield to the Senator from Louisiana.

Mr. JOHNSTON. I just want to know, does the Senator anticipate a record vote on that?

Mr. HATFIELD. Mr. President, I shall make no request for a record vote, because the Senate has already debated at length and voted on this same version on Monday of this week. If there are others who would ask for a record vote, of course, I have no way to know at this point that there are such persons.

Mr. ARMSTRONG. Mr. President, will the Senator yield to me to discuss that point?

Mr. HATFIELD. Yes.

Mr. ARMSTRONG. First, the discussion, then I also have a question for the Senator.

I do not assume that there will be only a single rollcall vote on this matter. As I recall, there are many controversial issues embodied in the proposal. There might be one, two, or several. Nor do I understand why the timetable for passage of this, if it be the will of the Senate to pass this proposal, would be sometime in the near future.

The Senator has spoken of it as if it were a pro forma or a ministerial act. On the contrary, it might be the kind of thing that would be the subject of extensive debate. I recall we debated at length on this issue before.

Mr. HATFIELD. I suppose I should say I am dealing in what is perhaps the realm of logic. Perhaps I should not be. I had imagined that the Senate worked its will so well on Monday that the Senate has a memory of what happened on Monday.

Mr. ARMSTRONG. I should like to reflect on that observation before I attempt to comment on it. I do want to ask this question:

If we proceed as the Senator from Oregon has outlined—that is, if the Senate, in prompt fashion, were to pass this bill—it goes back to the House at midevening or late this evening, the House passes it, the President vetoes it, and the veto is taken up in the House.

Let us suppose, I believe this to be the case, that the veto is sustained in the House. What plan of action would the Senator from Oregon have? Would we then start over with a clean supplemental again?

Mr. HATFIELD. The House, I say to the Senator from Colorado, would have to initiate a new action on the Appropriations Committee and start from square one.

Mr. ARMSTRONG. Mr. President, it appears to me that that is the likely outcome if we proceed as the Senator has suggested. I think it is pretty obvious, and I believe it is recognized by Members of the House as well as of this body, that there are votes enough to sustain a veto. In fact, I believe it was thought at one point if the President vetoed this measure, it might not even be brought up in the House because, clearly, there are enough votes to sustain it in the House. I wonder if

we could not short-circuit that process in some way.

I am considering whether or not to raise a point of order. I believe the pending amendment, the Proxmire amendment as amended by the Senator from Indiana (Mr. LUGAR), is subject to a valid point of order which I believe would be sustained by the Chair. It is not my desire to put the Senate through a series of parliamentary procedures. I do think it is clear that the pending amendment constitutes legislation on an appropriation bill, that it violates the provisions of rule XVI, paragraph 4, that if we could agree to that at this point, the effect would be to get us back to the clean bill and get us back there now rather than get us back there in the wee hours of tomorrow morning or perhaps sometime the next day.

I would make such a point of order with great reluctance because the effect would be to pull down the amendment of the Senator from Wisconsin, which I strongly support. But if it comes down to a weighing of the issues involved, there is no question in my mind that the mortgage interest subsidy issue is vastly more important in the long run than is the question addressed temporarily in the Proxmire amendment and it would be easy to get the Proxmire amendment back before us, I am more or less thinking out loud, but what would the Senator from Oregon think of that approach?

Mr. HATFIELD. I should like, frankly, to express my reaction to that off the floor. I am not sure that I fully understand the wicket which the Senator from Colorado is describing, or how we would get out of that wicket. Let me just respond this way, if I may. Let me recount the situation we are in at the moment.

The House expects to go out tomorrow at the latest. There was even some talk about the House going out tonight. First of all, we are in a time situation that is not fully of our making or under our full control.

The House has seen fit to not act upon the conference report as sent to them on Monday by the Senate but, rather, has seen fit to send to us today a stripped down version of the urgent supplemental which still preserves H.R. 5922 but merely provides us with a stopgap measure to get through this recess period because the date of expiration of this action would be July 20. Therefore, the expectation would be that as we come back from recess we again would try to resolve the difference between the House and the Senate on the current House Resolution 5922.

As the Senator from Colorado knows, the issue that is in controversy is the House action referred to as the Fazio amendment which sought to put a cap on the outside earned income and which the Senate struck by a vote, sending that then changed or revised version of the conference report back to the House.

Now, that is preserved, and everything that is incorporated in that resolution is preserved. I think we have demonstrated already today in the number of hours that we have spent on this that we are not ready to send this bill back in the same version that the House sent it to us. I made the statement in the opening remarks; I tried to explain it very clearly, that once we opened the floodgate to accept any amendment that we were back into the proposition of reconstituting this vehicle at least in some way similar to what our Senate version was on Monday. There were Members on the floor, Senator LUGAR, Senator ANDREWS, Senator LEAHY, Senator JOHNSTON, and others, saying in effect here is my amendment I am ready to offer again that had been deleted from this vehicle by the House action today. Once we accepted the amendment, they were not going to be left on the sideline with an amendment that meant a great deal to them.

When the vote was taken—and I made it very clear that I was not very happy with this whole wicket we were in at the moment—I brought it to a confrontation by moving to table the amendment which was offered by the Senator from Wisconsin (Mr. PROXMIRE). The body voted against tabling the amendment, thereby indicating they were open to amending the O'Neill stripped down urgent supplemental.

At that point the Senator from Indiana (Mr. LUGAR) offered an amendment to the Proxmire amendment in the second degree, reconstituting the $3 billion program for the housing stimulus program.

The Senator from Colorado raised a point of order against that amendment. There was a rollcall, and the body voted not to sustain the Chair, which gave clear indication the body was ready to adopt the Lugar amendment. Then on a rollcall the Lugar amendment was adopted.

Mr. ARMSTRONG. As an amendment to the Proxmire amendment.

Mr. HATFIELD. As an amendment in the second degree to the Proxmire amendment.

The Senator from Colorado indicated perhaps there was afoot a certain strategy, and the Senator was precisely on target. The strategy was to amend the Proxmire amendment as many times as possible and try to table the whole amendment and pull it all down. There is no secret. This is really no clever strategy. It is pretty obvious. That was what I was hoping to accomplish.

But then in further consultation of the leadership between the two Houses it became evident that we were going to be here all hours of the night, perhaps even tomorrow, to try to move it one amendment at a time, one action at a time, and the leadership then worked out with the leadership of the House the fact that they saw the situation we were in, that they would be willing to face up to the reality of the Presidential veto on the current House Resolution 5922.

But instead of acting upon the product that we sent them on Monday, they requested that we reconstitute that entire package on the vehicle that we have now pending in the Senate, the O'Neill stripped-down version, by striking all the language and reinserting the Senate version of Monday.

As I indicated, we are in the process of finishing up that paperwork to constitute that action, or to provide the possibility of that action.

The Senator asks what kind of presumptions am I moving on. The assumption is that the Senate has worked its will on the conference supplemental. We did that on Monday after a number of hours of discussion, debate, changes, and rollcalls, and we sent it over to the House only a few days ago, the day before yesterday.

I assume that conditions have not changed that much, that we would in effect send this back reconstituted in the same way we sent it on Monday. Maybe it is too much of an assumption to make that the Senate has that much consistency over a 3-day period, but I should like to think that we can remain at least constant on one or two items.

Then it was my understanding that the House would take action even perhaps tonight, and then send the bill down to the White House. I understand by various reports that the President is ready to act on it tonight. That action would constitute a veto. The President would act on it tonight and send it back to the House, which has to take action first. The House would still be in session tomorrow, and the House, therefore, would take an action of either sustaining or overriding—I am not making any predictions; I do not know what they are going to do—and adjourn on the recess. Then we would, if they sustained it, be free from action. If they overrode the veto, then we would have to take action following the House action.

Mr. ARMSTRONG. Will the Senator yield?

Mr. HATFIELD. Yes.

Mr. ARMSTRONG. If the House were then to sustain the veto, the bill would be dead and it is the Senator's——

Mr. HATFIELD. That is correct.

Mr. ARMSTRONG [continuing]. Expectation that we would simply not have an urgent supplemental?

Mr. HATFIELD. We would have nothing. We would be back to square

one. From the Senate perspective, we could do a lot of staff work over the recess period. But to get a vehicle, we would have to wait until the House acted.

Mr. ARMSTRONG. I just want to pin down that it is the expectation of the Senator in that event that we would do without an urgent supplemental during the period of the 3 weeks in which the House is in recess?

Mr. HATFIELD. I see no other alternative.

Mr. PROXMIRE. Will the Senator yield?

Mr. HATFIELD. I yield to the Senator from Wisconsin.

Mr. PROXMIRE. As I understand it, what the Senator is describing is an amendment that would be identical with the bill that we have already sent to the House, they already have?

Mr. HATFIELD. That is right.

Mr. PROXMIRE. Why do they not act on the bill they have?

Mr. HATFIELD. That was the question that was posed. The reponse was, "We want it on the vehicle we sent you today."

Mr. PROXMIRE. Was there any reason given for that?

Mr. HATFIELD. It will be exactly the same.

Mr. PROXMIRE. It will be exactly the same, as the Senator has pointed out so well.

Mr. HATFIELD. It will be precisely the same product that we produced and sent to the House on Monday, which they have now, which they could act upon in the same way that they are asking us now to go through this additional step of sending back the product the second time but in a sense on a different bill.

Mr. PROXMIRE. Is there any parliamentary advantage? Can they strip amendments from this new bill any differently than they could the old?

Mr. HATFIELD. Not to my knowledge. I would have to refer to the Parliamentarian. I do not know.

Mr. ARMSTRONG. Will the Senator yield to me briefly?

Mr. HATFIELD. Yes.

Mr. ARMSTRONG. I point out that it may not be a parliamentary advantage, but there is certainly a different parliamentary situation that arises if the Senator from Oregon and others seek to attach amendments to the pending bill, because much of the material which I understand he would be seeking to include in his amendment would be subject to points of order which were not present in the original bill because the House sent us a much more comprehensive piece of legislation which, for better of worse, provided many more places at which the Senate, within its rules, could amend.

If we seek to add to this stripped-down bill the provisions of the broader legislation considered by the Senate earlier, there obviously will be many places where points of order would lie.

Also—and I do not want to go into great detail about this—I point out that such a motion, if adopted, and if these amendments were incorporated into the bill, would subject the bill itself to points of order, and so forth.

My point is this: Why should we horse around with this thing? If our desire is to get to a clean bill, let us see if we can; and if it is all right to let the matter hang over the recess, let us let the matter hang over the recess. Why go over the steps of debating the bill for hours or a day or two and sending it to the House, while the President is waiting up all night to get his signature on a veto message? If we really do not have to do this before we get back from the recess, I appeal that we just let it ride.

Mr. HATFIELD. I respond by saying that I do not understand the logic of the Senator from Colorado at all in his proposal to use a vehicle that means we are going to be here for hours or days to reconstitute this in perhaps the precise manner of a vehicle we can do in one motion and one vote and move to the President, who really is welcoming, I think, frankly, this opportunity to express himself on this bill as it is now constituted. I mean the conference report on which we have already acted.

I do feel that it is far more responsible to take this action prior to recess than to leave the whole matter totally suspended, to leave the whole matter still unresolved either in Congress or at the White House. I do not think it is a fair position in which to put the President. I do not think it is a logical or good position in which to put Congress. I believe it would constitute irresponsibility, or it could be interpreted easily as irresponsibility on the part of Republican leadership in the Senate and in the White House and Democratic leadership in the House.

Mr. BURDICK. Mr. President, the urgent supplemental appropriations bill now being considered by the Senate (H.R. 6645) does not include the provision passed in the earlier supplemental relating to postal rates. My colleagues will recall that the provision will have the effect of rolling back mailing rates to 1981 levels for nonprofit publications, and will also change the current law so that the third-class mailers will not have to absorb the entire shortfall between what the Postal Service needs for revenue forgone and what the Congress actually appropriates.

The absence of this provision in H.R. 6645 should not be interpreted as a lack of concern about these rates. In fact, if H.R. 5922 does not receive final congressional approval, I fully intend to offer the postal rate provision as an amendment to a subsequent supplemental appropriations bill. Since the bill now pending (H.R. 6645) is effective only to July 20, 1982, changing the rates for such a short period of time—perhaps 2 weeks—would create havoc for both the mailers and the Postal Service. Assuming the bill becomes law early next week, the Postal Service is required to give 10 days notice in the Federal Register and poll the members of the Postal Service Board of Governors. By the time that procedure is complete, July 20 will be upon us. It is simply not practical to effect such a roller coaster in the rate structure.

My colleagues should be aware that this issue is of tremendous importance to religious, agricultural, educational, and veterans organizations throughout the country. The Senate has committed itself to assist these groups with their dramatically rising mailing rates, and that commitment shall not be forgotten.

MORTGAGE REVENUE BOND PROGRAM SHOULD MOVE AHEAD

Mr. SASSER. Mr. President, every Member of the Senate is fully aware of the housing depression that we currently find ourselves in.

Housing starts are at one-half the level we need to house a growing and changing population. Average mortgage interest rates stand at 16.7 percent nationwide, and a recent study finds that last year only 13 percent of our homebuyers in 1981 were first-time homebuyers.

Now one way of helping end this housing depression, in addition to passing H.R. 5922, is to get the mortgage bond program working again.

This program has worked with admirable success in Tennessee. Since 1973, the Tennessee Housing Development Agency has issued some $536 million in mortgage revenue bonds and thereby helped finance the production, sale and rental of some 20,000 housing units.

But, Mr. President the work of the THDA has been stymied by the fact that the Congress has yet to enact legislation designed to correct the problems encountered by enactment of the Mortgage Subsidy Bond Tax Act of 1980. This has led to a wholesale shutdown of the mortgage revenue bond market.

I and several of my colleagues have introduced legislation designed to correct these problems. I have introduced S. 1348 which now has some 40 cosponors. Senator DURENBERGER has introduced legislation (S. 1656) and Senator ROTH has introduced legislation (S. 2425) designed to make similar changes that will get the mortgage bond program moving again. Indeed, elements of Senator DURENBERGER's legislation have been made part of H.R. 4717 which is now pending final conference action.

I urge final action on H.R. 4717 and on these other mortgage bond bills so that we can get a strong mortgage

bond program moving again. And I ask unanimous consent that a recent article by Mr. E. V. King, executive director of the Tennessee Housing Development Agency, on the Tennessee mortgage bond program be printed in the RECORD.

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

[From the Tennessee Professional Builder, June/July, 1982]

SALVAGING A DREAM A WORKABLE SOLUTION

(By E. V. King)

Housing production in the United States is at its lowest level since World War II and unemployment in the housing industry has reached record highs with well over one million people now out of work.

The housing industry is not suffering from a recession; it is in the midst of a depression unparalleled since the 1930s.

The current crisis is under intense debate within the Administration, in the halls of Congress, and among industry leaders. Emerging from both government and industry is the growing consensus that the already-in-place mortgage revenue bond (MRB) program can provide substantial and immediate relief to the housing industry—if only it is allowed to work.

On the national level, each $1 billion in MRB's generates 33,000 man years of construction-related employment and provides $180 million in state and federal taxes. Using only those funds which already have been budgeted, these national figures translate into the potential for 185,000 housing units for first-time home buyers, jobs for over 300,000 Americans, and over $2 billion in tax revenues.

In our state, the sale of $535.5 million in Tennessee Housing Development Agency (THDA) mortgage revenue bonds since 1973 has financed more than 17,100 single family homes and more than 3,200 rental units for the elderly, the handicapped, and families.

It should be noted here that THDA has provided this below-market financing through the use of tax exempt mortgage revenue bonds—without spending a single state or local tax dollar.

THDA's bond sales have generated 12,160 man years of construction-related employment and provided $190 million for building materials, $109 million for contractors and professional fees, $95 million for construction labor and $140 million for land and land development. An additional $59 million has been generated for state and federal taxes.

Unfortunately, the use of mortgage revenue bonds to finance housing came to a screeching halt nationally last year as a result of unintended tehnical roadblocks imposed by the Mortgage Subsidy Bond Tax Act (MSBTA) of 1980. These technicalities reduced 1981 bond volume to less than 15% of what had been projected for the year. A $15 billion program was reduced to less than $2 billion at a time when America was facing an unprecedented housing crisis.

Tennessee Housing was one of the few state agencies able to put together a bond sale in 1981. A favorable federal ruling on the Agency's proposed program under the new law and a $8.6 million contribution from its general fund enabled THDA to sell $50 million in MRBs late in December. Home loans provided through this bond sale are carrying a 12 percent interest rate—the national low for 1981 state housing finance agency mortgages.

Tennessee Housing, however, cannot afford to make this same kind of equity contribution year after year. Unless Congress repeals or amends the Mortgage Subsidy Bond Tax Act, it will be extremely difficult to market bonds in today's adverse bond market.

The ideal solution would be a repeal of the Act and a new beginning. Many state agencies effectively argue that it is unconstitutional to interfere with a state's ability to raise revenue through the issuance of securities. Many at the federal level also seem to share these concerns as new proposals to limit the use of other revenue bond programs are based on methods other than direct prohibitions, such as rendered by the MSBTA.

The Act substitutes federal program judgment for state judgment. State agencies must now ask Washington how to proceed, if indeed, they may proceed at all. The Act and the resulting regulations may have been written to work, but they don't. They represent the worst kind of federal overkill.

The urgent need for action demands that efforts focus on making the 1980 Act workable. This can be accomplished through legislation, regulation or a combination of both. The problems are technical; they can be solved.

On March 29, President Reagan announced his support for easing MRB regulations to make mortgage money available to thousands of potential homebuyers. Tennessee's congressional delegation has shown support for corrective action.

The Council of State Housing Agencies supports legislation now before the Congress which would restore life to the program without changing the intent of the 1980 Act, and significantly, without impacting on federal budget estimates.

Necessary corrective action is consistent with President Reagan's budget. The Joint Tax Committee has determined such action would result in no tax loss. The required relief also is consistent with Congressional and Administration desire to return programs to the state and local level.

Housing is at its lowest production level since 1946. Relief from the most burdensome provisions of the Act and its regulation would help meet America's growing housing needs without being inflationary. The opportunity to find and afford decent housing would be restored to first-time homebuyers, the elderly, the handicapped, and the poor. People would be re-employed, taxes would be generated, and the costs of other federal benefit programs would be reduced.

Clear-cut, workable solutions to complex problems present themselves rarely in this time of economic uncertainty. When such a solution is available, we should take advantage of it.

Tennesseans who are concerned about the housing problems of our state and nation should immediately contact their congressional representatives, especially Senators Howard Baker and Jim Sasser, to urge repeal or ease the restrictions of the Mortgage Subsidy Bond Tax Act. A letter or telegram to President Reagan would also be beneficial.

Without help from every available area—including that of state finance agency mortgage revenue bonds—America's once-reachable dream of home ownership will be nothing but a far-out fantasy.

MSHA/OSHA TRANSFER

● Mr. BUMPERS. Mr. President, I agree with this conference report on H.R. 5922, making urgent supplemental appropriations for fiscal year 1982, with the exception of the action taken by the conference on amendment No. 49. The Senate amendment was adopted on May 27, 1982, by a rollcall vote of 52 to 38. The effect of this amendment was to strike language inserted by the House which transferred jurisdiction over the surface mining of sand and gravel, stone, clay, and colloidal phosphate back to the Mine Safety and Health Administration (MSHA). These industries have been regulated by the Occupational Safety and Health Administration (OSHA) since December 16, 1981, when a continuing resolution was adopted which resulted in a transfer of regulatory authority over these industries from MSHA to OSHA.

Mr. President, the debate on who should be regulating these industries has been going on for several years. Opponents of the transfer made a great deal of the fact that the safety of the workers in these industries would be jeopardized if the transfer ever occurred. This has not happened. Inspections have dropped, but this is because most of these businesses are small businesses employing less than 10 employees. Since they are safe, and their accident rates are less than the national average, they are exempt from routine OSHA inspection due to the so-called Schweiker amendment. This amendment, which we adopted several years ago, has been very effective in relieving small businessmen, who have safe operations, from routine inspections by OSHA. They are still subject to an OSHA inspection, however, if there is an accident or an employee requests such an inspection.

Mr. President, it is my belief that when we passed the Mine Safety and Health Act, we did not intend for these surface mining industries to be regulated by MSHA. That act was designed to give some protection to coal miners, primarily those engaged in underground coal mining. That is a very dangerous business, as we all know, and it is my opinion that MSHA should use all of its resources to make coal mining more safe, and not overregulate these surface mining industries which have excellent safety records.

It is unfortunate, Mr. President, that these industries could not have at least remained under OSHA's jurisdiction for the remainder of this fiscal year so that we could have seen once and for all how the accident rates would have compared with prior years. This MSHA/OSHA transfer for these surface mining industries is an issue we need to deal with. The House language is contrary to four previous votes by this body, and therefore, I cannot support that section of this conference report.●

## UNANIMOUS-CONSENT AGREEMENT—HOUSE JOINT RESOLUTION 519, DEBT LIMIT EXTENSION

Mr. BAKER. Mr. President, I have a unanimous-consent request in respect to a matter which has been cleared on both sides.

I ask unanimous consent that when the Senate receives the so-called short-term debt limit extension, House Joint Resolution 519, it be held at the desk, and that the majority leader, after consulting with the minority leader, may proceed to its consideration.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. 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.

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## OPERATION OF FISHERMEN'S CONTINGENCY FUND

Mr. STEVENS. Mr. President, I ask unanimous consent that the matter before the Senate be temporarily set aside so that I might call up for action H.R. 3816, which has been cleared with the minority leader and with the majority leader. It is a matter that has to get to the House today.

The PRESIDING OFFICER. All right.

Mr. STEVENS. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 3816, an act to improve the operation of the fishermen's contingency fund, reported from the Commerce Committee today.

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

The assistant legislative clerk read as follows:

A bill (H.R. 3816) to improve the operation of the Fishermen's Contingency Fund established to compensate commercial fishermen for damages resulting from oil and gas exploration, development, and production in areas of the Outer Continental Shelf.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Commerce, Science, and Transportation, with amendments, as follows:

On page 3, strike lines 13 through 17 and insert the following:

"The total amount in the Fund that is collected under subsection (b) may at no time exceed $2,000,000; and the total amount in the Fund which is attributable to revenue received under paragraph (3) or recovered by the Secretary under section 405(h)(3) shall be expended prior to amounts collected under subsection (b). Not more than 8 percent of the total amount in the Fund may be expended in any fiscal year for paying the administrative and personnel expenses referred to in paragraph (2) (A)."

On page 7, strike lines 6 through 12 and insert the following:

(3) by amending paragraph (3) to read as follows: "there was no record on the latest nautical charts or Notice to Mariners in effect at least 15 days prior to the date such damages were sustained that such material, equipment, tool, container, or other item existed where such damages occurred, except that in the case of damages caused by a pipeline, the presumption established by this section shall obtain whether or not there was any such record of the pipeline on the damage date; and".

On page 9, strike line 8, through and including "determination." on line 14 and insert the following:

"(C) If a petition for review of an initial determination is timely filed under subparagraph (A), the Secretary shall allow the petitioner 30 days after the day on which the petition is received to submit written or oral evidence relating to the initial determination. The Secretary shall then undertake such review and, on the basis of such review, issue a final determination no later then the 60th day after the day on which the Secretary received the petition for review of an initial determination.

On page 11, strike lines 20 through 25 and insert the following:

(a) Section 407 of the Outer Contintental Shelf Lands Act Amendments of 1978 (43 U.S.C. 1847) is repealed.

(b) The table of contents of the Outer Continental Shelf Lands Amendments of 1978 is amended by striking: "1847. Survey of obstructions on the Outer Continental Shelf.".

Mr. PROXMIRE. Mr. President, will the Senator yield? It is my understanding that the minority has no objection.

Mr. STEVENS. It has been cleared with the minority leader.

Mr. President, I rise in support of our quick review of H.R. 3816 and thank the distinguished minority leader for his assistance in expediting Senate review of this matter.

H.R. 3816 is intended to improve the operation of the fisherman's contingency fund program which provides a claim procedure to reimburse commercial fishermen for damage and losses suffered as a result of oil and gas development on the Outer Continental Shelf. The program covers losses resulting from lost and damaged fishing gear and is of extreme importance to our commercial fishing industry, especially in areas where there is high level abuse of both fishermen and oil and gas activities in the Outer Continental Shelf.

The purpose of the fund is to create a pool of money, to be provided by the oil companies who participate in the Outer Continental Shelf development, that establishes an insurance fund for compensation of claims filed by U.S. fishermen. Unfortunately the idea, while a very good one, has been difficult to administer and there was a need for comprehensive review and correcting amendments to be made to the program.

Both the oil companies and the administration pushed for changes to simplify the program and expedite the claim procedure. That is the main purpose of this amendment package, and I am delighted that we were able to expedite this with the distinguished minority leader and return this bill back to the House of Representatives, where I understand they are waiting to receive it.

UP AMENDMENT NO. 1042

(Purpose: To extend certain Governing International Fishing Agreements)

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

The PRESIDING OFFICER. The committee amendments will have to be agreed to.

Mr. STEVENS. Mr. President, I ask that the committee amendments be adopted.

The committee amendments were agreed to.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Alaska (Mr. STEVENS) proposes an unprinted amendment numbered 1042.

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

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

The amendment is as follows:

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

SEC. 10. GOVERNING INTERNATIONAL FISHERY AGREEMENTS.

(a) Section 2 of the Fishery Conservation Zone Transition Act (16 U.S.C. 1823 note) is amended—

(1) by inserting "(a)" immediately before "Notwithstanding"; and

(2) by adding at the end thereof the following new subsection:

"(b) Notwithstanding such section 203—

"(1) the governing international fishery agreement referred to in subsection (a)(5), as extended until July 1, 1983 pursuant to the Diplomatic Notes referred to in the message to the Congress from the President of the United States dated May 11, 1982, is hereby approved by the Congress as a governing international fishery agreement for the purposes of such Act of 1976;

"(2) the governing international fishery agreement between the American Institute in Taiwan and the Coordination Council for North American Affairs, as contained in the message to the House of Representatives and the Senate from the Secretary of State dated June 15, 1982, is hereby approved by the Congress as a governing international fishery agreement for the purposes of the Act of 1976; and

"(3) the governing international fishery agreement referred to in subsection (a)(6), as extended until July 1, 1983 pursuant to the Diplomatic Notes referred to in the message to the Congress from the President of

the United States dated June 21, 1982, is hereby approved by the Congress as a governing international fishery agreement for the purposes of such Act of 1976.

Each such governing international fishery agreement shall enter into force and effect with respect to the United States on July 1, 1982.".

(b) Notwithstanding any provision of the Act entitled 'An Act for the conservation and management of the fisheries, and for other purposes', dated April 13, 1976 (16 U.S.C. 1801 et. seq.), the governing international fishery agreements referred to in section 2(a) (9) and (10) of the Fishery Conservation Zone Transition Act shall be extended, and shall be in force and effect with respect to the United States, for the period of time ending on:

(1) the deadline for completion of Congressional review, pursuant to section 203(a) of such 1976 Act, of any new governing international fishery agreement signed, on or before July 31, 1982, by the United States and the respective foreign government that is a party to the agreement in question; or

(2) July 31, 1982, if the United States and the respective foreign government that is a party to the agreement in question fail to sign a new governing international fishery agreement on or before that date.

Mr. STEVENS. Mr. President, in addition to our review of H.R. 3816, I offer an amendment regarding approval of governing international fishery agreements (GIFA's). The language provided in this amendment will give congressional approval to GIFA's that are in place at this time and are due to expire July 1, 1982. Our immediate review of these matters is required because at present we have substantial joint venture fishing operations with these nations. The continuation of these agreements is essential in order to maintain, through extension, the treaty agreements that we have with these fishing partners who, by the way, are very strongly involved in the North Pacific Ocean off the coast of my State of Alaska.

The amendments in question provide both the approval of the governing international fishery agreements with the countries of Taiwan, the Soviet Union, and Poland and provide a procedure whereby agreements already in effect will remain so until extensions or modifications can be negotiated and submitted for the 60-day congressional review period. This is necessary because the Magnuson Fisheries Conservation and Management Act of 1976 requires a 60-day review period by both Houses of Congress of all new governing international fishery agreements. In this amendment we have provided that when agreements are in place, they shall remain so until a 60-day review period runs on a new agreement, after which the new agreement will go into effect unless Congress acts to the contrary.

As a point of clarification, I might also add that the intent of this agreement is such that if Congress were to adjourn sine die prior to the tolling of the 60-day period, it is the intention of the committee in these amendments to provide for an extension of the existing agreement during the time period of review which would include a new 60-day period to start at the beginning of the new session of Congress. As a result the review period might in fact run more than 60 days if we were not able to complete the entire review period in one session of Congress.

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

The amendment (UP No. 1042) was agreed to.

The PRESIDING OFFICER. If there are no further amendments to be proposed, the question is on the engrossment of the amendments and the third reading of the bill.

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

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

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

The motion to lay on the table was agreed to.

Mr. STEVENS. I thank the Chair and the I thank the Senator from Wisconsin for his indulgence.

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.

## UNANIMOUS-CONSENT AGREEMENT—SUPPLEMENTAL APPROPRIATIONS

Mr. BAKER. Mr. President, I have consulted with the minority leader in this respect. I wish to state a unanimous-consent request to prepare for the possibility of action by the Senate on an important matter tomorrow.

Mr. President, I ask unanimous consent that it be in order at any time on Thursday, June 24, for the majority leader to have placed before the Senate any major supplemental appropriations bill messaged to the Senate and that, after consulting with the minority leader, he may temporarily lay aside the pending business and proceed to the consideration of such a measure.

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

Mr. BAKER. Mr. President, it is my understanding that perhaps the House of Representatives will take action on the previous supplemental appropriations bill that has been sent to them by this body. I am awaiting word from the House in that respect. If the House does act by receding and concurring in the Senate amendment, which I hope for, it would be the intention of the leadership to go off this bill by moving to the consideration of the short debt limit, which is at the desk.

Mr. President, we will have to await action by the House of Representatives before final determination of that can be made. I hope that this evening we can do substantial work on the short debt limit. But I will consult with the managers in that respect, in this case, the Senator from Kansas (Mr. DOLE), the chairman of the Finance Committee, and the Senator from Louisiana (Mr. LONG).

In order to provide an opportunity for that at this time, 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. GARN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

## COMMENDING PHILIP A. LOOMIS, JUNIOR

Mr. GARN. Mr. President, I send to the desk a resolution cosponsored by Senator TOWER, Senator D'AMATO, Senator RIEGLE, Senator PROXMIRE, and Senator SARBANES, and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 417) commending Philip A. Loomis, Junior.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Utah?

Mr. ROBERT C. BYRD. Mr. President, this resolution has been cleared on this side of the aisle and there is no objection.

There being no objection, the Senate proceeded to consider the resolution.

Mr. GARN. Mr. President, I am very pleased to offer for the Senate's consideration a resolution commemorating the career of Philip A. Loomis, Jr. Mr. Loomis retired on Friday after having served for almost 11 years as a member of the Securities and Exchange Commission.

The resolution describes, in brief, some of the highlights of Mr. Loomis' career. Prior to being named as a member of the SEC in 1971, Phil Loomis has a distinguished career on the SEC's staff, where he served as general counsel of the agency from 1963 to 1971. In each aspect of his

public career, Phil Loomis has distinguished himself and contributed enormously to the SEC's deserved reputation as one of the most effective and efficient agencies in our government. He received the National Civil Service League Career Award in 1964; the SEC Distinguished Service Award in 1966; and the Federal Bar Association's Justice Tom Clark Award in 1971.

The present Chairman of the Commission, John S. R. Shad, has just written to me expressing enthusiastic support for this resolution. Chairman Shad's letter states in part that Phil Loomis' "Selfless dedication to public service is in the highest tradition of the civil servant and it sets a standard to which all could aspire."

I ask unanimous consent that the text of Chairman Shad's letter be printed in the RECORD.

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

SECURITIES AND EXCHANGE COMMISSION,
*Washington, D.C., June 21, 1982.*

Hon. JAKE GARN,
*Chairman, Committee on Banking, Housing, and Urban Affairs, U.S. Senate, Washington, D.C.*

DEAR CHAIRMAN GARN: I wanted to take this opportunity to thank you for agreeing to introduce the resolution honoring Commissioner Philip A. Loomis, Jr.

A highly regarded securities lawyer, Philip Loomis came to the Commission as a consultant in 1954, intending to return after a few months to his law firm in Los Angeles, O'Melveny and Myers. However, as he has said, he found the work interesting and worth doing and he valued the opportunity to work with people who were dedicated to doing the very best job they could. Thus, he accepted an offer from then Chairman Ralph Demmler to become first Associate Director of the Division of Trading and Exchanges and, later that same year, Director of the Division. He has remained with the Commission ever since.

In his career at the Commission, Philip Loomis has made major contributions to the preservation of investor confidence in our capital markets and he has had an immense influence on the development of modern securities laws. As Director of the Division of Trading and Exchanges and, starting in 1963, as General Counsel of the Commission, he was instrumental in developing such key legislative packages as the 1960 amendments to the Investment Advisers Act of 1940, the Securities Acts Amendments of 1964, and the Securities Investor Protection Act of 1970. Following his appointment to the Commission in 1971, he played a central role in the development of the Securities Acts Amendments of 1975.

Additionally, as General Counsel of the Commission, he successfully argued many cases before the Courts of Appeal and the United States Supreme Court that later proved to be watershed decisions. *S.E.C.* v. *Texas Gulf Sulphur Co.*, for example, has been the genesis of many subsequent decisions.

Notwithstanding these enormous contributions, however, perhaps his greatest value to the Commission lay in his superb counsel. Through the years and under many chairmen, whenever a particularly thorny issue came before the Commission on which a consensus could not be developed, the response inevitably was: "Let's call Phil Loomis and see what he thinks." His acute insight and keen practical sense enabled him to formulate positions that opposing parties could adopt. Through his advice, the Commission avoided much of the bitter divisiveness that often cripples collegial bodies, and accordingly, much of the Commission's effectiveness over the past quarter of a century may be attributed to his consummate skill in reconciling opposing views.

In recognition of these many contributions he was first appointed to the Commission by President Nixon in 1971 and reappointed by President Carter in 1979. He is widely recognized as an eminent authority on the federal securities laws; as the Wall Street Journal announced upon learning of his intent to resign: "Philip Loomis, Dean of the SEC, to Retire."

It is appropriate, therefore, on the occasion of his retirement, to honor Philip A. Loomis, Jr., for an outstanding career. His selfless dedication to public service is in the highest tradition of the civil servant and it sets a standard to which all could aspire.

Sincerely,

JOHN S. R. SHAD,
*Chairman.*

Mr. GARN. Mr. President, I urge the adoption of the resolution.

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

The resolution (S. Res. 417) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 417

Whereas Philip A. Loomis, Junior, has served his Nation with great distinction for more than thirty years in the highest tradition of public service, and is recognized as one of the foremost authorities in the field of securities law;

Whereas as General Counsel of the Securities and Exchange Commission, Philip A. Loomis, Junior, demonstrated extraordinary legal competence, briefing and arguing many cases in the Federal appellate courts, including successful argument of every case in which he appeared before the Supreme Court of the United States;

Whereas Philip A. Loomis, Junior, both as General Counsel and following his appointment to the Securities and Exchange Commission by the President of the United States, influenced much of the legislation significantly amending the Federal securities laws during the past two decades, contributing immeasurably to the preservation of the confidence of investors in the capital markets of the Nation; and

Whereas, during his tenure on the Commission, his fellow Commissioners often sought the counsel of Philip A. Loomis, Junior, and he contributed much to the premier reputation of the Commission for effective protection of investors and the public interest: Now, therefore, be it

*Resolved*, That Philip A. Loomis, Junior, on the occasion of his retirement from the Securities and Exchange Commission, is commended for his outstanding service to the Nation.

Sec. 2. The Secretary of the Senate shall transmit a copy of this resolution to Philip A. Loomis, Junior.

Mr. GARN. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

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

The motion to lay on the table was agreed to.

Mr. GARN. 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. Without objection, it is so ordered.

## TEMPORARY INCREASE IN PUBLIC DEBT LIMIT

Mr. BAKER. Mr. President, pursuant to the authority previously granted, I ask the Chair to now lay before the Senate House Joint Resolution 519.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

House Joint Resolution 519, to provide for a temporary increase in the public debt limit.

Mr. BAKER. Mr. President, may I have the attention of my colleagues. This is the so-called short debt limit, and it is a resolution that I hope will be adopted without amendment. It extends the debt limit by a certain amount of money until September 30. It is one of two measures passed by the House of Representatives in conjunction with the budget resolution which has now been enacted. I have consulted at length with a number of Senators on this matter beginning with the minority leader and with the distinguished ranking member of the Finance Committee, with the chairman of the Finance Committee, with the Senator from Iowa (Mr. JEPSEN), the Senator from Alabama (Mr. DENTON), the Senator from North Carolina (Mr. HELMS), and others. I have indicated to them that it is my intention to try to pass this short debt limit before our July 4 break without amendment in order to provide for the orderly functioning of the Government. We owe that responsibility. A part of the duty of governance is to see that we provide the resources for the Government to continue operating.

I understand that there are Senators who are very anxious to offer amendments dealing with a wide range of issues to a debt limit bill. For instance, the Senator from Iowa, I believe, has an amendment that he wishes to offer in respect to prayer in public schools. The Senator from Alabama, I am informed, has an amendment he wishes to offer perhaps on abortion. There

may be other amendments such as perhaps a sugar amendment, social security amendments——

Mr. LONG. Busing.

Mr. BAKER. Busing amendments, and others that I have not mercifully been made aware of. Mr. President, the representation that I have made to these Senators and now reiterate on the floor is that if we pass this short debt limit before we go out, it is my intention after we return on July 12 to turn to consideration of a constitutional amendment dealing with a balanced budget. I have said since Janaury, when the Senate first convened, that it was my intention to do that at some point. I have chosen this time, and I fully expect that a motion will be made that the leadership proceed to the consideration of such a resolution shortly, perhaps immediately, after we return from the recess.

I intend to stay on that and dispose of it, Mr. President. I will support it. It is my intention to try to pass it. I hope we will pass it. I think we certainly should pass it. But next after that, Mr. President, baring extraordinary emergency circumstances or matters that are agreed to by unanimous consent which would not require very much time, it would be my intention next to go to the other debt limit bill, which has been referred to the Finance Committee and assuming that it is reported by the Finance Committee, on the calendar and available for action by the Senate.

I fully understand that that second debt limit, which will be for a year past September 30, 1982, will be amended, perhaps; there certainly will be efforts to amend it in many respects. I anticipate that. But that will become a vehicle for the discussion of these important issues and for the testing of the point of view of the Senate in respect to them.

(Mr. GRASSLEY assumed the chair.)

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

Mr. BAKER. I yield to the Senator from Louisiana.

Mr. LONG. Mr. President, the Senator from Louisiana has been working on an amendment that he considered offering on this bill. If there are going to be amendments, the Senator from Louisiana might want to offer his. My amendment would be a spending limitation, thoroughly germane to the debt limit bill, that would prescribe the rate at which the debt limit would increase and would undertake to see that we stay within the prescribed limit.

There is no point going into great detail to explain it, because I am not going to offer it at this time. It has support on both sides of the aisle, and it is thoroughly germane to the bill—not that germaneness is required in the current parliamentary situation.

Even so, Mr. President, in view of the short term involved in this particular debt limit bill, it seems to me that we should permit this bill to go through, reserving to all Senators their right to vote their convictions about it, and save our amendments until the major debt limit bill comes up later this year.

There is no issue that a Member could bring up now that he could not bring up then, so every Member would have an opportunity when the subsequent debt limit bill comes up. For that matter, I should think that there would be other revenue bills on which Senators would have an opportunity to do their work.

I assure the Senator that I, as the ranking minority Member on the Finance Committee, would be happy to cooperate to see that those who have amendments deserving the consideration of the Senate would have opportunities to offer them on some other measures.

Mr. BAKER. I thank the Senator from Louisiana. I join him in saying that there are any number of Senators who have amendments. Many of them have talked to me and they have talked to him and to the distinguished Senator from Kansas (Mr. DOLE), the chairman of the committee. I think they will forbear to do that.

I hope they will work with them, as I am sure Senator DOLE and Senator LONG and others will, to find an opportunity for them to present their amendments in a timely way, and promptly, and that they will not burden this short debt limit bill with those amendments.

Mr. DOLE. Mr. President, our purpose here today is to act promptly to protect the fiscal integrity of the Federal Government. To some it may seem contradictory that to do so we must raise the ceiling on the public debt. Nevertheless, that is the unpleasant task we once again face. We should recognize that our job will be much more unpleasant if we delay in carrying out our responsibility to insure that the Government can honor its outstanding commitments.

This is the third time in 2 years that the Congress has been obliged to address the question of the limit on the public debt. In September, we approved the present debt limit of $1,079.8 billion through September 30. At that time this Senator, and many others in this Chamber, indicated that there would be a great deal of reluctance to approve further debt ceiling increases unless substantial and dramatic changes in the fiscal policy of the Federal Government were undertaken. Now we are again faced with a debt ceiling increase, while many budget analysts express concern about our ability to bring deficits under control over the next few years.

Mr. President, in the judgment of this Senator, there is no question that over the past year there has been a significant reversal of the attitude toward Federal spending that for too long prevailed in this Congress. More and more we understand it is not our job to promulgate new programs and add new items to the budget without considering the consequences for the fiscal well-being of the country. We are obliged to weigh competing programs in shaping the budget, and to set an overall limit and adhere to it. These changes are all to the good. Unfortunately, understanding our obligation still has not prevented us from falling short when the tough decisions come around.

The change has come about because President Reagan showed his determination to control Federal spending. Because of his leadership, we cut $35 billion from the budget for fiscal 1982. The savings from those cuts will grow in future years. Still, because of recession and the ongoing momentum of Federal spending, we face record deficits. The President has stated, time and time again, his belief that we cannot let up the pressure on the budget. That is what we have to agree on, or we will see no end to these debt limit increases.

The deficit problem we now face is of unprecedented proportions, but it has been building for many years. We cannot overestimate the urgency of this problem. The deficit cannot be slashed overnight, but it can be made manageable by a commitment to make the legislative changes needed to cut spending and raise revenues over the next 3 years. The budget resolution we have adopted makes that commitment but until we take strong action to implement that budget, we will not have done our job.

Mr. President, this Senator is prepared to support the administration request to raise the debt ceiling. The President agrees with those of us who fear the consequences of perpetual deficits that mortgage future generations. He has made more progress on reducing spending than any Chief Executive in recent history. We have to continue to work with the President to put our finances in order, and as part of that effort we should approve a debt ceiling that will keep the operations of the Government on an even keel.

I will ask to have inserted in the RECORD a discussion and chronology outlining the difficulties the Government will face if this debt limit increase is not approved. Every obligation of the U.S. Government hinges on timely approval of this resolution, from Treasury bill offerings to social security and Federal retirement payments. These obligations are crucial to the recipients of Federal benefits, and

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to investors. If we want to upset financial markets and frighten the recipients of Federal entitlements, we can reject this debt ceiling increase. But if we want to reassure the financial community that we will act responsibly, this debt ceiling increase ought to be approved. I urge my colleagues to approve it.

Mr. President, I know that every Member of this body is extremely reluctant to approve a further debt ceiling increase. The present resolution provides a limit of $1 trillion, $143.1 billion through September 30, 1982. But this question must be faced and dealt with promptly, because it shows how far we have gone astray in the past and how we must act differently in the future. Because of the explosive growth of Federal deficits in recent decades, the debt ceiling was raised on 13 separate occasions in the 1960's and 18 times during the 1970's. Worse yet, on three occasions in recent years the temporary limit has expired without timely legislative action to extend it. Sales of savings bonds and other securities had to be suspended, as will happen again if we fail to act. Such suspensions only undermine investor confidence and lead bidders for Government securities to demand higher interest premiums in the future. That means permanently higher financing costs for the Government, when we all know that those costs must be reduced.

I am convinced that with further cooperation between this administration and this Congress we can gain sufficient command over fiscal policy to avoid frequent increases in the debt ceilings. But clearly we cannot fail to act now, in view of the obligations the U.S. Government is bound to honor. We will continue to work for a consensus on fiscal policy to demonstrate our good faith with the American people. At the same time, we must remember that our problems were not generated overnight, but over a period of decades. There are no quick solutions or easy answers. A firm and steady course over a period of years is the only sensible policy. I know the President agrees with that, and I am sure most Senators will also agree.

Mr. President, finally I would emphasize that delay in raising the debt ceiling—or, worse, yet, a failure to raise it at this time—will make the problems we see in the financial markets significantly worse. Not only would the Treasury face higher financing costs—costs we are all trying to bring down—but those costs probably would also be transmitted to the private sector and be reflected in the general level of interest rates, which often key into rates on Treasury bills. We cannot forget that the financial markets remain jittery and highly sensitive to our action or inaction, and to the financing schedule of the Treasury Department. Anything we do that impedes a steady and responsible managing financing operation for the Government can only make matters worse so far as the markets are concerned. I know that is not what the Members want, and I hope we can expedite a clean bill to raise the debt ceiling. Because further action on this matter by the House is impossible before July 12, we cannot afford to tamper with the legislation before us.

Members may have observed that in the past week, Treasury bill rates have been raising. There are many factors involved, but one of them is uncertainty about our action on the debt ceiling. I ask unanimous consent to have printed in the RECORD following my remarks an article from the New York Times of Wednesday, June 23, which discusses this problem. If we want to bring interest rates down, let us act responsibily on the debt ceiling.

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

CREDIT MARKETS—TREASURY ISSUES MOVE LOWER—6-MONTH BILL'S RATE 13.18 PERCENT

(By Vartanig G. Vartan)

Negative economic statistics combined with the credit market's entrenched worries over monetary and fiscal policy to force prices of Government securities moderately lower yesterday. This offset Monday's gains and sent yields back up to the levels prevailing on Friday.

Prices have been declining and yields rising for about four weeks. As an example of yesterday's price erosion, the Treasury's bellwether 14 percent bond due in 2011 was offered at 98½, down ½, to yield 14.21 percent, at midafternoon.

Short-term rates also climbed. Three-month Treasury bills were offered at levels to yield 12.77 percent, compared with an average rate of 12.588 percent at Monday's auction. The six-month bill showed a yield of 13.18 percent. Its rate at the action averaged 13.031 percent.

DEBT CEILING A FACTOR

There was uncertainty most of yesterday about the Treasury's financing plans because of the national debt ceiling. This added another element of unease to an already nervous fixed-income community.

Shortly after 4 P.M., the Treasury announced plans to sell $17 billion of bills and notes in three separate auctions. Following this announcement, prices of Government securities declined further.

Scheduled for sale next Monday in $9 billion of three and six-month bills, instead of the $10 billion typically sold at weekly auctions. "The size of this offering," the Treasury said, "has been reduced due to the debt ceiling limitation."

Meanwhile, the sale of $4 billion of four-year notes, originally scheduled for today, was rescheduled for next Tuesday.

The Treasury also announced that $4 billion of seven-year notes will be sold July 1 to raise fresh cash. The scheduling of this issue, it said, "is being accelerated to meet cash needs that normally would be met by a 20-year issue." The department has exhausted its authority to issue long-term bonds. Congressional approval is necessary to extend this authority.

HOUSE VOTES RISE IN CEILING

Yesterday's approval by the House of the budget plan for the fiscal year 1983 carried with it automatic approval by this body of a rise in the debt ceiling. The Senate, under its own procedures, must vote separately on the budget plan and an increase in the debt ceiling.

As for economic news, the Government reported yesterday morning that the Consumer Price Index for May rose 1 percent. This constituted a slight negative for inflationary expectations. Earlier, the consensus estimate on Wall Street had been for a gain of five-tenths of 1 percent.

In midafternoon, the Commerce Department said that new orders for durable goods rose 1.4 percent in May. Since this indicated a slight pickup in economic activity, it aroused concern about possible increases in credit demand from the business community. Consensus estimates had called for an increase of five/tenths of 1 percent to 1 percent.

But dealers emphasized that prospects of huge budget deficits and puzzlement over the Federal Reserve's monetary policy continued as the main dampers to buying demand. "An additional worry is the lack of liquidity in the Government securities market," one trader said.

In this context liquidity means two things: the ability to find the best prices in the market quickly and the ability to buy or sell securities with a minimum impact upon market prices.

Two state issues were sold at competitive bidding in the tax-exempt market.

Pennsylvania's $82 million of general obligation bonds were won by a group led by the Morgan Guaranty Trust Company with a bid setting the annual net interest cost at 11.79 percent. The bonds were priced for reoffering to yield 8.75 percent in 1983 to 12.50 percent in 1999 and 2000.

A Salomon Brothers group won two issues totaling $116.31 million of Georgia's general obligation bonds. The series D bonds, totaling $62.47 million, set a net interest cost of 9.5472 percent. They were priced for reoffering to return 8¼ percent in 1983 out to 9.60 percent in 1987.

The $53.84 million of series E bonds had a net interest cost of 11.3407 percent. These bonds were priced for reoffering to yield 8¼ percent in 1983 to 10.20 percent in 1989.

KEY RATES

[In percent]

| | Yesterday | Previous day | Year ago |
|---|---|---|---|
| Prime rate | 16.50 | 16.50 | 20.00 |
| Discount rate | 12.00 | 12.00 | 13.00 |
| Federal funds | 14.00 | 14.05 | 16.75 |
| 3-mo treasury bills | 12.85 | 12.55 | 14.60 |
| 6-mo treasury bills | 13.25 | 13.10 | 14.10 |
| 7-yr treasury notes | 14.91 | 14.82 | 13.74 |
| 30-yr treasury bonds | 14.23 | 14.15 | 13.00 |
| Bell system bonds | 16.40 | 16.36 | 14.78 |
| Municipal bonds | 13.65 | 13.65 | 11.25 |
| 6-mo savings certificates [1] | 13.281 | | |

[1] Maximum rate.

Source: Salomon Bros. estimates for bellwether issues.

Mr. BAKER. I see the Senator from Iowa on the floor. I yield first to him and then to the Senator from Maine.

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

Mr. BAKER. I yield.

Mr. JEPSEN. On the so-called short debt limit bill, to what date does this bill take us?

Mr. BAKER. It is my understanding that this bill runs through September 30, 1982.

Mr. JEPSEN. Is there any way that bill could be extended and could be used as a vehicle in lieu of a more permanent debt limit bill or this additional, second one we are talking about?

Mr. BAKER. Mr. President, to answer the question literally, yes, of course, there is a possibility that it could be amended at some future time to extend the date. But I assure the Senator from Iowa that that is not my intention, No. 1. No. 2, if such an amendment is offered at a later date instead of as a new bill, I would expect amendments to that as well; and I would have no objection to efforts of the Senator from Iowa or others to urge their point on such a vehicle instead of on the big debt limit bill.

I have urged the chairman of the Finance Committee, and I urge all Members now, to consider that it is urgent that the Finance Committee give us that bill as soon as possible after we return from the Fourth of July recess, in order to perform on commitments I am now representing and making. I hope that will be done. I will urge them once again when the time comes.

It is my full expectation that we will have a long debt limit bill reported by the Finance Committee sometime during the weeks of July and August to deal with these matters on that bill. I do not expect that we will address these subjects as an amendment to the short debt.

Mr. JEPSEN. If the short debt limit bill is not passed tonight, what date is the first time we will experience the problems of not having the proper amount of money to run the Government?

Mr. BAKER. I am sorry. I was momentarily distracted. Will the Senator repeat his question?

Mr. JEPSEN. If this short debt limit bill should not be passed, what is the date when it becomes necessary for some action to be taken to keep the Government on its normal, day-to-day activities?

Mr. BAKER. I talked with the Secretary of the Treasury earlier today, and I have a memorandum from him setting out the circumstances of failure to act on these subjects. I think it is correct to say that, unlike other debt limits we have had to deal with, we are not now dealing with the permanent and temporary debt limits but, instead, with the amount of money that the Treasury can deal with to borrow to the limit.

If we were not to do this, if we did not pass this debt limit, these things, it seems to me, would occur:

The Treasury's ability to carry out predictable, prudent debt management would be impaired by the current level of the debt ceiling, $1,079.8 billion.

The Treasury has already been forced to do the following to avoid breaching the debt limit:

To reduce the size of weekly bills from $10 billion to $9 billion. Because the size of future sales may vary from week to week, market participants are unsure of Treasury financing plans and bid a lower price to reflect the uncertainty.

It was pointed out, if my memory is correct, that for every 10 basis points of interest we deal with, as traders may bid higher, we are talking about $75 million of public funds.

Second, it will be necessary to announce a postponement of the 4-year note scheduled for June 23, which is today, and which I assume may already have been done. I am advised now that it has been done.

In addition, I am advised by the Treasury that unless the debt limit is raised by July 6—and the Senator understands that we would be in recess on that date, if we keep the schedule—further changes in the Treasury's normal financing will be required to avoid actions which would breach the limit.

The market uncertainty increases the Treasury's interest expense, and thus the cost to the taxpayers. I spoke a moment ago of $79 million for each 10 basis points. I understand now that it is $74 million.

Another effect would be higher rates on Treasury obligations, which would provide upward pressure on interest rates generally and would raise the cost of borrowing not only for the Federal Government but for municipal governments and private businesses as well.

It is pointed out that recent maneuvering by the Treasury in its borrowing activities has resulted in a lower than desired cash balance. If the debt limit is not increased, balances are estimated to be dangerously low, and there is a substantial risk that the Government will run out of cash by mid-July. Keep in mind, of course, that the Senate is not scheduled to return until July 12. In that event, the Treasury could not pay checks presented for payment in the regular order of business.

The Treasury's July-September market borrowing requirement is estimated at about $35 billion, assuming a fiscal 1982 budget deficit of $100 billion. Treasury's regular schedule of borrowing would raise this cash in a smooth, even pattern throughout the quarter, minimizing market disruption. Without some debt limit action, sufficient new cash cannot be raised in July, forcing the Treasury to concentrate its cash raising in August and September. This will be disruptive to the market, adding upward pressure on rates.

This is a summary of the consequences of the failure to pass a short debt limit before we recess on July 2, as presently planned.

Mr. JEPSEN. I thank the majority leader. Is it his hope or desire that this bill be passed this evening with a voice vote?

Mr. BAKER. Yes, it is my hope that we may do so.

Mr. President, I now yield to the Senator from Maine.

Mr. COHEN. Mr. President, I wish to call to the majority leader's attention the fact that he and others here in the body have a short-term debt problem and a long-term debt problem, but I think there is another type of problem that I have and Senator LEVIN and others in the Senate have which is a short-term problem with our social security disability program and a long-term problem as well.

Tomorrow morning Senator LEVIN and I have taken a special order in which to discuss a comprehensive bill that he and I will be introducing to try and reform the current social security disability program which is operating under some conflicting rules and regulations mandated by Congress to conduct reviews of those people who are the most disadvantaged and unfortunate in our society who have suffered severe disability, so severe that they not only cannot engage in the work they normally do, but they are so disabled that they cannot engage in any kind of substantial gainful employment not only in their hometown and their home State but anywhere in the country. These are severely disabled people.

In 1980 Congress mandated a review of those disability programs because we were under the impression, and correctly so, that some people on the rolls did not deserve to be on there and they should be discontinued.

The difficulty is that this mandated review is being carried out in such a way with a lack of specific guidelines by Congress that many people who are truly disabled are being terminated on their disability payments only to have them reinstated as much as a year or 18 months later, and during that interim 18-month period several have committed suicide because of being distraught, a number have entered the hospital because of anxiety that has been developed after the termination of those payments. Some very, very significant cases of hardship, what otherwise have been called horror stories, have been paraded before the other body and before even our committee.

So what Senator LEVIN, the Senator from Michigan, and I are trying to do is to reform the overall system to put some uniformity in the rules and regulations, to put some equity in those rules and regulations, and to deal with

it on a comprehensive basis, but in the meantime we have nearly 200,000 people who are going to be terminated, taken off the rolls, and only to have to go through the whole appeals procedure, to get the administrative law judge, sometimes 18 months from now, hopefully to be reversed if in fact they are entitled to the benefits.

It seems to me we have to deal with this on a short-term basis as well as a long-term basis.

It was for that reason that I had fully intended to take the floor this evening to offer a modified amendment that would provide short-term relief until such time as we could develop through the committee system the comprehensive legislation that Senator LEVIN and I wish to introduce.

In talking with the majority leader and with the Senator from Louisiana, I am persuaded that we need to have this short-term debt ceiling passed without crippling or encumbering amendments. But I am prepared to do so only if there is some assurance from the majority leader and others will assist Senator LEVIN and me in providing not only a comprehensive reform of the system which is in need but some sort of short-term relief for the many thousands of people who are going to be injured by a system that we have set up without adequate guidelines and specificity.

If we can receive that assurance that we may use the nearest vehicle that we find that will deal with this problem on a short-term basis, not the comprehensive legislation which will take some weeks to develop, but the short-term problem of providing some measure of interim relief for people who are going to be terminated, then I am prepared to withhold the amendment and then offer the comprehensive one tomorrow.

But if I could have the majority leader's assurance that he will assist us in finding a vehicle and an appropriate vehicle to provide some short-term modification of the current law, then I will be prepared to withdraw and withhold the amendment this evening.

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

Mr. COHEN. I yield.

Mr. LEVIN. Mr. President, I am willing to join the Senator from Maine in that assurance to the majority leader that we will not bring this up tonight on those conditions.

I do want to just give one moment of the dimension of the problem, and that is that in 1979 and 1980 social security reviewed 160,000 cases. Because of the mandate that went up in 1981 to 350,000 cases, in 1982 to 560,000 cases, and in 1983 to 840,000 cases.

We are talking literally about a million and a half people who are going to be crushed in this inequity, and the interim problem is immense as well as the long-range problem. Because of the assurances of the majority leader in terms of a vehicle in the middle of July, I am willing to join with the Senator from Maine in the action we propose to take which is withhold this amendment tonight, but I do think it is important that we do have these assurances and this support from the majority leader.

Mr. BAKER. Mr. President, I thank the Senator from Michigan and I thank the Senator from Maine.

Both the Senator from Maine and the Senator from Michigan have had a leading role not only in identifying these problems but in addressing them.

As the Senator from Maine points out in a comprehensive way in terms of the bill they are prepared to introduce on tomorrow I believe and also in the short term as they had sought originally to do by addressing the short-term debt limit. I fully understand the urgency of the situation. I am sympathetic and indeed I support an effort such as that being suggested by the Senator from Maine and the Senator from Michigan for short-term relief.

I do not know the details of it and I will consult and confer with both Senators to ascertain the best way to approach this matter.

I did assure them that I recognize that it is a matter of great importance, and I will try to find and I am certain I can succeed in finding a vehicle after we return from the Fourth of July recess onto which they can add a proposal dealing with the short-term relief which they have so ably described.

Mr. COHEN. I thank the majority leader.

Mr. LEVIN. Mr. President, will the majority leader yield for another amendment which I discussed briefly with the majority leader?

Mr. BAKER. I yield to the Senator from Michigan.

Mr. LEVIN. Mr. President, I have discussed this amendment also with the Senator from Louisiana.

Last year we terminated precipitately and retroactively what was called the social security student benefit. This is the benefit which approximately a quarter of a million students receive each year so they can go through college. There are the children of deceased and disabled workers.

May I say that about 45,000 of these children are the orphans of Vietnam soldiers, our soldiers in Vietnam who never came back, who were promised that if they went to Vietnam and died that their children would receive the social security benefits through college.

Last year we broke that commitment, and we have been waiting for some time to preserve it, to restore that social security student benefit.

There is an extra reason to preserve it for an additional year, and that is that the Social Security Administration sent out erroneous information from two of its six offices telling these high school seniors if they were enrolled by this September in college that the benefits would continue through college. That was erroneous information. It has never been corrected, and it is an additional reason to preserve this benefit for an additional year.

It is my intention to offer an amendment to get this matter before the Senate and resolve it. There is a great deal of support. I think we have about 10 sponsors to this amendment. There is bipartisan support for it. It is a critical matter, and I would like to have the majority leader's comment on it.

I am particularly concerned by one aspect, and that is we can resolve this matter in probably 2 to 4 hours.

I am concerned when the majority leader comes back and calls up the constitutional amendment that that can take a few weeks, and this critical amendment—this a time-critical amendment because it involves the plans for the fall, for the school term that begins in August and September. So it will not be good enough for us to vote on this sometime in August.

I would like to have some assurance not just that there will be a debt ceiling limit extension that comes along in July to add this to, but that if the pending business is the constitutional amendment and it goes on at great length that there will be an opportunity to set that aside so that this matter can be taken up in a timely way, and that the germaneness point of order will not lie against it, because we do have a vehicle here tonight where this would be appropriate to raise, and I would hate to see a germaneness point of order made against this at some point late in July and find, in effect, we had been deprived of an opportunity to air and have a vote on this matter.

Mr. BAKER. Mr. President, I thank the Senator from Michigan. I must say that I stand here at some disadvantage in that not only am I not the chairman of the Finance Committee, I am not even on the Finance Committee and, for that matter, I do not even fill out my own income tax return, so I am a babe in the woods in this respect.

On the matter the Senator from Michigan addresses, I must confess to him that I do not know the details. I simply cannot speak on the merits of the controversy.

As I told him earlier and privately, I am perfectly willing to cooperate with him in trying to find a vehicle that he can deal with. But I must say in all candor I cannot, first, provide against a germaneness challenge or, second, provide that we will lay aside the con-

stitutional amendment debate in order to take this up.

Let me try to do what I did before for the Senator from Maine and the Senator from Iowa, and I have done in other conversations with a number of Senators. I will try to help him find some way to address this problem. It would be my hope that the way to do that is in the schedule of events I have already described.

I suppose it would not be appropriate to try to put it on the constitutional amendment legislation dealing with the balanced budget. I would assume he would not choose that. But on the question of whether or not that is going to take a whole summer I think the Senator should also assume that I think he can judge that by what we have done in the past. I am not going to let the Senate go on endlessly in this debate. We are either going to get cloture or conclude that debate in an orderly way, on an orderly basis, within a reasonable time or some other way. So I cannot give him this assurance that we will lay it aside. But I can give him assurance, as I said earlier, that I will prosecute the debate and I will push the debate on the consitutional amendment with all sincerity and effort.

On the question of a point of order on germaneness I simply do not know how to do that. It is not my intention to set up the Senator from Michigan so that there would be a point of order. Indeed I will cooperate with him procedurally, with the good offices of the minority leader, who is an absolute expert in this field, to find a way to permit the Senator from Michigan to address this.

But I hope the assurances I have now given him can get across to him that it is my intention to do exactly what I have said, and that is to help him address this issue. But I cannot go so far as to indicate that I can protect him on the procedural points that he is suggesting. I do not want him to fall with those, but I cannot do much for him.

Mr. LEVIN. Mr. President, if the majority leader will yield——

Mr. BAKER. Yes.

Mr. LEVIN. I, first of all, need no assurances with respect to the merits. I need no assurances that the Senator is setting up the Senator from Michigan for a point of order. The Senator never sets up any of our colleagues for anything.

Mr. BAKER. I thank the Senator.

Mr. LEVIN. The problem I do run into, frankly, is the time problem. There are plans that students must make for August. It used to be that school started in September. It now starts in August.

We have a quarter of a million students out there waiting for a decision on this matter. If that debate on the constitutional amendment rolls toward the end of July, I know the majority leader's intention is to bring that to a proper and quick termination but, nonetheless, we cannot as a practical matter be foreclosed despite the best intentions of the majority leader, and I am struggling here to find a way that the unanimous-consent request which was posed by the majority leader this evening can protect me, if there is such a request which is posed by the majority leader tonight, can protect me, on a germaneness point of order if the reconciliation bill is the vehicle that first presents itself for this amendment.

I do believe it is possible for such a unanimous-consent request to be placed by the majority leader. I am frankly in a predicament. I must receive a timely determination. This is June 23. That is a month better than July 23. This whole thing will take 4 hours; the debate on the constitutional amendment will take 2 weeks. This matter can be resolved without taking up the constitutional amendment. A quarter of a million students, 49,000 children of soldiers who lost their lives in Vietnam, are affected, and all I need are the 4 hours. And I would like to see that taken up before the constitutional amendment.

I think the issue is important enough. But if the majority leader has a commitment with others that the constitutional amendment will come up, I am struggling to find a way in which this matter can be resolved by the middle of July. I am not trying to in any way mess up the procedure this evening. I am going to vote for the debt limit extension. I am not trying to leverage it in terms of merit, but simply trying to get this thing resolved before the middle of July.

Mr. LONG. Mr. President, as the majority leader well knows, the kind of thing the Senator has in mind would not be subject to an objection on its germaneness if it were offered in a revenue bill. Hopefully, the House will send us some more revenue bills to give us more latitude, and I feel confident that they will.

In that event the Senator would not need a unanimous-consent agreement to waive germaneness because the amendment would be offered on a Finance Committee bill.

I hope we can accommodate him so he will have his opportunity. But if that is not possible, then perhaps, the majority leader could use his influence to help gain consent to offer the amendment on an appropriation bill. However, I hope that will not be necessary.

Mr. BAKER. Mr. President, it would be impossible for me to make that request this evening. I do not have the chairman of the Appropriations Committee here to consult with or, for that matter, the chairman of the Finance Committee.

There is one point the Senator from Michigan made that I may be able to reassure him on though, and that is the question of whether or not there will be any business transacted before the constitutional amendment. Perhaps. My statement earlier was that we would return to it shortly after we return or, perhaps, immediately after we return, and the reason for those words was to point out that if there are a few, if there are some, items that appear to be urgent and that we can do in a fairly short period of time I am willing to consider them. I am not now saying to the Senator from Michigan I would do this before we get to the constitutional amendment, but I am saying I would not rule out that possibility after I have had a chance to confer with the chairman of the Finance Committee and the chairman of the Appropriations Committee.

Mr. LONG. Mr. President, if the Senator will permit me, I will say that, as the ranking member on the committee, I want to assure the Senator that he will have my complete cooperation in seeing that the Senate has an opportunity to vote on his proposal.

I would like to know more about it. For example, I would like to know what comments the appropriate Government department official might have on the Senator's proposal. It sounds like a proposal with overwhelming merit, but you know how it is when you hear from the departments. They may have an objection, and the objection may even have merit. Therefore, I am not in position to assure the Sena'or at this point that I will support his amendment. I can, however, assure him I will give him my complete cooperation in seeing that he has an opportunity to offer his proposal and have it considered on its merits on an appropriate vehicle.

Mr. LEVIN. Mr. President, if the Senator will yield, is it fair to indicate that you would help seek it as well by the 20th of July?

Mr. LONG. I will do the best I can, Mr. President. I am not the committee chairman and I am not the majority leader.

I am the ranking member on the Finance Committee. But in my capacity, I will be glad to cooperate.

Mr. LEVIN. I wonder if I could just get a prediction from the majority leader. We are trying to pin him down too hard. Would the majority leader be able to predict if we could get a vote on this matter within 15 days or so after we return in July? I am seeking a prediction here, not a commitment.

Mr. BAKER. I am willing to predict that I will try to do that. The Senator from Kansas is not here, unfortunately, and I have not consulted with him yet on how the debt limit is going to

be reported back or, for that matter, the chairman of the Judiciary Committee, on when we are going to take up the constitutional amendment.

But I am perfectly willing to tell the Senator, as I did earlier, that I am not committed to coming back on the 12th and going straight to the constitutional amendment. I am committed to doing it almost that fast, within hours or a day or two. But if we can work this in there and if the chairman of the Finance Committee and the chairman of the Appropriations Committee and others are willing, I will put no objection in the way of it.

My prediction would be that the Senator would probably succeed with that. But I really must stop short of making a commitment, because I cannot do that on my own responsibility.

Mr. LEVIN. The majority leader's effort is to try to see that that vote takes place by the 20th. His best intention to do so without committing himself to it is good enough for me.

Mr. BAKER. I thank the Senator.

Mr. CHAFEE. Mr. President, it seems to me we are ready to move on for a vote here. Therefore, I ask for the yeas and nays.

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

The yeas and nays were ordered.

The PRESIDING OFFICER. The joint resolution is 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 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? The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from New Jersey (Mr. BRADY), the Senator from Arizona (Mr. GOLDWATER), the Senator from Utah (Mr. HATCH), the Senator from Pennsylvania (Mr. HEINZ), and the Senator from Vermont (Mr. STAFFORD) are necessarily absent.

Mr. CRANSTON. I announce that the Senator from Nevada (Mr. CANNON), the Senator from Arkansas (Mr. BUMPERS), the Senator from California (Mr. CRANSTON), the Senator from Louisiana (Mr. JOHNSTON) and the Senator from Arkansas (Mr. PRYOR) are necessarily absent.

I further announce that, if present and voting, the Senator from Nevada (Mr. CANNON), would vote "nay."

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

The result was announced—yeas 49, nays 41, as follows:

[Rollcall Vote No. 198 Leg.]

YEAS—49

| | | |
|---|---|---|
| Abdnor | Garn | Percy |
| Andrews | Gorton | Pressler |
| Baker | Hatfield | Quayle |
| Bentsen | Hawkins | Roth |
| Boschwitz | Hayakawa | Rudman |
| Burdick | Jackson | Schmitt |
| Chafee | Kassebaum | Simpson |
| Cochran | Kasten | Specter |
| Cohen | Laxalt | Stennis |
| D'Amato | Levin | Stevens |
| Danforth | Long | Thurmond |
| Denton | Lugar | Tower |
| Dole | Mathias | Wallop |
| Domenici | McClure | Warner |
| Durenberger | Murkowski | Weicker |
| Eagleton | Packwood | |
| East | Pell | |

NAYS—41

| | | |
|---|---|---|
| Armstrong | Glenn | Melcher |
| Baucus | Grassley | Metzenbaum |
| Biden | Hart | Mitchell |
| Boren | Heflin | Moynihan |
| Bradley | Helms | Nickles |
| Byrd, Harry F., Jr. | Hollings | Nunn |
| Byrd, Robert C. | Huddleston | Proxmire |
| Chiles | Humphrey | Randolph |
| DeConcini | Inouye | Riegle |
| Dixon | Jepsen | Sarbanes |
| Dodd | Kennedy | Sasser |
| Exon | Leahy | Symms |
| Ford | Matsunaga | Tsongas |
| | Mattingly | Zorinsky |

NOT VOTING—10

| | | |
|---|---|---|
| Brady | Goldwater | Pryor |
| Bumpers | Hatch | Stafford |
| Cannon | Heinz | |
| Cranston | Johnston | |

So the joint resolution (H.J. Res. 519) was passed.

Mr. BAKER. I move to reconsider the vote, Mr. President.

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

The motion to lay on the table was agreed to.

Mr. BAKER. Mr. President, there will be no more votes tonight.

## ORDER WAIVING COMPLIANCE WITH RULE XXVI, PARAGRAPH 11(b)—SENATE REPORT 97-359

Mr. THURMOND. Mr. President, rule XXVI, paragraph 11(b), requires that a regulatory impact statement accompany the report of any legislation of a public character.

Senate Report 97-359 concerns S. 995, the Antitrust Equal Enforcement Act. S. 995 creates no new regulations nor does it have any effect on existing regulations of any Government agency. While I regret that a regulatory impact statement was inadvertently omitted from Report 97-359, I do not feel an additional expenditure is necessary or appropriate to reprint the entire report. Therefore, I ask unanimous consent that compliance with rule XXVI, paragraph 11(b) be waived for Senate Report 97-359.

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

## CONTROL OF THE MONETARY SYSTEM

Mr. SYMMS. Mr. President, the subject of interest rates, monetary policy, the "independence" of the Federal Reserve, and various alternatives ranging all the way from credit allocation and wage controls to the gold standard and abolishing the Federal Reserve, have been debated with increasing frequency and vehemence in congressional offices and the media. The Under Secretary of Treasury for Monetary Affairs, Dr. Sprinkel, was quoted in the Wall Street Journal this week about studies the Treasury is conducting regarding new ways to control monetary policy, including limiting the Federal Reserve's freedom to make any old mess of unemployment, inflation, and interest rates that it chooses.

My colleagues know that I am a strong supporter of the free market, and I believe the free market also offers the solution to the current monetary policy mess. Last year I introduced S. 1704, the Free Market Gold Coinage Act, that would have authorized the mint to produce gold coins that would have been an alternative to the Federal Reserve's greenback money. The U.S. Gold Commission took up my idea and recommended to Congress on March 31, 1982, that a new bullion-weight coinage be created. Senator HARRISON SCHMITT, who served on the Gold Commission, has introduced S. 2330, the American Eagle Gold Coin Act of 1982, to implement the recommendations of that special Commission. I am a cosponsor of that bill, and I recommend it to my colleagues.

Earlier this month, a symposium was held in Washington, D.C., by the Gold Institute/L'Institute de l'Or, the technical association of the mining and metals industry. The subject was "Gold as Coinage, Money, and Investment." One paper presented at that conference was particularly relevant to monetary policy in the United States today. The paper was presented by Joe Cobb, executive director of the Choice in Currency Commission, a private research organization here in Washington that is concerned with monetary policy and the deregulation of financial institutions.

Mr. Cobb is a member of the American Economic Association and the National Association of Business Economists. His talk before the Gold Institute's symposium is one of the best explanations of the development of money that I have read. In the past 100 years the United States has managed to so regulate and doctor its system of money and banking that we have very nearly destroyed it. The current debate about monetary policy and the independence of the Federal Reserve is an exercise in shadowboxing, because hardly any of us know what the principles of a good monetary system would be. Joe Cobb's argument is that the free market knows what it wants, and that the Troy ounce of

gold is rapidly becoming the international form of money for the next century.

I ask unanimous consent that his paper be printed in the RECORD.

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

THE TROY OUNCE OF GOLD AS A TRANSNATIONAL MONETARY UNIT

(By Joe Cobb)

It is with a touch of trepidation that I have entitled my paper in a way as to cojoin the words "monetary unit" and "Troy ounce." I have been in many frustrating, and circular arguments with purists in the numismatic commmunity who tell me that "Money comes from Governments." Moreover, they say, the "Troy ounce is a unit of weight, not a unit of money." It seems that "money" is supposed to be named by governments with distinctive neologisms—like "mark, franc, peso, dollar" (and "Krugerrand"?).

What I want to do today is to argue historically from the origins of money, and prospectively in accord with the currents of political events and contemporary evolution to what I see as the future of money in the final decade of this century, and beyond.

At the dawn of the modern era, Jean Bodin wrote "The Six Books of a Commonweale" (1576) in which the concept of sovereignty was set forth for the first time in its modern form. He regarded the prerogative of a monopoly over the coinage as one of the most important and essential parts of it. The regalia, as these royal prerogatives were called in Latin, of which coinage, mining, and customs duties were the most important, were the chief sources of revenue for government during the Middle Ages. Under the Romans, gold coins were monopolized by Caesar and silver coins were monopolized by the Senate. Aristotle actually believed that money was created by a political act of the city-state. During the Middle Ages, the doctrine of valor impositus held that it was the government that conferred the value upon the coinage—rather than the market demand for the gold or silver in the coinage.

The basic proof that this "State theory of money" is false is the fact that whenever kings and princes reduced the amount of gold or silver in the coinage, lo and behold the free market demanded a proportionate increase in the number of coins for the purchase of goods. Today we call this phenomenon "inflation."

The origins of money are documented by the early Austrian economist, Carl Menger, in his "Principles of Economics" (1871). The first monetary units were cows, according to Menger. Later impressions of cows were stamped on coins, the coins becoming tokens for the real thing. Clearly it was easier to keep a coin in a bag for a few weeks than to keep a cow tied up behind your house until you might be ready to take it to market. You didn't have to feed the bag of coins.

In the United States, the silver dollar became the unit on money first in the underground economy. The British Navigation Acts outlawed any trade with the Spanish colonies, but nevertheless the Spanish milled dollar was in circulation in all 13 colonies by the time of the Revolution. Indeed because the Spanish milled dollar was common to the entire new nation, and because the Boston shilling, the Philadelphia shilling, and the Richmond shilling were not standardized, Thomas Jefferson strongly urged the Congress to make the silver dollar the unit for the United States.

The point of this discussion in that monetary units are not created by government. Government plays a part in this process, because it frequently tries to prevent competitive monetary units from being used by citizens; but the government's role is negative, as it attempts to prevent the free market from developing new monetary institutions. If people wanted to use Krugerrands, Mexican Onza, or Canadian Maple Leaf coins in business, the government would be hard-pressed to prevent it. As a matter of fact, we know from anecdotal evidence that these gold coins are already being used in the underground economy today. In the Middle East, the gold sovereign has long been a widely used monetary unit, even though the British pound sterling hasn't being worth a gold sovereign since the 1930's.

THE CURRENT EVOLUTION OF NEW MONETARY INSTITUTIONS

Let me make a radical, controversial statement at this point: The closing of the gold window by Richard Nixon on August 15, 1971, and the abandonment of the Bretton Woods agreement for fixed exchange rates among national currencies, was one of the most positive and salutary acts of government in recent times.

Just as a mother bird pushes her fledglings out of the nest, to force them to learn to fly, President Nixon forced the world to reinvent honest money. Nixon, of course, didn't do this because he wanted to be a benevolent mother bird—he and John Connally wanted to protect the United States' gold inventory from claims by the British at a conversion rate of $35/oz. Yet, Nixon's act shook the basic institutions of international finance to their foundations. The dramatic movements in the price of gold over the succeeding decade are testimony to the kind of fear and panic that infested the international financial community; but the bad old days are behind us now. The failure of the gold price to run back up to the $700-level during the Polish crisis of last year or the Falkland Islands crisis of this year is evidence that gold has now taken more nearly an equilibrium position as an international currency.

This relative price stability is very important for the scenario that I believe is now developing. During the meetings of the Gold Commission in Washington earlier this year, a common complaint about any monetary role for gold was "it is too unstable." We know, however, from Prof. Roy Jastram's book, *The Golden Constant* (1977), that the purchasing power of gold has a long-term stability that we cannot attribute to any other monetary unit today. In my opinion, refusal for political reasons of any government to fix the exchange rate between its currency and the troy ounce of gold sets the stage for the Troy ounce itself to emerge as an international unit-of-account.

DEREGULATION OF BANKING AND FINANCE

Many of you are aware that rapid changes are underway in the deregulation of financial institutions in the United States. The industry itself is now one of the major advocates of deregulation, although, of course, segments of the industry—the thrift institutions, for example—are so fearful of a free market that they are giving Congressmen headaches. Nevertheless, larger and larger steps toward laissez faire in financial markets are being taken every week in the United States.

Internationally, of course, we already have laissez faire. There is no world central bank; there are no international agreements that restrict banking. The Eurocurrency markets trade freely in dollars, Swiss francs, yen, pounds sterling, D-marks—and troy ounces of gold. Ten years ago, only about one percent of Japanese exports were invoiced in yen, as opposed to U.S. dollars; today, according to a recent item in the Wall Street Journal, over 30 percent of Japanese exports are invoiced in yen. It is now more and more important for businessmen to have access to yen, as well as dollars, pounds, marks, etc. The payments system of the world economy as a whole relies increasingly upon multiple currencies—or, more precisely, upon multiple "units of account."

This last point, about units-of-account, is central to my argument about the future of gold in the international financial system. There are two facts about money that will play an important role in this evolution:

(1) Money is what economists call a "natural monopoly." It has this quality due to what we call "declining marginal costs." The simple illustration of this is that your uncertainty and other burdens from using money are reduced if you can expect that everyone else will accept the cash in your pocket. "Transactions costs" are reduced if you don't have to worry about details of acceptability. Clearly the "optimal currency area" for the free market today is the world-as-a-whole. Yet, there is no world government to issue an international currency (thank heaven!); and a currency issued by one government is most likely to be discriminated against by some other sovereign, for reasons of national pride if nothing else.

(2) Contrary to popular cliché, good money tends to drive out bad money—when the price is not fixed by law. When there was a fixed price between silver denarii and bronze denarii, under the later Roman emperors, to be sure people hid the silver coins and tried to pawn the bronze coins off on the merchants. The merchants were not fooled, of course; they charged higher prices for payment in bronze coins than they charged for payment in silver or gold.

In today's international payments system, is anyone puzzled that most transactions are conducted in yen, D-marks, Swiss francs, and dollars? Do you suppose these currencies have overshadowed the British pound sterling, the French franc, and the Italian lira because perhaps all parties to international contracts benefit from more stable, or higher quality monetary units?

The historical model of what is happening today in the international financial system can be found in the free-banking experience of Scotland, from about 1725 through 1845. There was no central bank with a monopoly over the note-issue (as there was in England). Adam Smith, in "The Wealth of Nations" (1776) did not include the control over the issue of money among the "only three duties according to the system of natural liberty, the sovereign has to attend to." The system of financial institutions today in the financial capital of Asia, Hong Kong, perhaps most closely resembles the Scottish system that Adam Smith described favorably, and which I believe represents a prototype for the international financial system of the future.

The growing diversification of international payments among the five major strong currencies will further promote the tendency for all parties to contracts to look for a stable unit-of-account that may be "above the fray" that affects monetary

units issued by governments, which are subject to political currents, unbalanced budgets, wars, etc. The Troy ounce of gold satisfies that requirement.

The continuing deregulation of banking and finance will permit the growing use of the Troy ounce as a unit-of-account, rather than merely a unit to measure weight. Indeed, the fact that the Troy ounce is only used for precious metal measurement today will hasten its development as a currency unit. As strictly a unit of weight, it will be replaced by the kilogram and the metric ton.

CONDITIONS THAT HASTEN OR HINDER THE EVOLUTION

What I have described as the evolution of a new international payments system is already occurring. The evidence is all around you in little bits and pieces. Every day or two you can spot small news items that confirm this movement. The question, therefore, is what we—or our governments—want to do about it. In France, they want to resist the trend; but they find that it is almost impossible. The external exchange value of the French franc is not determined in Paris, but by the world capital markets. In Europe this week, President Reagan will be debating his peers about whether the U.S. dollar should float freely or be pegged or rigged in various ways to suit the political agenda of this government or that vested interest group. Our Undersecretary of the Treasury for Monetary Affairs, Beryl Sprinkel, is strongy in favor of a "clean float," and I believe he is correct in advocating non-intervention.

I also believe that a non-interventionist monetary policy will hasten the day that the Troy ounce of gold becomes the unit-of-account of choice for international finance.

The U.S. Gold Commission recommended to Congress that a bullion-weight coinage be issued, and this proposal is now embodied in the "American Eagle Gold Coin Act of 1982," H.R. 6054 and S. 2330. If this bill in Congress is passed, the United States will begin to issue its own version of the coinage that is today issued by South Africa, Mexico, and Canada—in the same units: the Troy ounce (and fractions thereof).

The most important step, of course, which will follow the coinage but is not really dependent upon the adoption of the "American Eagle Gold Coin Act" in Congress, is the use of the Troy ounce as a unit-of-account for checking accounts, savings accounts, and bonds. Most of you are familiar with the experiments that Deak & Co. have conducted in various markets with gold-denominated transactions accounts. In Hong Kong, Deak issues gold banknotes. The Troy ounce of gold may be a bit too large for grocery shopping; and the tastes and preferences of consumers may not encourage the use of little gold coins instead of paper money, credit cards, and checkbooks. This, however, is not the point; it is irrelevant.

If credit cards can be used throughout Europe and Asia, with only the interpretation of the ciphers entered by the cashier making any difference, then the Troy ounce of gold can also be a unit-of-account for transactions.

The Troy ounce of gold is already a fine "store of value" form of money, in bullion-weight coinage; it is a medium of exchange in the underground economy, and in various parts of the world—perhaps soon in the United States as well. With some noticeable movement, it is becoming an international "unit of account." With these three qualities we have described the necessary and sufficient conditions for money.

The evolution toward a new monetization of the Troy ounce of gold is hindered by discriminatory government regulations and taxation; by restrictions upon domestic banking practices; and by the old superstition that only governments can create money. Those who advocate a "return" to the "gold standard," with a fixed price for gold, are victims of this last item—the superstition. The two forces that will most hasten the evolution are the deregulation of banking and financial institutions in the U.S., because the United States is such a large part of the world economy; and the enactment of the bill recommended by the Gold Commission, the "American Eagle Gold Coin Act," with special regard for its repeal of discriminatory taxation of the Troy ounce of gold used as a monetary unit.

Thank you.

## BACKLASH

Mr. MELCHER. Mr. President, Israel's invasion of Lebanon to destroy Palestine Liberation Organization bases which shelled Galilee has gone too far and lasted too long, causing the deaths of thousands of innocent Lebanese people. The backlash against the Israelis will only continue to grow until positive steps of withdrawal are taken by the Israeli Armed Forces and humanitarian help is given to alleviate the suffering of the people in Lebanon.

The United States clearly has the whiphand to force recognition upon Israel of the urgency for prompt withdrawal of their armed forces, because it is U.S. aid that not only bolsters their economy—it is in large part our armaments that have given them their great military superiority. Prime Minister Begin, who is known for his hardline policy against all enemies of Israel's survival, would enhance the position of his country if he would recognize that the results of their assault on Lebanon to the gates of Beirut are oppressive to scores of thousands of Lebanese and, for that matter, those of the Palestinian people who only seek to live in peace.

Protecting Galileans in Israel against artillery shelling by the PLO from within Lebanon is one thing, but it is another matter to promote and prolong overkill.

Many of us who seek to comprehend the narrow and fragile balance that permits Israel to exist as a free and independent country can only ponder now what is the degree of our responsibility to force, through economic and diplomatic channels, Israel's prompt recognition of the necessity to alleviate the suffering that accompanies modern warfare.

Prime Minister Begin's suggestion that the United States should send some of our Armed Forces as a part of a peace-keeping military force should be rejected out of hand. After all, the United States is the primary source of Israel's economic and military hardware base. The United States is involved enough already.

It is up to Israel to withdraw militarily and to share their economic capabilities with those civilian people upon whom they have rained down destruction. And doing that now is one way that the Israelis can demonstrate to the world that they have not only matured in the art of the military but have also matured in a humanitarian sense, before shame and guilt become overwhelming.

## TRIBUTE TO KEN MATTINGLY AND HENRY HARTSFIELD

Mr. HEFLIN. Mr. President, on many occasions, you have heard much from this body of the pride we share in American technology, the promise for all our people through the contributions of our scientists and engineers, and the value to the quality of our lives offered by our many fine colleges and universities. Today, I rise in tribute to one of those great universities, one of our superlative southern universities, and the original land-grant university in my home State, Auburn University in Auburn, Ala.

What prompts me to raise Auburn today are the unique accomplishments of two of her distinguished alumni, Ken Mattingly of the class of 1958 and Henry Hartsfield, class of 1954. These two individuals will serve as commander and pilot, respectively, on America's next flight of the Space Shuttle *Columbia*. On June 27, 1982, lift-off is scheduled for STS-4, the first shuttle flight whose crew are both alumni of the same institution, Auburn University. This event provides an excellent opportunity to praise one institution for the effective means in which higher education contributes, not only to the space program and thus our national prestige, but to the life foundation of the student as well.

Auburn University is 126 years old, having been incorporated as the East Alabama College in 1856. The college actually opened its doors in October of 1859 with a faculty of 5 and a college enrollment of 80. On February 26, 1872, Auburn became the Agricultural and Mechanical College of Alabama, the first land-grant college set up in the South separate from a State university.

Auburn's history as a land-grant institution and her contributions in the areas of instruction, research, and public service are well known to our people in Alabama and throughout the Southeast. Today, Auburn University represents one of the most comprehensive institutions of higher learning in the South, with the largest on-campus enrollment in Alabama comprising over 18,000 students from every county in Alabama, 49 States, and 57 foreign countries. Auburn's

1,871 acres in Lee County, Ala., support the physical plant for the largest industry in the area at a value of more than $165 million. Over 7,400 faculty, staff, and other employees make this institution a model for quality, effectiveness, and efficiency.

Auburn has 10 undergraduate schools offering degree options in 142 areas. The graduate school administers programs in 112 master's degree areas, 31 doctor of philosophy areas, and 5 doctor of education areas. The Auburn Schools of Veterinary Medicine and Engineering are known nationwide for the success of their graduates. Auburn's undergraduate teaching programs in the sciences and liberal arts are regularly copied and lauded by peer institutions in the southern region of the United States.

Quality is Auburn University's goal and nowhere is that more manifested than in Auburn's research contributions. Auburn scientists have always been leaders when answers to real everyday problems are needed. Today, these researchers and technicians are applying their mindpower to challenges of our time involving energy, space technology, food production, environmental improvement, health and finance. Total organized research activity at Auburn University is approximately $25, million per year, primarily in agriculture and engineering. Many in the this body are aware of the contributions to our space program by the work done at Marshall Space Flight Center in Huntsville, Ala. Auburn University has been a major partner in that effort through its teaching and research extension since the early days of our space program.

Against this background of tradition and excellence at Auburn University, it is no surprise that we find two Auburn graduates at the helm of our Nation's next space venture. Since the beginning, Ken Mattingly and Hank Hartsfield have played prominent roles in America's space program. Navy Captain Mattingly, a Miami native and former student government president at Auburn, served as command module pilot of the Apollo 16 lunar landing. Hartsfield, who is from Birmingham, was a member of the astronaut support crew for that mission, as well as the subsequent Skylab 2, 3, and 4 missions.

Hartsfield, a graduate of West End High School in Birmingham, was a member of Delta Chi social fraternity at Auburn, and of Tau Nu Tau, Pi Mu Epsilon, and Sigma Pi honoraries. He was also a member of the honor band of the Auburn Marching Band and received his commission in Army ROTC. He entered the Air Force in 1955, and later graduated from the USAF Test Pilot School at Edwards AFB, where he was an instructor until his assignment in 1966 to the USAF Manned Orbiting Laboratory (MOL) program as an astronaut. After cancellation of the MOL program in 1969, he was reassigned to NASA. Hartsfield retired in 1977 from the U.S. Air Force with more than 22 years of active service, but continues his assignment as a NASA astronaut in a civilian capacity. He was a member of the orbital flight test missions groups of the astronaut office and was responsible for supporting the development of the Space Shuttle entry flight control system and its associated interfaces.

Mattingly, a graduate of Miami Edison High in Miami, Fla., was the second Auburn graduate selected as an astronaut. The first was Clifton C. Williams, a mechanical engineering major for the program in 1963. At Auburn, Mattingly was a member of Delta Tau Delta social fraternity, and was elected to Who's Who in American Colleges and Universities. He received his commission in Naval ROTC. Since his participation in the Apollo program he has received the Delta Tau Delta Achievement Award, the Auburn Alumni Engineering Council's Outstanding Achievement Award, and numerous professional honors.

Selected as an astronaut in 1966, Mattingly served as a member of the support crews for the Apollo 8 and 11 missions, and was the astronaut representative in development and testing of the Apollo spacesuit and backpack. He was designated command module pilot for the Apollo 13 flight, but was removed from flight status 72 hours prior to launch due to exposure to the German measles. As command module pilot of Apollo 16, he was accompanied by John W. Young, spacecraft commander, and Charles M. Duke, Jr., lunar module pilot.

During the Apollo 16 flight, Mattingly carried 10 small flags from his alma mater, designed by Tazewell Morton of the art department especially for the mission. One of those flags, framed with photos from that mission, now hangs in the university archives.

Mattingly worked as head of astronaut office support to the STS (Shuttle transportation system) program from 1973-78. He was next assigned as technical assistant for flight test to the manager of the orbital flight test program. From 1979-81, he headed the astronaut office ascent/entry group and subsequently served as backup commander for STS-2 and STS-3, *Columbia*'s second and third orbital test flights.

While they are in orbit, the *Columbia* crew will have a vast cheering section of alumni supporters. Foremost among them will be Richard Graham Smith, an electrical engineering graduate of Auburn's 1951 class, who is Director of the Kennedy Space Flight Center, from which the *Columbia* will be launched.

I am proud, as are all Alabamians, that these two men represent the finest examples of what quality higher education provides for us as a nation and as individuals.

I ask my colleagues to join me in commending Auburn University for 126 years of quality higher education, never any more visible than in the upcoming flight of Columbia when two of her sons carry America's banner into the future. I know they join me in prayers for safety and success for Auburn's space crew, Ken Mattingly and Hank Hartsfield.

Thank you, Mr. President.

## MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

## EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore laid before the Senate messages from the President of the United States submitting sundry nominations and withdrawals which were referred to the appropriate committees.

(The nominations and withdrawals received today are printed at the end of the Senate proceedings.)

## RESCISSION AND DEFERRAL OF CERTAIN BUDGET AUTHORITY—MESSAGE FROM THE PRESIDENT—PM 147

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with accompanying papers; which, pursuant to the order of January 30, 1975, was referred jointly to the Committee on Appropriations, the Committee on the Budget, and the Committee on Energy and Natural Resources:

*To the Congress of the United States:*

In accordance with the Impoundment Control Act of 1974, I herewith report a proposal to rescind $8 million in budget authority previously provided to the Office of the Federal Inspector of the Alaska Natural Gas Transportation System. In addition, I am reporting a new deferral of $3.6 million in funds appropriated to the Office of the Solicitor and Office of the Secretary of the Department of the Interior.

The details of the rescission proposal and deferral are contained in the attached report.

RONALD REAGAN.

THE WHITE HOUSE, *June 23, 1982.*

## MESSAGES FROM THE HOUSE

At 2:12 p.m., a message from the House of Representatives, delivered by Mr. Gregory, one of its reading clerks, announced that it has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 6451. An act to amend title 10, United States Code, to revise and codify the permanent provisions of law relating to military construction and military family housing; and

H.R. 6645. An act making urgent supplemental appropriations for the fiscal year ending September 30, 1982, and for other purposes.

At 4:56 p.m., a message from the House of Representatives, delivered by Mr. Gregory, announced that the House agree to the amendment of the Senate to the bill (H.R. 3112) to amend the Voting Rights Act of 1965 to extend the effect of certain provisions, and for other purposes.

The message also announced that the House disagrees to the amendments of the Senate to the bill (H.R. 6133) to amend the Endangered Species Act of 1973; asks a conference with the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. JONES of North Carolina, Mr. BREAUX, Mr. STUDDS, Mr. BOWEN, Mr. SNYDER, Mr. FORSYTHE, and Mr. EMERY as managers of the conference on the part of the House; and as additional managers solely for consideration of section 4 of the House bill and modifications committed to conference: Mr. BONKER and Mr. LEACH.

The message further announced that the House has agreed to the following concurrent resolution, without amendment:

S. Con. Res. 98. Concurrent resolution expressing the sense of Congress on the occasion of Thailand's bicentennial.

The message also announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 6590. An act to provide for the operation of the tobacco price support and production adjustment program in such a manner as to result in no net cost to taxpayers, to limit increases in the support price for tobacco, and for other purposes.

At 5:59 p.m., a message from the House of Representatives, delivered by Mr. Gregory, announced that the House has passed the following joint resolutions, in which it requests the concurrence of the Senate:

H.J. Res. 519. Joint resolution to provide for a temporary increase in the public debt limit; and

H.J. Res. 520. Joint resolution to provide for a temporary increase in the public debt limit.

At 7:27, a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House recedes from its disagreement to the amendment of the Senate numbered 62 to the bill (H.R. 5922) making urgent supplemental appropriations for the fiscal year ending September 30, 1982, and concurs therein.

The message also announced that the House has passed the following bill, with amendments:

S. 2332. An act to amend the Energy Policy and Conservation Act to extend certain authorities relating to the international energy program, to provide for the Nation's energy emergency preparedness, and for other purposes.

## HOUSE BILL AND JOINT RESOLUTION REFERRED

The following bill and joint resolution were read twice by unanimous consent, and referred as indicated:

H.R. 6590. An act to provide for the operation of the tobacco price support and production adjustment program in such a manner as to result in no net cost to taxpayers, to limit increases in the support price for tobacco, and for other purposes; to the Committee of Agriculture, Nutrition, and Forestry.

H.J. Res. 520. Joint resolution to provide for a temporary increase in the public debt limit; to the Committee on Finance.

## HOUSE BILL PLACED ON THE CALENDAR

The following bill was read twice by unanimous consent, and placed on the calendar:

H.R. 6451. An act to amend title 10, United States Code, to revise and codify the permanent provisions of law relating to military construction, and military family housing.

## ENROLLED BILL SIGNED

The PRESIDENT pro tempore (Mr. THURMOND) announced that on today, June 23, 1982, he signed the following enrolled bill, which had previously been signed by the Speaker of the House of Representatives:

S. 1519. An act to designate certain national wildlife refuge lands.

## ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, June 23, 1982, he had presented to the President of the United States the following enrolled bill:

S. 1519. An act to designate certain national wildlife refuge lands.

## REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. PACKWOOD, from the Committee on Commerce, Science, and Transportation, with amendments:

H.R. 3816. An act to improve the operation of the fishermen's contingency fund established to compensate commercial fishermen for damages resulting from oil and gas exploration, development, and production in areas of the Outer Continental Shelf.

By Mr. THURMOND, from the Committee on the Judiciary, without amendment:

S.J. Res. 193. Joint resolution designating the week of November 7 through November 13, 1982, as "National Respiratory Therapy Week"; and

H.R. 4903. An act granting the consent of the Congress to an interstate compact between the States of Mississippi and Louisiana establishing a commission to study the feasibility of rapid rail transit service between the two States.

By Mr. THURMOND, from the Committee on the Judiciary, with amendments and an amendment to the title:

S.J. Res. 183. Joint resolution to authorize and request the President to issue a proclamation designating October 19 through October 25, 1982, as "Lupus Awareness Week."

By Mr. THURMOND, from the Committee on the Judiciary, without amendment:

H.R. 4441. An act to amend title 17 of the United States Code with respect to the fees of the Copyright Office, and for other purposes.

By Mr. THURMOND, from the Committee on the Judiciary, with an amendment:

S. 1880. An act to amend the manufacturing clause of the copyright law.

By Mr. McCLURE from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute and an amendment to the title:

S. 2133. A bill to designate certain lands in the State of Washington as a national volcanic area, and for other purposes (Rept. No. 97-481).

By Mr. McCLURE from the Committee on Energy and Natural Resources, without amendment:

S. Res. 418. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 2133; referred to the Committee on the Budget.

## EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. PACKWOOD, from the Committee on Commerce, Science, and Transportation:

Guy W. Fiske, of Virginia, to be Deputy Secretary of Commerce.

(The above nomination was reported from the Committee on Commerce, Science, and Transportation with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. HATCH, from the Committee on Labor and Human Resources:

Adelaide Attard, of New York, to be a member of the Federal Council on the Aging for a term expiring June 5, 1985;

Charlotte W. Conable, of New York, to be a member of the Federal Council on the Aging for a term expiring June 5, 1985.

(The above nominations were reported from the Committee on Labor and Human Resources with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify

before any duly constituted committee of the Senate.)

By Mr. THURMOND, from the Committee on the Judiciary:

Thomas Penfield Jackson, of the District of Columbia, to be U.S. district judge for the District of Columbia;

John P. Moore, of Colorado, to be U.S. district judge for the district of Colorado; and

Henry A. Mentz, Jr., of Louisiana, to be U.S. district judge for the eastern district of Louisiana.

## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. HART:

S. 2663. A bill to authorize a national program of improving the quality of education; to the Committee on Labor and Human Resources.

By Mr. MATTINGLY:

S. 2664. A bill to amend the Congressional Budget Act of 1974 to impose limits on the amount of total budget outlays contained in concurrent resolutions on the budget: referred jointly pursuant to the order of August 4, 1977 to the Committees on the Budget and Governmental Affairs with instructions that if one Committee reports, the other Committee has thirty days of continuous session to report or be discharged.

By Mrs. HAWKINS:

S. 2665. A bill to amend the Agricultural Act of 1949 to modify the milk price support program for the 1982 through 1985 fiscal years; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. KENNEDY:

S. 2666. A bill to amend the Airline Deregulation Act of 1978 and the Federal Aviation Act of 1958 to provide employee protection for employees of certain air carriers; to the Committee on Commerce, Science, and Transportation.

By Mr. HEINZ:

S. 2667. A bill to amend title 38, United States Code, to enhance the quality of care for veterans in medical facilities operated by the Veterans' Administration by insuring the provision of such care and necessary related services by Federal employees; to the Committee on Veterans' Affairs.

By Mr. MOYNIHAN:

S. 2668. A bill to amend the Social Security Act with respect to the issuance of social security cards; to the Committee on Finance.

By Mr. PRESSLER:

S. 2669. A bill to amend title 18 to limit the defense of insanity; to the Committee on the Judiciary.

By Mr. MOYNIHAN:

S. 2670. A bill to prohibit all U.S. economic and military assistance and exports (except food and medicine) to, and all imports from, any country whose government has failed to take adequate measures to prevent opium and its illicit derivatives from being produced or refined for export to the United States; to the Committee on Finance.

By Mr. HATCH (for himself, Mr. THURMOND, Mr. DECONCINI, Mr. GRASSLEY, Mr. LEAHY and Mr. MATHIAS):

S. 2671. A bill to provide for the establishment of a Commission on the Bicentennial of the Constitution; to the Committee on the Judiciary.

By Mr. QUAYLE:

S. 2672. A bill to reform the insanity defense and to establish a verdict of guilty but mentally ill; to the Committee on the Judiciary.

By Mr. DOLE (for himself, Mr. ROTH and Mr. D'AMATO):

S. 2673. A bill to amend the Internal Revenue Code of 1954 to provide a Federal income tax credit for tuition; to the Committee on Finance.

## SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. GRASSLEY:

S. Res. 416. Resolution to refer the bill (S. 1483) entitled "A bill to amend title 28 of the United States Code to make the United States liable for damages to certain individuals, to certain uranium miners, and to certain sheep herds, due to certain nuclear tests at the Nevada test site or employment in a uranium mine, and for other purposes." to the Chief Commissioner of the United States Court of Claims for a report thereon; to the Committee on the Judiciary.

By Mr. GARN (for himself, Mr. TOWER, Mr. D'AMATO, Mr. RIEGLE, Mr. PROXMIRE and Mr. SARBANES):

S. Res. 417. Resolution commending Philip A. Loomis, Junior; considered and agreed to.

By Mr. McCLURE:

S. Res. 418. Resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 2133; from the Committee on Energy and Natural Resources; to the Committee on the Budget.

By Mr. PELL:

S. Con. Res. 108. Concurrent resolution expressing the sense of the Congress concerning continuing U.S. participation with respect to a comprehensive Law of the Sea Treaty; to the Committee on Foreign Relations.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HART:

S. 2663. A bill to authorize a national program of improving the quality of education; to the Committee on Labor and Human Resources.

### AMERICAN DEFENSE EDUCATION ACT

Mr. HART. Mr. President, today I am introducing the American Defense Education Act. I intend this act, patterned in many ways upon the landmark National Defense Education Act of 1958, to refocus national attention on the relationship between investment in education, and economic and national security.

The purpose of the act is to provide an incentive program to local school districts to revitalize their curricula in tomorrow's crucial areas of mathematics, the sciences, foreign languages, communication skills, and other new technologies. The program—although federally funded—will be locally developed to meet our country's economic and national security objectives.

The launching of Sputnik in 1957 awakened Congress and the American people to the urgency of strengthening and encouraging education in the fields of mathematics, science, and foreign languages. Congress responded with the passage of the 1958 National Defense Education Act. Today, passage of the American Defense Education Act will again acknowledge that the security of our Nation depends on the education and training of our people.

This Nation has always viewed education as a necessity—not a luxury. But today, America is being tested and challenged as never before. And education is more than a necessity—it is a vehicle for national survival.

We do not spend on education—we invest in it. And in a time of challenge, we must make that investment for the sake of our economic security and our national security.

The American economy is undergoing a profound transformation—as far-reaching and pervasive as the industrial revolution. That revolution turned a nation of farmers into a Nation of factory workers. In 1982, America is fast becoming a Nation of workers with words and information. It is in our country's best interest to invest in the minds and education of our young people. The opportunities for jobs, for growth, for prosperity in the 1980's and 1990's depends on our human resources even more than on our physical resources. Our future security and our future well-being depend on investing in the education of tomorrow's workers.

A major step in that direction must be a new emphasis on mathematics, the sciences, foreign languages, communication skills, and new technology. Without preparation now, our children will not be ready to work and live in a changing economy. The past 20 years have brought unparalleled scientific and technical advances. Our society has been transformed by computers, by communications, by electronics, and it will continue to change in the decades ahead.

Yet, Federal investment in education has not kept pace with our national needs. In recent years, we have paid less attention to training in mathematics and science, while our toughest international economic competitors pay more. Japanese and West German schoolchildren receive rigorous training in mathematics and science. As a result, these countries have moved rapidly into technological fields once dominated by our industries. Unless we begin to prepare our children in mathematics and science, we will not be able to compete successfully in the international marketplace. Our economic future will be jeopardized.

Successful international competition will require skills in foreign languages

as well. Yet fewer than one-fifth of today's high school graduates have any training in a foreign language, and only 4 percent have studied a foreign language for more than 2 years. We must reverse this trend by investing in foreign language education. The American Defense Education Act would establish an incentive program to do just that.

Technological and scientific knowledge is necessary to meet our economic objectives. It is even more imperative to meet our national security objectives.

Today's defense rests on sophisticated equipment. This equipment incorporates the most up-to-date science and technology. And what of the minds to control the equipment, to operate it and maintain it? Many of our troops cannot even read the instruction manuals. So the Defense Department is spending millions to rewrite the manuals, from the 11th grade reading level to the 6th grade level or lower. Yet, equipment and training manuals become obsolete and are discarded, costing our Government millions of dollars.

Only investment in the minds of our young people will bring lasting returns in the future.

By encouraging local school districts to revitalize their curricula in mathematics, the sciences, foreign languages, communication skills, and new technology, we invest in the knowledge necessary for defense in a technologically advanced age. Our national security rests on making that investment.

Under this act, each school district desiring to participate is required to formulate its own program for the improvement of instruction and student achievement in those areas.

Once the local program is approved by the Secretary of Education, the school district directly receives a basic payment. The formula rate is equal to 2 percent of the average per pupil expenditure in the State multiplied by the number of children in average daily attendance in the school district. An additional 2 percent incentive based on the same formula will be available to districts which show that the goals established have been met.

An additional component of the ADEA calls for the Secretary of Defense to project the personnel training needs of the Armed Forces. Then, in conjunction with the Secretary of Education and local educators, the Secretary is required to analyze the best education program to help meet those needs.

This emphasis placed by this act on scientific education in no way is meant to diminish the importance of the humanities and other vital elements of a broadly based, well-rounded education. The author of this act well knows that an individual who possesses superior, but narrow, scientific training is still not thoroughly educated. The most successful and productive member of tomorrow's society will be the individual possessing the skills necessary to participate in tomorrow's economy and an appreciation for history, the arts, philosophy, and on the humanities.

Mr. President, the American Defense Education Act establishes an incentive program which is necessary to give needed Federal impetus to enable our country to meet the demands placed on our educational systems by the technological changes taking place in today's world. It is vital to our national economic well-being and to our national security that the Federal Government provide the incentive to local school districts to develop the program which will train our young people for tomorrow's world.

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By Mrs. HAWKINS:

S. 2665. A bill to amend the Agricultural Act of 1949 to modify the milk price support program for the 1982 through 1983 fiscal years; to the Committee on Agriculture, Nutrition, and Forestry.

MILK PRICE SUPPORT ACT OF 1982

● Mrs. HAWKINS. Mr. President, today I am introducing legislation that will save consumers over $1.7 billion and the Federal Government $3.2 billion in the next 3 years by reducing dairy price supports to reasonable levels. Specifically, my bill drops price supports from $13.10 per hundredweight to $12.60 upon enactment and to $12 on January 1, 1983. With the budget deficit projected to exceed $100 billion this fiscal year, and next, Congress must take meaningful steps to reduce Government expenditures. For that reason, Members of Congress have agreed to vote for substantial reductions in medicare, medicaid, and other programs vital to millions of Americans. I therefore believe it is only fair that we stop the hemorrhage in the budget caused by the runaway dairy support program.

Unless something is done, in fiscal year 1983 the Federal Government will spend $2 billion on surplus milk. This is equivalent to an average taxpayer subsidy of $6,000 for each of the Nation's 324,000 dairy farmers. Of course, taxpayers in their capacity as consumers will also indirectly subsidize dairy farmers by paying higher than necessary prices for the dairy products they buy. Next year, unless the law is changed another $5,250 will go from the consuming public's pocket to each dairy farmer.

In sum, without action it will cost, through taxes and higher prices, $11,250 to subsidize each dairy farmer, because demand and supply conditions for milk are so radically out of SYNC.

To gain perspective on the size of this subsidy consider the following facts, in fiscal year 1982, the Government will contribute an average $113 to each of the 23 million children participating in the school lunch program. It will also pay an average of $5,304 to 36 million recipients of social security retirement, disability, and survivor benefits. Only $622 in average annual benefits will be received by the 18 million Americans participating in the food stamp program. Further, the individual income tax cut passed last year will provide an average of $902 to every man, woman, and child in the United States over a 3-year period. And in 1981, the official poverty level for a family of four in the United States was $9,290.

It is only in the last few fiscal years that dairy subsidies became so outlandish. For many years, the dairy price-support program worked well, with little expenditures requested by taxpayers or consumers because supply and demand were in balance. However, when high support levels were established in the 1977 farm bill and were raised again in 1979, the subsidies grew to massive proportions. By October 1, 1980, the support level rose to $13.10, 61 percent higher than 4 years ago, while production costs rose by substantially less than that amount.

The result was predictable. Dairy production soared by 10 percent in the last 3 years and per capita consumption fell, forcing the Government to accumulate dairy products in record quantities. As of June 4, 1982, the Commodity Credit Corporation owned 437 million pounds of butter, 703 million pounds of cheese, and 1.1 billion pounds of nonfat dry milk. These incredible figures work out to 75 pounds of milk for every man, woman, and child in America. To help visualize the amount of dairy stocks in storage, imagine a train stretching from Washington, D.C., to New York City filled with surplus Government dairy products.

Unfortunately, the problem is getting worse. Surplus dairy stocks continue to accumulate. At the present rate, the boxcars will link New York and Miami within the next decade. Of course, the cost for filling this train is being paid by the taxpayer. The $2 billion they spent in fiscal year 1981 and will spend again in fiscal year 1982 is 40 times higher than in fiscal year 1979.

By dropping the support price to $12 per hundredweight, we will stop the train from getting any longer, according to the administration.

However, we should not place the blame for this problem on the dairy farmers. The problem was not created by the producers—it was caused by those in Government who lacked the foresight to see what would happen with the passage of legislation providing for price supports well above the

amount that could be supported by the marketplace. Dairy producers are merely reacting to the price signals sent by Congress. Like any good businessman, dairy farmers make business decisions based upon the cost of production, and the price they receive for supplying products. With low grain and beef prices and artificially high milk prices, dairy farmers have every reason to expand production.

Consumers have fared no better than taxpayers. By raising the support floor under butter, cheese, and nonfat dry milk 61 percent in recent years, the Government is forcing commercial purchasers to offer processors as much as the Government to acquire dairy products. The higher prices are being passed on along to consumers in the grocery stores. By jacking prices up, the Government is literally taking food out of the mouths of babies. Mothers cannot afford to buy as many dairy products for their children as they otherwise would. However, by adopting this bill, we will drop 1983 milk prices in the grocery store by 11 cents per gallon, cheese by 12 cents a pound, and butter by 15 cents a pound. Support prices will still be 48 percent higher than they were in September 1976.

In the process, consumer will save $1.7 billion yet consume 1.5 billion pounds more in dairy products over the next 3 fiscal years, according to Economic Perspectives, Inc., and unlike other proposals, this proposal will reduce the CPI since 13 percent of funds spent in grocery stores go for dairy products. Given the recent spurt in the CPI, fueled in part by rising food prices, reducing dairy prices is timely.

Looking forward, the case for dropping support prices now grows even stronger because major technological breakthroughs will dramatically increase dairy productivity in the years ahead.

Scientists now believe they can dwarf the past increases in dairy production through such advanced technologies as embryo transer, sex control, cloning, and the ability to manipulate the genes of dairy cows. New breeding technologies could increase the annual milk production of a single cow from today's level of 15,000 pounds per year to nearly 45,000 pounds in the future. Therefore, at today's high prices, milk production will increase rapidly and milk consumption will remain unchanged. In that event, today's imbalance between supply and demand will be considered minor. And so will the $11,250 subsidy.

Mr. President, I ask unanimous consent to print in the RECORD at this point, recent editorials and articles on this important subject, along with a copy of my bill.

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

S. 2665

*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 "Milk Price Support Act of 1982".

SEC. 2. The second sentence of section 201(c) of the Agricultural Act of 1949 (7 U.S.C. 1446(c)) is amended to read as follows: "Notwithstanding the foregoing, (1) effective for the period beginning with the date of enactment of the Milk Price Support Act of 1982, and ending December 31, 1982, the price of milk shall be supported at such level as determined by the Secretary, but not less than $12.60 per hundredweight for milk containing 3.67 per centum milk fat; and (2) effective for the period beginning January 1, 1983, and ending September 30, 1985, the price of milk shall be supported at such level as determined by the Secretary, but not less than $12.00 per hundredweight for milk containing 3.67 per centum milk fat.".

[From the New York Times, June 17, 1982]

DON'T MILK THE CONSUMER

Times are hard on America's farms, but no one told the cows: dairy production is at record levels. To maintain prices at the legislated minimum, the Federal Government must buy up $2 billion worth of butter, cheese and powdered milk for its already bulging warehouses. That's why President Reagan is right to ask Congress for permission to freeze the dairy support price for the rest of 1982, and if surpluses persist, to lower it in January.

But dairymen don't buy that. They offer an alternative, a plan that would be the stuff of satire were it not a serious proposal with serious support. They want to maintain high prices by forming a Government-enforced milk cartel. That way, the only people who would lose money are consumers.

In theory, price supports are meant to stabilize dairy income and production. Government purchases in surplus years should be roughly offset by Government sales in lean ones. But in practice, the dairy lobby simply aims for the best support price it can get, and its success has greatly stimulated milk output. To maintain the current price at $13.10 per 100 pounds, the Government must now purchase roughly a tenth of total production.

The President proposes to forgo an automatic 15-cent jump in that price in October. If production does not fall sharply thereafter—and nobody believes it will—he would cut the support price to $12. Dairy farmers know that something must be done to reduce the budgetary cost of price supports. Their notion is to transfer the burden to consumers.

The dairy lobby's bill would set quotas for individual farmers, with the target of cutting production by about 7 percent. The Government would continue to buy surpluses, regardless of how much was produced. But farmers who exceeded their quotas would pay penalties to the Treasury, offsetting about half the budget expenditure. As compensation, the support price would be raised slightly and then linked to an inflation index.

Economists have a name for such a system: it is, pure and simple, a cartel. Dairy farmers are trying to set up an OPEC for milk, using Government power to fix high prices by restricting output. A board composed of producers would take over responsibility for price supports from the Secretary of Agriculture, even managing a program to dump surpluses abroad on Washington's behalf.

Dairy farming is hard, often unrewarding work. But so is managing the corner dry cleaning store or running a drill press in a machine shop. The Government does not fix the price for cleaning a suit or set the wages of drill press operators. Neither should Congress do so for the dairy lobby; the cleaner, the machinist and the rest of us taxpaying consumers are neither cows nor sheep.

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[From the Washington Post, June 9, 1982]

OUR LUDICROUS DAIRY SITUATION

(By James J. Kilpatrick)

On May 5, Secretary of Agriculture John R. Block announced his big cheese-and-butter plan. A month later, it seems unhappily evident that the plan has laid a large egg. On Capitol Hill, where politics is thicker than whipping cream, few members are disposed to take on the dairy lobby. Yet something has to be done before a taxpayers' rebellion arises, and both Block and his farm constituency know it.

The story offers a classic example of the maxim that nothing fails like success. The present price support law has succeeded so marvelously in increasing dairy production that the surpluses add up to a political and economic failure. As recently as fiscal '79, government purchases of dairy products amounted to $49 million. In the current '82 fiscal year, purchases will amount to $2 billion. Unless the present law is amended, the next three years will see more than $6 billion paid out. And for what? What does the government get for these billions? The Commodity Credit Corporation winds up with millions of pounds of dairy products expensively stored in refrigerated warehouses and in the cool caves of Kansas.

It sounds absurd and it is absurd. What about the starving children of Bangladesh? Block would give it away, but the law won't let him. What is known as Public Law 480 now forbids the kind of disruption in world markets that such a giveaway would provoke. How about giving the stuff to our own poor folks? Even here there is a limit to free distribution. Block announced on May 30 that the CCC would give away 50 million pounds of surplus butter before the end of the year—about two pounds each to 25 million families—but new purchases in this same period will produce no net reduction in the surplus stocks. In this race between the government and the milk producers, it is like Alice in Wonderland: Block has to run as fast as he can to stay in the same place.

Barring action from Congress, the lunacy can only get worse. The present price support of $13.10 per hundredweight will be succeeded on Oct. 1 by a new price of $14. A year later the law requires a price support of $14.60. Any schoolboy could predict the consequences: more cows, more milk, more purchases by the CCC, more discontent among the taxpayers.

Block's plan would vest discretionary authority in the Secretary of Agriculture to reduce the price support levels. In his statement last month. Block promised that, if granted this authority, he would make no change prior to Jan. 1. At that time, he would not cut the price to a level below $12. The effect, he hopes would be to encourage a gradual 10 percent reduction in dairy

herds. The administration's bill also contemplates a restoration of authority to donate surplus dairy products to hungry people around the world. Here at home, efforts would be intensifed to give away cheese and butter to eligible institutions.

Looking at the figures, Block professes a steadfast optimism that something effective will be done. The secretary was born to be a scoutmaster in a Norman Rockwell painting; he exudes a simple faith that if only the people and the Congress will understand the problem, the Congress will rise above politics and do what has to be done. The whole situation is ludicrous. If the cost weren't so painful it would be something to laugh about, but on Capitol Hill, when someone says "cheese," nobody smiles.

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[From Consumer Reports, June 1982]

MILK—COULD IT COST LESS?

Twice each day, Craig Vogel, a third-generation dairy farmer in Rhinebeck, N.Y., milks his 95 black-and-white Holstein cows. Every two days, a bulk tank truck picks up his 8,000 pounds of milk and transports it about 100 miles to Moser Farms, a dairy near Hartford, Conn. There, it is quickly pasteurized and packaged, then shipped to stores in southern New England. Thus, in the space of about two days, milk from Vogel's cows reaches the shelves in supermarkets such as Finast in Westport, Conn.

At Finast's checkout counter, clerks have recently been ringing up about $1.25 for a half-gallon of milk. Finast Supermarkets pays Moser Farms; the dairy pays Dairylea, the cooperative to which Vogel belongs; and Dairylea pays Vogel.

These transactions are typical of the dairy farming business across the country. They seem simple and straightforward, but they're not. Both the amount of Vogel's payment and the price of milk in Westport are enmeshed in a web of Federal regulations, perhaps the most intricate for any food product. The regulations are intended to maintain the farmers' income and to guarantee an adequate milk supply. But, more often than not, they result in a costly and wasteful oversupply of milk, and in retail milk prices that are higher than necessary to encourage production.

In addition to Federal regulations, states often have their own rules dictating the prices that milk processors and retailers can charge. And all too often, the price of milk is also affected by illegal price-fixing arrangements made by the processors themselves.

The maze of regulatory arrangements supposedly protects the nation's 216,000 dairy farmers. Dairy farmers do have special problems. Cows produce milk continually, yet milk is extremely perishable and can't be stored for long. Further, cows give more milk in spring and summer than they do in fall and winter, making orderly production difficult.

The basis for milk regulation was the cutthroat competition that existed in the dairy industry after World War I. When milk was in short supply, processors would pay farmers more for milk used for drinking. When milk was abundant, processors would pay only as much for drinking milk as they paid for lower-quality milk used for manufacturing other dairy products. To be assured of the higher price for drinking milk during winter months, farmers competed intensely for processors who would agree to buy their milk year-round.

To reduce this competition, some farmers banded together in cooperatives. Every farmer in a co-op would receive the same average price for milk, regardless of how the milk was used. (Historically, the price of milk had depended on the use to which it was put.) Thus, all co-op members shared in the sales of higher-priced milk—an idea central to the Federal marketing-order system in effect today.

MARKETING ORDERS

The marketing-order system, the first of two major Federal programs to regulate dairy prices, sets the prices milk processors must pay to farmers. The program has had three goals: to raise the farmer's income and stabilize it year-round; to promote orderly marketing; and to set prices high to encourage farmers to improve their herds, thus assuring an adequate supply of milk. The benefits of the orders were viewed as sufficiently desirable to justify the elimination of price competition among farmers.

A marketing order in the dairy industry is not, as the name implies, a directive of some kind. It is a pricing framework voted into existence by dairy farmers. There are now 49 Federal regions with marketing orders. To enforce the provisions of the orders, the U.S. Department of Agriculture (USDA) appoints a market administrator for each.

Once an order has been established, the administrator can legally fix a schedule of minimum prices—based on the end-uses of milk—that all processors must pay. That schedule, in turn, depends on the price of milk in certain parts of Minnesota and Wisconsin, the center of American's most efficient dairy-producing area.

Unlike most other dairy farmers, those in this region who produce manufacturing-grade (not drinking) milk operate outside the marketing-order system. Some 300 processors in the Upper Midwest bid for this region's milk in a theoretically free, competitive market based on supply and demand. Each month, the USDA samples the prices paid to these farmers for manufacturing-grade milk. It then announces an average, known as the "Minnestota-Wisconsin" price. That becomes the price that processors pay for manufacturing-grade milk in each marketing order and eventually helps establish the prices of dairy products people buy in Westport and most other places.

The price processors pay for drinking milk, a higher grade, varies from order to order. It is determined by adding a "differential" to the Minnesota-Wisconsin price. The differential reflects the cost of the higher sanitation standards necessary to produce drinking-quality milk plus the theoretical cost of transporting milk from Eau Claire, Wis., to a particular region. In Chicago, for example, the differential is $1.26 per hundred pounds of milk, or 11 cents a gallon. In Miami, it is $3.15, or about 27 cents a gallon.

The price paid to farmers is a weighted average of all the prices paid for the milk used for various purposes. This is called the blend price. For each farmer, the blend price is adjusted according to the farm's distance from the region's market center and to the fat content of the milk.

To understand what Craig Vogel was paid for his milk in March, for example, you have to start with the applicable Minnesota-Wisconsin price—$12.55 per hundred pounds. To that, add the differential in the New England region where Moser Farms is located—$2.90. That gives a drinking-milk price of $15.45. The $15.45 went into the weighted average that produced the March blend price of $14.05, on which Vogel's payment was ultimately based. Even that blend price, however, can be affected by a "premium" added to the price of drinking milk.

The premium may have to be paid by processors in some parts of the country, where farmer cooperatives are well-organized enough to demand it. The premium may reflect a co-op's special services—or it may simply reflect the monopoly power of the co-op, which controls most of the milk supply.

Interestingly enough, in purchasing milk for the accompanying test report, CU found that retail prices for quarts in the North Central region, which includes East Lansing, Mich., Madison, Wis., and Chicago, were about 10 percent higher on average than prices in the Mid-Atlantic region, which includes New York City, northern New Jersey, and Philadelphia. Part of the difference can be traced to the higher premiums commanded by North Central co-ops.

THE PRICE-SUPPORT SYSTEM

By 1935, the Federal marketing-order program was firmly in place. But what good was a marketing-order program that set prices farmers were paid if processors were unwilling to buy milk in the first place? If there was an overproduction of milk, and there often was, processors would be able to sell the products they had made only at very low prices, if at all. As a result, they would bid only low prices for raw milk. Farmers' income would fall. Dairy farmers would leave the farm, jeopardizing the supply of milk.

To remedy this problem, the second of the two Federal programs that affect the pricing of milk was begun in 1949. The idea was simple: The Government would prop up milk prices by buying unsold butter, cheese, and milk powder. With an assured market for their products, processors could now buy all the milk farmers could produce, and milk prices would be stabilized.

The mechanics of the program are not so simple. In determining the prices at which it will buy butter, milk powder, and cheese that would otherwise go unsold, the Government starts with a "support" price and adds on an amount that varies, depending on how much milk it takes to make the three different products and on their manufacturing cost.

Unless this year, the support price used in these formulas was a price for raw milk based on the "parity index"—an index keyed to the purchasing power farmers enjoyed in the prosperous years between 1910 and 1914. The Government does not pay the support price directly to farmers (a common misconception); it buys manufactured products. But the price it pays is enough to encourage processors to continue high production, bidding up the price they pay farmers for raw milk.

The Government stores its dairy purchases in warehouses or distributes them to various programs. If a shortage should arise, it will then sell the products back to the processors. Products that spoil are sold for use as animal feed.

To see how the price-support system relates to the marketing orders, we must return to that area in Minnesota and Wisconsin where processors bid for milk in a supposedly free, competitive market. The average price paid, as we've noted, becomes the Minnesota-Wisconsin price, the basis for milk prices in all regions with marketing orders.

Although the price processors pay to farmers in this region is unregulated, it is heavily influenced by the support price. By

assuring these processors a market for their products at an attractive price, the Government encourages them to pay higher prices to the farmers in this region. Thus, the marketing orders supposedly based on that competitive dairy market are actually based on a market price kept high by the support price. (Over the years, the Minnesota-Wisconsin price and the support price have usually been equal.) Any increase in support prices tends to increase the price paid for milk on the free market in Minnesota and Wisconsin, and that in turn raises the Minnesota-Wisconsin price—and consumers wind up paying $1.25 for a half-gallon of milk.

The two Federal programs have obviously been successful in raising the incomes of dairy farmers, which are now on a par with those of urban wage earners. But the programs may also have inflated consumer prices and resulted in surplus production that is increasingly costly to taxpayers.

The strength of the dairy lobby has been such, however, that the programs have been maintained despite their possible adverse effects on consumers. For a long time, milk was thought to be so essential for good health that few people questioned such goals as "orderly marketing" and "stable prices." Now, however, economists and a few members of Congress are beginning to take a harder look at these programs.

WHAT'S WRONG WITH ORDERS?

The marketing-order system has been attacked on four points:

1. The differentials paid for drinking milk may be higher than necessary to encourage its production. Although 82 percent of all milk produced in this country is drinking-grade, only 47 percent is actually used for drinking purposes. The rest is manufactured into dairy products for which manufacturing-grade milk would be perfectly suitable—and almost certainly less costly to produce.

The Department of Agriculture noted in a report issued last year that the large quantities of surplus drinking milk "suggest that . . . prices may have been higher than needed to provide orderly marketing. Lower . . . differentials probably would be in the public interest."

2. Marketing orders establish prices that support milk production in areas not very efficient for such production. Through the years, the differentials in each order, along with a complex allocation system, have encouraged processors to use local milk supplies or those from surrounding areas rather than those from more distant locations. Encouraging local production was an important goal in the 1930's, when milk couldn't be safely transported long distances. That's less of a problem today, but the old system is still in effect.

Florida, for example, is not a good area for dairy farming. Florida's farmers generally have high production costs because the state's hot, humid climate is not well suited for dairy cows. Yet the prices Florida farmers get are set high enough to keep them in business, according to a Department of Justice report.

The USDA uses the price-differential system to protect the Florida farmers—it keeps all prices aligned with the Florida price. "A price reasonable to obtain local production in Florida virtually dictates outrageously high differentials in other areas to keep milk out of Florida," says Robert Masson, a professor of economics at Cornell University, one of the authors of the Justice Department study.

3. The marketing orders have fostered local milk monopolies in some areas. The provisons of the orders discourage the movement of milk from region to region. That has allowed co-ops to grow and control milk supplies in a particular area. For exemple, Associated Milk Producers Inc. (AMPI) was formed in 1979 as the result of mergers of numerous smaller co-ops. It now controls some 75 percent of the milk in many of the orders from Madison, Wis., to southern Texas.

Where co-ops such as AMPI control supplies in particular marketing orders, they are able to charge processors the premiums, mentioned earlier, for drinking milk. Studies indicate that such premiums add from 2 to 8 cents to the retail price of a gallon of milk.

In the early 1970's the Justice Department sued the three major co-ops controlling much of the milk supply in the Midwest and the South. The Department alleged that the co-ops used "predatory" practices that drove independent farmers and smaller co-ops out of business and "exclusionary" practices that required processors to buy all their milk from the co-ops. Two of those cases ended in consent decrees—the co-ops admitted no wrongdoing but promised never to engage in certain practices. The third case is still in the courts.

4. The orders discourage production of low-cost milk substitutes such as reconstituted milk. A processor wanting to make reconstituted milk (made from milk powder, water, and milk or vegetable fat) must pay as much or more for milk made from powder as for drinking milk, even though the powder was made from cheaper, manufacturing-grade milk. Since the processor has to pay the higher price anyway, there's no reason not to sell fresh milk. The orders thus keep reconstituted milk uncompetitive with fresh milk—which is exactly what the dairy industry wants.

In 1979, the Community Nutrition Institute (CNI), a nonprofit consumer research and advocacy group, petitioned the USDA to hold a hearing on the question of pricing reconstituted milk as a manufactured milk product rather than as fresh milk. That would give consumers a lower-cost alternative to fresh milk, as well as lower prices for fresh milk. By USDA's own estimates, that would save consumers between $186-million and $399-million a year. CU supported the petition.

The USDA did not respond until April 1981, when it denied the petition, saying that reclassifying reconstituted milk would create "competitive problems that * * * would lead to pressures to lower Class I [drinking-milk] prices for fresh milk which would precipitate major changes in the dairy industry." The USDA was not interested in the fact that lower prices might help consumers, even though, by law, prices must be set in the public interest.

AND WITH PRICE SUPPORTS?

There are two major problems with the price-support program:

1. Political pressures result in an overly high support price, leading to overly high consumer prices. At the same time, high support prices encourage farmers to expand their herds, creating enormous surpluses of milk, which is turned into butter, milk powder, and cheese—much of which the Government must buy. (Low feed prices, common in recent years, also encourage an increased production of milk.)

In 1977, to take the most recent example, the Carter Administration, bowing to political pressure, raised the support price nearly 9 percent. Later that year, heeding the pleas of the dairy lobby, Congress raised the minimum support price from 75 percent of parity to 80 percent. The legislation also authorized semiannual increases in the price—in effect, giving dairy farmers a cost-of-living increase twice a year. At the beginning of 1977, the support price was $8.26; by 1981, when Congress finally ended these generous increases, the price was $13.10, an increase of 59 percent. Over that same period, the price of a half-gallon of milk at retail rose from about 82 cents to $1.12—an increase of nearly 37 percent.

Even though the rate of increase in the support price was slowed in the 1981 farm law, a surplus of milk will continue to pour out of the dairy farms for the next few years. In 1982, about 10 percent of all milk produced, or nearly 14 billion pounds, will end up as butter, powder, and cheese in Government warehouses. Taxpayer will pay more than $2-billion to buy these products. In 1977, by contrast, the Government purchased only 6.9 billion pounds for about $721-million.

2. The parity index is a poor measure on which to base the support price. The parity index was originally developed to track production costs for all kinds of farming. It doesn't accurately reflect production costs for a specific commodity. For example, while feed costs comprise about 50 percent of the cost of producing milk, they have only a 12 percent weight in the parity index. In times of low feed prices, such as now, the index overcompensates dairy farmers for feed costs.

Nor does the index account for productivity gains. Through the years, dairy farmers have become increasingly productive. In 1914, 20 million cows produced 65 billion pounds of milk; in 1980, half as many cows produced nearly twice as much milk. If farmers produce more milk with fewer cows, their costs go down, but this is not reflected in the parity index.

In the last few years, the parity index has risen faster than dairy farmers' expenses. From 1974 to 1979 the cost of producing milk rose by 16.5 percent, while the support price rose by over 50 percent. In 1980, costs rose 8 percent but supports rose more than 14 percent.

REGULATION BY THE STATES

While Federal marketing orders regulate the prices farmers receive for their milk, some states go one step further and regulate the sale and distribution of milk at wholesale and at retail. Their aim is to protect the dairy farmer by preventing price wars that might drive some wholesalers or retailers out of business, thus leaving farmers without enough outlets for their milk.

State regulations that set minimum prices for wholesalers and retailers directly prevent price wars. Many states also have laws preventing retailers from selling milk below cost. A few states have regulations that limit a retailer's choice of suppliers, which reduces potential competition among distributors.

A few states, New Jersey for one, can prevent a retailer from switching suppliers if money is owed to the previous supplier. The idea is to see that processors get paid and don't go bankrupt, leaving dairy farmers in the lurch.

New York State takes another route to limit a retailer's choice of suppliers. It licenses dealers and processors who sell milk to retailers. The licenses spell out where a

supplier can sell milk. Licenses aren't granted to new suppliers in a particular area if a state agency decides that the new supplier would create destructive competition in an area already adequately served.

ILLEGAL PRICE-FIXING

Given the layers of regulation and the restrictions they impose on middlemen, it's not surprising that some middlemen have carried the regulation to an illegal conclusion, price-fixing.

The very nature of milk regulation and of milk as a marketable product fosters illegal business behavior. The standard areas of business competition are all but closed to milk processors. They can't cut their costs in a substantial way because raw milk accounts for 60 to 70 percent of those costs—and the price they pay for it is fixed by the marketing-order system. They can't increase sales to any great extent by brand advertising because consumers know one milk is very much like another. And processors face what economists call an inelastic demand: While consumers may shop carefully for the lowest price, a low price will not necessarily cause them to buy more milk.

Since per-capita consumption is not increasing and lower prices won't mean more sales, the only way a processor can increase business is to win customers from a competitor. If that happens, somebody obviously loses. So the incentive among the middlemen is to fix prices at a high level and let everyone win. And if retailers lower milk prices below those acceptable to processors, the processors try to eliminate those low prices by shutting off a retailer's milk supply or by harassing the retailer over deliveries. That, at least, has happened in some states where price-fixing has occurred.

In the last few years, at least six states have obtained guilty pleas or indictments for price-fixing against milk processors or have settled such cases with consent judgments. In Arizona, for example, the state attorney general obtained a $4-million settlement from dairies and returned the money to some 350,000 households.

WHAT NEEDS TO BE DONE

Dairy farmers do have legitimate problems Government can solve. Nevertheless, it's time to balance the farmers' needs with those of consumers. Here are CU's recommendations:

1. Milk marketing orders should be re-examined by a Congressional or Presidential commission. The system may no longer be necessary. An independent commission can help determine whether the system should be abolished and whether any of its functions need to be performed by others. The USDA has previously reviewed the order program, but department officials have a vested interest in maintaining it. Consumer interests should be adequately represented on any study commission.

2. Reconstituted milk should be priced as a manufactured product, not as drinking milk. Reconstituted milk would then be an economical product for processors to sell. That would give consumers a cheaper alternative to drinking milk, and at the same time might lead to lower prices for drinking milk itself.

That, of course, is exactly what the dairy industry fears. "If we destroyed classified pricing in certain areas, there would be less money going to farmers," Pat Healy, secretary of the National Milk Producers Federation, told CU.

Indeed, if milk powder from Wisconsin were shipped to Florida and reconstituted the resulting milk would be cheaper than fresh milk from Florida cows. If consumers liked the reconstituted milk, Florida farmers would have to lower prices to stay competitive. And if Florida prices were lowered, prices everywhere would go down. The USDA estimates that consumers could save as much as $399-million if drinking-milk prices everywhere dropped as a result of reclassifying reconstituted milk.

If consumers did not like reconstituted milk, then the dairy industry would have nothing to worry about. As it is now, consumers cannot really benefit from the technology that could give them a cheaper product that may be just as good.

3. The USDA should regularly monitor the premiums added to milk prices by certain dairy cooperatives. Monitoring would reveal whether the premiums are too high and constitute undue price enhancement under the Capper-Volstead Act, the legislation that partially exempts co-ops from the antitrust laws. The USDA hasn't taken a serious look at the question of premiums since the mid-1970's. At that time, it decided that the premiums were not too high. During the Carter Administration, the USDA was going to establish an office to monitor co-ops' pricing activities, but the program never got started.

"The data on co-op premiums is collected and circulated for anyone who wants to see it," says Alden Manchester, a dairy economist at the department. "If it bumps along at the same level you've already concluded is not illegal, you don't make a big production out of it." Such a laissez-faire attitude on the part of the USDA is little help to consumers.

4. The index on which price supports are based should be changed. The 1981 farm law, which slowed the rate of increase in the support price, partially broke the link between price supports and parity. The legislation set specific support prices for the next few years rather than relating those prices to the parity index. However, parity would still be used under certain conditions.

That legislation was a step in the right direction, but permanent reform is necessary. Milk is the only major farm commodity still linked to the parity index; that has the potential for giving price increases to farmers that far exceed the increases in their production costs. Any index used should be related to the costs of producing milk, not to the costs of producing commodities in general. The support price should not encourage farmers to produce milk to sell to the Government. It should be used to protect farmers in bad years, not as a means to accumulate butter and cheese.

In the meantime, we must deal rationally with the surplus products the Government already has on hand. The Government has not adopted a formal program to dispose of the bulk of the surplus because some officials fear Government give-aways will compete with products sold by private businesses. To date, the Government has allocated some 100 million pounds of cheese to poor people, but there's still 622 million pounds left, not to mention the butter and milk powder also in storage.

(CU's West Coast office was instrumental in obtaining the release of the first 30 million pounds of cheese that was distributed, and helped the state of California develop a plan for giving away its share. CU has petitioned the President to develop a plan to distribute all the surplus milk products.)

5. State laws setting minimum prices and regulating the relationships between wholesalers and retailers are anticompetitive and should be abolished. The rationale for retaining such laws in 1982 is questionable at best. In California, where the minimum-pricing law was abolished, in part because of CU's efforts, consumers saved some $90-million in the first year of deregulation. In states that have no such laws, the dairy farmers seem to be surviving nicely.

6. State attorneys general should review the industry periodically for price-fixing schemes. These have been known to recur long after initial cases were settled. In New York, for example, milk wholesalers and processors signed a consent order as early as 1958 saying they agreed not to fix prices. But even as late as last year, some of the same companies were again involved in price-fixing conspiracies, ending in several criminal indictments.

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[From Business Week, June 21, 1982]

THE LIVESTOCK INDUSTRY'S GENETIC REVOLUTION

The world's first test-tube calf recently celebrated its first birthday at the University of Pennsylvania. Now grown into a bull named Virgil, the animal has opened the way for researchers to gain almost total control over the heredity of animals. Virgil is just one milestone in a series of recent developments that are quietly revolutionizing livestock production. Breeders already are producing animals that grow faster, resist disease better, and produce more meat or milk than ever before.

Many scientists are now convinced that they are on the verge of producing custom-made superanimals. "We are entering the era of embryo engineering," says Thomas D. McCarron, president of Genetic Engineering Inc., a Northglenn (Colo.) company specializing in animal breeding. The revolution in animal genetics should make possible giant gains in efficiency in livestock production and may well play a major role in feeding an exploding world population. Such developments should also spell more profitability to the hard-pressed $760 billion U.S. livestock industry, where low prices are creating a flood of red ink.

The pace of research and development currently is accelerating as scientists bring to the barnyard the potent technologies of modern genetics and apply them to the age-old practice of animal husbandry. "Changes that took 100 years are now happening in two months," declares Autar K. Karihaloo, director of embryo transfer at Carnation Genetics, a division of Carnation Co.

Farmers have been applying the principles of genetics to livestock production for only the past 30 years, but the results already are highly impressive. They have wrought astonishing improvements in the productivity of farming just by keeping accurate records on the desirable traits of breeding stock and by switching to artificial insemination. The U.S. dairy herd, for example, now numbers less than half what it was in 1950, yet it produces more milk.

Through artificial insemination, a top bull's genetic wealth can be shared widely—up to 100,000 cows can be impregnated each year from the sperm of one bull at a price of only $10 to $20 each. Artificial insemination is a $1 billion business that now accounts for 100 percent of all commercial turkey breeding and for nearly two-thirds of all dairy breeding.

Scientists now believe they can dwarf those increases with such advanced genetic technologies as embryo transfer, sex con-

trol, cloning, and the ability to manipulate the genes of animals directly. New breeding technologies could push the annual milk production of one cow nearly 45,000 lb., up from 15,000 lb. today, figures Alan G. Hunter, a professor of animal science at the University of Minnesota who heads a five-man team working on cloning cows. Such an animal could be as large as an elephant.

MAIL-ORDER STOCK

Just as artificial insemination enables the best genetic traits of male animals to have a speedy and broad impact on the breed, a technology known as embryo transfer is now leveraging the optimum genetics of female animals. Rather than having just one calf a year, a prize cow can now produce dozens. "Embryo transfer makes possible a greater number of animals with high genetic merit," says Richard E. Nelson, special assistant at the Holstein Friesian Assn. A farmer with a dozen mediocre cows, for example, can buy a dozen high-quality embryos and within a year will have the beginnings of a top-flight herd.

Although embryo transfer is an old concept—the first one was performed in Britain in 1890—it was only in the past decade that the technology was refined sufficiently for commercial use. Now embryo transfer is growing rapidly especially in the dairy business. About 35,000 calves will be born in 1982 using this method, predicts George E. Seidel, director of the embryo transfer laboratory at Colorado State University. "It's getting to the point that if you're not using transfers, you're falling a step behind," says Spencer Roberts, vice-president of sales at Granada Farms, a Marquez (Tex.) animal breeding company.

To initiate a transfer, a prize cow is given special hormones so that it superovulates—that is, the ovaries release 10 to 12 eggs rather than just one at a time. The cow is then inseminated, and, a week later, its uterus is flushed, and technicians carefully pick out the embryos from the flushing solution. Each embryo is then implanted into the uterus of another—usually lower-quality—cow. The surrogate mothers then give birth to genetically superior offspring.

Before embryo transfer can become as pervasive as artificial insemination, scientists will have to develop better ways of preserving the embryos. Although the first success with freezing embryos came as recently as 1972, survival rates are still low and commercial attempts at freezing have only begun in the last few years. Once this technology is perfected, researchers expect that frozen embryos will be sold in simple packages and thawed out to be used, just as the semen of prize bulls is today. A company could build up a stock of embryos and sell them on a catalog basis.

SEXING

The ability to preserve embryos is expected to expand an already growing export business in them for U.S. companies. The Holstein Friesian Assn. has already sold embryos to Hungary, Spain, and Italy. Carnation is negotiating to sell 2,000 frozen embryos to a North African country. "You can ship 2,000 cows under your airplane seat," comments Carnation's Karihaloo.

Embryo transfer will have a major effect on the quality of livestock herds in developing nations, experts predict. Frozen embryos can be shipped more easily than cattle because they do not carry diseases or parasites that could harm native stock. And once the embryo is transferred, "it receives immunity [to native diseases] from its new mother," says John F. Hasler, technical director at Em Tran Inc., an Elizabethtown (Pa.) company that transferred 3,500 embryos last year.

Although scientists can now mate selected animals and hasten their impact on herds by increasing the number of offspring that they produce, they are still unable to predict accurately the sex of those offspring. If they could, it would have a significant impact on the economics of livestock operations—for instance, to dairy farmers who want only female offspring. At least 20 companies and universities are working on sex-determination techniques that would be suitable for commercial use. "Embryo transfer will take a tremendous spurt when 'sexing' is available," says Genetic Engineering's McCarron.

FOOLPROOF

One promising new technique for determining sex that McCarron and others are exploring takes advantage of the fact that male embryos have a special protein—called an HY antigen—on their surface. Researchers are developing antibodies that latch on to this protein, which would provide a foolproof method for identifying the sex of an embryo. Researchers are also looking for ways to identify the sex of sperm, which will be more difficult to do than identifying the sex of embryos but would have broader applications and could be less costly. "If you could sell semen that guarantees a female, every dairy farmer that walks and chews gum will buy it," says Thomas Wagner, an Ohio University professor who, while on sabbatical, is working as vice-president for research at Genetic Engineering.

At least a half-dozen companies already claim to sell semen that is biased toward one sex or the other, but none of their claims is fully substantiated, according to industry experts. But scientists agree that full-fledged products will emerge in the next few years. Researchers are working on a variety of different methods to separate sperm—by density, by electric charge, and by surface proteins. Genetic Engineering, for example, hopes to make use of the fact that female-producing sperm contain 3 percent more DNA, the basic material of genetics, than do male-producing sperm.

A different, and somewhat bizarre, approach to sex selection is under development at Texas A&M. Nat M. Kieffer, a professor of animal genetics, is injecting female fetuses with testosterone and HY antigen. By interfering with their sexual development, Kieffer hopes to produce animals that are genetically female but equipped with male sex organs. If this hybrid animal is mated with a female, the offspring will all be females.

The ultimate goal of animal scientists is the ability to manipulate the very genes themselves. This manipulation has to be done outside the animal, however, so a key step toward that objective was the ability to fertilize an egg in a test tube. That feat, which has proved to be more difficult with cattle than with humans, was accomplished by the team of University of Pennsylvania researchers that produced Virgil. "We're not far from the top of the hill for animal applications," maintains Benjamin G. Brackett, professor of animal reproduction and research who headed the effort at the university's School of Veterinary Medicine.

Placing two embryos into a surrogate mother that would normally bear just one offspring is now routine, but an important technique now being perfected will split a single embryo into many identical twins. Researchers typically wait until an embryo grows to 60 or 80 cells, and then split it into two or more pieces. Those pieces can be split in turn as they grow and then inserted into surrogate mothers. So far, scientists have succeeded in experiments with cows, sheep, and mice.

Researchers also are trying to learn how to raise unfertilized eggs in a test tube. At Colorado University, researcher Jonathan Van Blerkom is working on the maturation of eggs from mice and cows. He hopes to use the technology to salvage eggs from old animals that are no longer able to ovulate—or even from dead animals. Alternatively, scientists might someday be able to remove an animal's ovary at birth and mature the hundreds of eggs in the laboratory.

Embryologists working on test-tube reproduction are not only substituting for nature. They are also modifying animals in ways not possible with natural selection. "We might realistically expect the development of breeds of cattle not previously known," says Brackett of the University of Pennsylvania. Researchers at Britain's Cambridge University have joined an embryo and an unfertilized egg to create a mouse with three parents. And at Jackson Laboratory in Bar Harbor, Maine, researcher Peter C. Hoppe has created mice with no fathers. To do that, he fertilized a mouse egg and then carefully plucked out the genetic material contributed by the sperm. Colorado State's Seidel is taking the opposite approach. He is fertilizing an egg with two sperm and then removing the egg's genetic material. "We know more about bulls than cows. If we cross two bulls, we know what we're getting," he says.

Other researchers are trying to produce perfect clones—single-parent animals that are genetically identical to their lone parents—because cloning would be the perfect way to perpetuate the genetics of superior animals. Researchers have already succeeded with frogs and fish.

Of all the new test-tube techniques, the most powerful is probably gene transfer. With this technology, researchers can redesign an animal's genetic makeup, taking away undesirable traits and adding new ones. By inserting extra genes, researchers could create new supercows that produce much more milk or fight disease more effectively. Until recently, such ideas were in the realm of science fiction. "Two years ago, only 5 percent of the scientific community thought it was feasible. Now the majority are believers," says Ohio University's Wagner, a pioneer in gene-transfer technology.

Wagner has teamed up with Jackson Lab's Hoppe to succeed in placing a rabbit hemoglobin gene in a mouse embryo. The resulting mouse is now producing tiny amounts of rabbit hemoglobin. Now Wagner, as well as others, is trying to put the genes that control growth in cows into mice. "It's not only conceivable—it's probable that genes will be incorporated into economically important animals. I wouldn't be surprised to see within two years a cow or sow or sheep with new genes," says Ralph L. Brinster, a professor of reproductive physiology at the University of Pennsylvania's School of Veterinary Medicine.

COMMERCIAL IMPACT

Gene-transfer technology is still quite crude, however. Researchers use special micro-injection instruments to insert copies of the target gene into a fertilized animal egg, and then they hope that the new genes

are incorporated into the animal's cells. Researchers at Genentech Inc. in South San Francisco have succeeded in placing a human insulin gene into a mouse cell—but the gene takes hold only once in every 80 attempts.

Advances are coming regularly and rapidly now, though most of the current gene work is still in the early experimental stages. And although scientists will argue about just when various techniques will begin to have a commercial impact, few doubt that vast changes in animal breeding are on the horizon. Comments Carnation's Karihaloo: "It boggles my mind to think what dairy cows will look like in 25 years."

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[From Hoard's Dairyman, Feb. 25, 1982]

GROWTH HORMONE COULD LEAD TO GETTING MORE MILK PER COW

CORNELL SCIENTISTS GOT 10 TO 40 PERCENT BOOSTS IN PRODUCTION BY ADMINISTERING A NATURAL HORMONE TO COWS FRESH 60 TO 100 DAYS

For information about bovine growth hormone, we interviewed Dale E. Bauman, a nutritional biochemist at Cornell University, Ithaca, N.Y., who has been conducting research on this compound for two years. He has been assisted by Colin J. Peel, a graduate research assistant; and Ronald C. Gorewit, a lactational physiologist.

Describe your growth hormone research.

We have been administering bovine growth hormone to typical dairy cows at different levels of production and in different stages of lactation. Our dosage is just 44 milligrams (less than 1/500 of an ounce) of the compound per cow per day. The result has been that cows have given significantly more milk. We are getting increases of 10 to 40 percent.

Where does growth hormone come from?

First, growth hormone is a large protein secreted by the pituitary gland which is located at the base of the cow's brain. It is a key regulator of growth in growing animals. The hormone we have used is purified from the pituitary glands of slaughtered cows. Only a few milligrams of hormones are obtained from each pituitary. Thus, all of our studies have lasted only 10 to 14 days. The hormone used for a single experiment would require pituitary glands from several thousand cows.

How did you get started with this research?

For some time, we have known that certain cows were much more efficient milk producers than others. For example, take Beecher Arlinda Ellen, the world record cow that averaged 153 pounds a day for 365 days. Compared to other cows, she made much better use of the feed she ate.

We have been interested in cows' ability to direct nutrients to the appropriate tissue in their bodies for either milk or fat production. Our goal is to learn about what determines which nutrients go where. Also, previous research has shown that daily injections of pituitary extract caused low-producing cows to milk more.

What has been the effect on production?

Using cows that had been fresh about 60 to 100 days, we found that daily injections of growth hormone resulted in 10 to 40 percent boosts in milk production. Some of these cows were milking as much as 60 to 80 pounds to begin with. The rise begins within one or two days after the first injection and production returns to normal within a few days following the last injection.

Overall, there was about a 20 percent rise in the amount of milk energy produced. Protein yield jumps 5 top 20 percent.

Did the cows eat more?

No, this is the remarkable thing. We have improved production significantly without causing the cows to eat any more. In one study, we measured digestibility of the feed and found that it was not affected by growth hormone. In other studies we found that supplying additional glucose (energy) and protein did not cause a still higher response. It looks like growth hormone improves the efficiency at which absorbed nutrients are used for milk production or increases the mobilization of body reserves so that more nutrients are made available for milk production.

Does stage of lactation affect results?

In one study, we injected cows for about two weeks, starting at 81 days after calving and then treated the same cows again starting at 244 days after calving. The percentage increases in yield of milk and milk components were much greater among the cows when they were in late lactation (30 to 40 percent). However, the actual amounts of the increases were about the same during both stages.

What about the effects on body weight and condition?

Because our treatments lasted for only 10- or 14-day periods, we don't know what the long-term effects of administering growth hormone will be. Obviously, we need to know what would happen if we kept cows on growth hormone for a longer time. Unfortunately, current supplies of the hormone are not sufficient to permit us to do this kind of an experiment. Previous studies by other researchers involving lower producing cows given daily growth hormone injections for 10 to 12 weeks showed that the milk response to growth hormone lasted throughout the treatment. There were no unusual changes in body weight.

Would growth hormone have to be injected daily?

Not necessarily. To check this we conducted one 10-day trial in which we tried three different ways of administering the growth hormone. One method involved one shot of growth hormone under the skin each day. In the second method, cows were given the hormone intravenously six times a day and the third way was a continual under-the-skin infusion throughout the day.

All three methods involved the same amount of growth hormone. The "injection" treatment represented the same pattern we had used in our previous studies. The continuous infusion results in a constant blood level of growth hormone that might resemble what you would get from an implant. Normally, the release of growth hormone from the pituitary gland occurs in periodic pulses and this was mimicked to some extent by the pulse treatment.

Changes in milk yield and milk composition were similar for all three methods. We concluded that it is the amount of hormone given each day that is most important rather than how it is given.

How does bovine growth hormone work?

We don't know precisely. It seems likely that growth hormone acts in two ways. First, the injected growth hormone may directly or indirectly improve the ability of the udder to synthesize milk. Secondly, other body tissues must be affected so that more nutrients are available to the udder for milk production. Perhaps fat tissue metabolism is affected by the hormone so that rates of body fat synthesis are lower and more fat is mobilized into the bloodstream for production of milk fat.

We are continuing our efforts to find out exactly how the growth hormone does work. Right now we are working with the USDA Energy Metabolism Unit in Beltsville. Together we hope to get a handle on total energy balance and use radioactive tracers to evaluate the metabolism of key nutrients.

Could developments in genetic engineering lead to a lower cost supply of growth hormone?

Recent developments in the recombinant-DNA field make this a possibility. Scientists have synthesized growth hormone using bacteria equipped with the hormone-producing genes from cows. This synthetic growth hormone should be available for experimental use before too long.

Are there companies now working on this development?

Because of the tremendous potential to improve productive efficiency during lactation and growth, more than a dozen companies have made major financial commitments in this area. Their efforts include use of genetic engineering for the bacterial production of cow growth hormone or identification of compounds which would stimulate production of the hormone by the animal's own pituitary gland.

What must be accomplished in the way of research and approval before growth hormone might be used commercially?

Several years of research will be needed before Food and Drug Administration would approve the hormone for commercial use. We need long-term studies to determine the effect of growth hormone on the animal and the safety of the meat and milk for human consumption. So far we have noted no ill effect on animals during our short-term studies, but the long-term effects on milk production, reproductive performance and animal health are not known.

What is a realistic estimate of when growth hormone might be used on dairy farms?

Typically, it takes from 5 to 10 years to conduct the necessary studies to obtain Food and Drug Administration approval.

Will you be looking at other ways of raising the blood level of growth hormones besides administering it to the animals directly? Is there a relationship between the response with growth hormone and the response that other researchers have observed by controlling the amount of light that animals are exposed to?

Many groups of dairy scientists are trying to identify ways to increase blood concentrations of growth hormone. It does not seem to be involved in the light response, but we wonder if changes in other environmental factors or management practices might alter circulating growth hormone levels.

We also are interested in how growth hormone differs between high- and low-producing cows and whether it could become a part of the genetic selection system.

How do you justify this type of research in view of our current milk surplus?

Essentially, all animal science research results that have been implemented by dairy farmers have been an attempt to improve how efficiently milk is produced. Growth hormone dramatically improves the efficiency of milk production so it is consistent with long-standing research goals.

Looking ahead, the world population could double in the next 40 years. If so, mankind will have to produce as much food during the next 40 years as we have pro-

duced in all of previous history. It will be imperative that we improve the efficiency of food production from plants and animals.

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By Mr. KENNEDY:

S. 2666. A bill to amend the Airline Deregulation Act of 1978 and the Federal Aviation Act of 1958 to provide employee protection for employees of certain air carriers; to the Committee on Commerce, Science, and Transportation.

AIR CARRIER EMPLOYEES PROTECTION ACT OF 1982

● Mr. KENNEDY. Mr. President, I am today introducing legislation which will restructure the labor protective provisions of the Airline Deregulation Act to insure prompt adjudication of claims; and provide continued protection for employees in future airline merger cases by codifying the CAB's Allegheny/Mohawk merger employee protection provisions.

When the Airline Deregulation Act was enacted in 1978, Congress recognized that it had a duty to provide protection for employees of previously regulated carriers who would be adversely affected as a result of deregulation. We therefore included extensive labor protective provisions in the act similar to those afforded displaced and furloughed employees in industries which Congress had previously deregulated.

It is now 4 years since the Airline Deregulation Act when into effect. Many thousands of airline employees are without work today, but not one has received any of the protection Congress intended to provide because serious procedural impediments in the current law have prevented employee claims from being fairly and promptly adjudicated.

In fact, despite repeated efforts by employees and employee organizations, the Department of Labor has still not issued regulations implementing the general provisions of the act and there is no reason to believe that any action will be taken unless we require the Department to do so.

Since Congress believed that the benefits of deregulation shoud not be paid for by airline employees and their families, I believe we have an obligation to act now to correct the procedural impediments in the current law and to provide funding to make those protections meaningful.

The bill takes a number of steps to insure that prompt action will be taken by those executive branch agencies with responsibility to carry out the labor protective provisions of the act.

First, responsibility to determine the cause of dislocation is transferred from the CAB to the Department of Transportation and strict time deadlines are imposed on DOT to make such determinations and on the Depatment of Labor to determine benefit levels.

The Secretary of Labor would be required to issue protective regulations within 150 days of enactment of the amendments and the Secretary of Labor and Department of Transportation would be required to process individual applications within 60 days or the application would be deemed granted.

In addition the Court of Claims is given authority to review agency determinations. In view of failure of the executive branch to act in the past, review of agency determinations in a neutral forum is necessary to protect against the arbitrary denial of benefits. I believe the time deadlines imposed by this legislation guarantee prompt consideration and action by the responsible executive branch agencies and insures fair treatment of employee claims.

Under current law, 7½ percent of a carrier's employees must be deprived of employment in a 12-month period before the protective provisions can be activated for employees on that airline.

This provision serves no purpose other than to deprive employees of the protection Congress intended to provide. Once it has been established that an employee has lost his job as a result of deregulation he should receive the benefits of the act's labor protective provisions regardless of how many other employees on that airline have been similarly affected.

Accordingly the bill eliminates the 7½ percent trigger so that an employee who has lost his job due to deregulation will not be deprived of the protection to which he is entitled because of an arbitrary trigger.

The bill also extends the first right of hire requirement in the current law to any carrier holding a certification on the date of enactment of these amendments.

Under this provision carriers who have been certified since 1978 would also be required to hire employees who have lost their jobs due to deregulation. These carriers have been the principal beneficiaries of deregulation and it is only fair and equitable that they share in the effort to mitigate the effects of competition through the new employment they provide.

In addition, the bill will continue protection for employees affected by future airline mergers by codifying the CAB's Allegheny/Mohawk merger employee protection provisions.

For over 30 years the Civil Aeronautics Board consistently imposed protective conditions virtually identical to Allegheny/Mohawk in every merger case to come before it. However, with the transfer of jurisdiction over airline mergers to the Department of Justice in 1982, and sunset of CAB in 1985 these employee protections will cease unless the rules are codified. Merger protection provisions have worked well and have been regarded as fair and workable by all interested parties. Since there will undoubtedly be more merger activity in the airline industry in the years ahead, the application of the rules should be extended.

Mr. President, the Senate report on the Airline Deregulation Act states:

> * * * Congress, on behalf of the American people, must insure that the benefits to the public which result from its decision to alter substantially the regulation for air transportation are not paid for by a minority—the airline employees and their families who have relied on the present system * * *.
>
> Congress, (in the past) having acted to prevent the normal free market evaluation of the industry, now has a duty to the industry and its employees which would not exist if such action had not been taken. (Report of the Senate Committee on Commerce, Science and Transportation on S. 2493, 95-631 Feb. 6, 1978, pp. 114-115.)

This legislation is not only consistent with that report; it is clear from the record of the last 4 years that it must be enacted if our intention is to be carried out.

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

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

S. 2666

*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 "Air Carrier Employees Protection Act of 1982".

SEC. 2. Section 43 of the Airline Deregulation Act of 1978 (49 U.S.C. 1552) is amended—

(1) in subsection (a)(1)—

(A) by striking out ", subject to such amounts as are provided in appropriation Acts,"; and

(B) by striking out the last sentence;

(2) in subsection (b)(1)—

(A) by striking out ", subject to such amounts as are provided in appropriation Acts,";

(B) by striking out the second sentence and inserting in lieu thereof "Each monthly assistance payment shall be in an amount equal to the average monthly compensation received by any such eligible protected employee over the previous year, but no such payment shall exceed a maximum of $1,800 per month."; and

(C) by striking out in the last sentence "unemployment compensation" and inserting in lieu thereof "benefit under Federal or State law relating to unemployment compensation, food stamps, public assistance, or welfare programs";

(3) in subsection (c) by striking out ", subject to such amounts as are provided in appropriation acts," in each place it appears;

(4) in subsection (d)(1)—

(A) by striking out in the first sentence "is subject to regulation by the Civil Aeronautics Board" and inserting in lieu thereof ", prior to the date of enactment of the Air Carrier Employees Protection Act of 1982, had held a certificate issued under section 401 of the Federal Aviation Act of 1958 (49 U.S.C. 1371) or had been exempted from such section by section 416(b) of the Federal Aviation Act of 1958 (49 U.S.C. 1386),";

(B) by inserting in the first sentence, immediately after "first right of hire" and words "on a regional basis";

(C) by inserting in the first sentence after "hiring additional employees" and words "in the regional area of any eligible protected employee,";

(D) by striking out before the period in the first sentence "such date of enactment" and inserting in lieu thereof "the date of enactment of the Air Carrier Employees Protection Act of 1982"; and

(E) by inserting before the period at the end of the third sentence "; except that such seniority and recall rights shall not apply to flight deck operating crew members.";

(5) in subsection (d)(2)—

(A) by inserting in the first sentence after "publish" the words "on a regional basis"; and

(B) by inserting before the period in the first sentence "(49 U.S.C. 1371) prior to the date of enactment of the Air Carrier Employees Protection Act of 1982";

(6) in subsection (d) by adding the following new paragraph (4) at the end thereof:

"(4) If any carrier fails to comply with the duties and obligations set forth in this subsection, the United States District Court for any district wherein such air carrier does business, shall have jurisdiction of actions to enforce the duties and obligations whether by writ of injunction or other process. The Attorney General, the Secretary of Labor, or any person aggrieved by such failure may bring an action.";

(7) in subsection (f)(1) by amending it to read as follows:

"(1) Within 180 days of the enactment of the Air Carrier Employees Protection Act of 1982, the Secretary shall issue rules for the necessary administration of this section.";

(8) in subsection (f)(2) by amending it to read as follows:

"(2) The Secretary may issue, amend, or repeal any rules in the administration of this section.";

(9) in subsection (g)—

(A) by inserting in the first sentence before "All payments under this section" the paragraph designation "(1)"; and

(B) by adding at the end thereof the following new paragraphs:

"(2) The Secretary shall promptly pay all payments and perform all services provided by this section. The Secretary may not delegate any part of the administration of this section to any State or local agency.

"(3) Any application for payment under the provisions of this section which is not denied within 60 days after filing with the Secretary, shall be deemed granted, regardless of whether the Secretary of Transportation has made a determination concerning a qualifying dislocation.

"(4) Within 120 days after denial by the Secretary of any application under this section, the applicant may petition the United States Court of Claims, which shall have jurisdiction to make all determinations (including those initially required to be made under this section by the Secretaries of Labor and of Transportation) necessary for final decision and payment upon such applications. All such deteminations will be made de novo.";

(10) in subsection (h)(1) by amending it to read as follows:

"(1) The term "protected employee" means a person who has been employed for at least four years by—

"(A) an air carrier holding a certificate issued under section 401 of the Federal Aviation Act of 1958 as of October 24, 1978, for the purpose of such employee receiving any payment benefit pursuant to this section; and

"(B) an air carrier holding a certificate issued under section 401 of the Federal Aviation Act of 1958 as of the date of enactment of the Air Carrier Employees Protection Act of 1982, for the purposes of such employee receiving any benefit, other than a payment benefit, pursuant to this section.

"The term "protected employee" shall not include any members of the board of directors or officers of a corporation.".

(11) in subsection (h) by inserting after the first paragraph, the following new paragraph:

"(2) the term "eligible protected employee" means a protected employee who, on account of a qualifying dislocation, has been deprived of employment or has been adversely affected with respect to his compensation.";

(12) in subsection (h) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively;

(13) in subsection (h)(2), as redesignated as subsection (n)(3) by section (2)(12) of this Act—

(A) by striking out "major contraction" and substituting in lieu thereof "change in operations, services, or facilities";

(B) by striking out "Airline Deregulation Act of 1978, the major cause" and inserting in lieu thereof "Air Carrier Employees Protection Act of 1982, a contributing cause"; and

(C) by striking "Civil Aeronautics Board" before the period at the end of the sentence and inserting in lieu thereof "Secretary of Transportation"; and

(14) by striking out subsection (h)(4) defining the term "major contraction".

SEC. 3. Section 408 of the Federal Aviation Act of 1958 (49 U.S.C. 1373) is amended by adding at the end thereof the following new subsection:

"PROTECTION OF EMPLOYEES

"(g)(1) In the case of any transaction to which this subsection applies, it shall be the duty of each party to provide a fair and equitable arrangement for the integration of work forces and the protection of the interests of employees of the air carriers involved which is at least as protective of and beneficial to such interests as the conditions imposed by the Civil Aeronautics Board in CAB Order 72-4-31, commonly known as the Allegheny-Mohawk conditions. No transaction shall take effect until at least forty-five days after the Secretary of Labor has certified that such arrangement is at least as protective of and beneficial to the interests of such employees and such conditions. Notwithstanding any other provision of this section, an agreement pertaining to the protection of the interests of such employees may be entered into by any air carrier or air carriers and the duly authorized representative or representatives of the employees of such air carrier or air carriers.

"(2) This subsection shall apply to any consolidation, merger, purchase, lease, operating contract, acquisition of control, or other transaction specified in subsection (a) of this section in any case in which two or more air carriers are involved.

"(3) In no event shall the Secretary of Transportation or any officer or employee of the Department of Transportation be required to act as an arbitrator in settling any disputes arising out of any arrangement or agreement under this section.

"(4) If any party fails to comply with the duties imposed by this section, the United States district court for any district wherein a party to the transaction does business shall have jurisdiction of actions to enforce such duties by writ or injunction imposing such conditions or other process. The Attorney General, the Secretary of Labor, or any person aggrieved by such failure (including a labor organization representative of such person) may bring such an action.".

SEC. 4. That portion of the table of contents contained in the first section of the Federal Aviation Act of 1958 which appears under the heading "Sec. 408. Consolidation, merger, and acquisition of control." is amended by adding at the end thereof the following: "(g) Protection of employee.".●

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By Mr. HEINZ:

S. 2667. A bill to amend title 38, United States Code, to enhance the quality of care for veterans in medical facilities operated by the Veterans' Administration by insuring the provision of such care and necessary related services by Federal employees; to the Committee on Veterans' Affairs.

VETERANS HEALTH CARE

● Mr. HEINZ. Mr. President, I rise today to introduce legislation to preserve our veterans' health care. The men and women who have sacrificed to defend our great Nation deserve the finest health care this country can provide. Any attempt to weaken the integrity of the Veterans' Administration health care system must be adamantly resisted.

I am concerned by a recent proposal put forth by the Office of Management and Budget which leads directly toward the eventual contracting out of many services presently provided by the Veterans' Administration. These services are provided with the care and expertise of dedicated doctors, nurses, and volunteers who know the special problems of veterans. Contracting these services to diverse and inexperienced institutions would certainly lead to a lower level of care for our veterans, not to mention jeopardizing the jobs of thousands of devoted employees, and the inefficient use of millions of taxpayer dollars.

In 1983, the Veterans' Administration is expected to accommodate over 18 million outpatient medical and dental visits and to provide services to over 1.3 million patients in hospitals and outpatient clinics. The illnesses our Nation's veterans suffer from require patience, acceptance, and empathy. This level of caring will simply not be available if contractors with no prior special interest in Veterans' Administration patients are allowed to replace VA employees and volunteers.

Mr. President, the delivery of veterans' health care will become more complex in the future, particularly as the population of our elderly veterans continues to grow. Recent estimates show that the number of veterans over 65 years old will grow from 3 to 8 million by 1995. These elderly veterans need special care, and I, for one, do

not believe that the answer for these veterans lies in shipping them out to other medical facilities under some type of voucher system.

Mr. President, I am sure that you and my distinguished colleagues are also well aware that our Veterans' Administration hospitals are more than just hospitals. They are teaching facilities. They are research centers. They are rehabilitation centers. They represent the only caring home many of our veterans may have.

We must have a vibrant, integrated health care system supported by the Veterans' Administration to continue to meet these needs and functions. This integrity is being challenged today by the Office of Management and Budget.

In its recent revision of circular A-76, OMB would require Government facilities to contract for services involving 25 employees or less without regard for cost or in-house capabilities. The Congress has received only the most naive assurances from OMB that the activities proposed for contracting out would not directly concern the delivery of health care to sick, injured, and aged veterans.

To assure that this proposal will not affect the quality or location of health care services for veterans, the legislation which I am introducing today will limit the Office of Management and Budget's authority to require the Veterans' Administration to contract out for medical and health care services only where the Veterans' Administration medical facilities are not capable of providing an essential medical service.

The VA health care system is a national treasure that delivers the finest medical care for our Nation's sick and injured veterans. The legislation I introduce today will help preserve this service for our most deserving citizens, and I urge my colleagues to give this legislation their respectful consideration.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

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

S. 2667

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 5010(a) of title 38, United States Code, is amended by adding at the end the following new paragraph:

"(6)(A) Except as provided in subparagraph (B) of this paragraph, all activities carried out at a medical facility under the direct jurisdiction of the Administrator shall be performed by Federal employees unless and to the extent that the Administrator, after considering the advice of the Chief Medical Director, determines that such facility is not capable of carrying out such activities through such employees or that contracting for the performance of such activities would enhance the quality of medical care for eligible veterans.

"(B) Subparagraph (A) of this paragrah does not prohibit or restrict any authority of the Veterans' Administration under any other provision of this title or any other provision of law to enter into contracts or cooperative sharing agreements with other Federal agencies or departments or with State or nongovenmental entities for the exchange or sharing of goods, services, facilities, or resources.".

SEC. 2. Section 5010(a)(6) of title 38, United States Code, as added by the first section of this Act, does not apply with respect to a contract in effect on May 15, 1982, or to any renewal, extension, or modification of such a contract.●

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By Mr. MOYNIHAN:

S. 2668. A bill to amend the Social Security Act with respect to the issuance of social security cards; to the Committee on Finance.

ISSUANCE OF SOCIAL SECURITY CARDS

● Mr. MOYNIHAN. Mr. President, I rise today to introduce a bill directing the Secretary of Health and Human Services to begin issuing social security cards that are as counterfeit-proof as possible.

This is a matter that has been of concern to me for quite some time, for we have evidence that the fraudulent use of social security cards costs Federal, State, and local governments billions of dollars each year.

In a report of December 23, 1980, the General Accounting Office estimated that crimes based on false identification, a significant number of which are committed with fake social security cards, "cost the American taxpayers more than $15 billion annually." At hearings held by the Senate Permanent Subcommittee on Investigations just this week, the subcommittee staff put the current cost of crimes committed with false identification at over $24 billion.

Literally billions of dollars, therefore, could be saved by issuing counterfeit-proof social security cards. To that end, I introduced a bill in the 96th Congress similar to the one I am introducing today. It did not receive so much as a hearing. Last October, I offered this legislation as an amendment to the Social Security Amendments of 1981. Although my amendment was accepted by the Senate, it was later dropped in conference when it was opposed by Social Security Administrator John A. Svahn.

Mr. Svahn's opposition to this commonsense measure was, and still is, inexplicable. Estimates of the cost of issuing counterfeit-proof social security cards vary, but none even approaches the estimated drain on the Treasury caused by criminal use of the cards. Surely we can all agree that putting an end to such waste is a matter of good public policy that cuts across party and ideological lines.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

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

S. 2668

*Be it enacted by the Senate and House of Representatives of the United States of America in Congess assembled,* That section 205(c)(2) of the Social Security Act is amended by adding at the end thereof the following new subparagraph:

"(D) The Secretary shall issue a social security card to each individual at the time of the issuance of a social security account number to such individual. The social security card shall be made of banknote paper, and (to the maximum extent practicable) shall be a card which cannot be counterfeited."

(b) The amendment made by this act shall apply with respect to all new and replacement social security cards issued more than 190 days after the date of the enactment of this Act.

(c) Within 90 days after the date of the enactment of this Act the Secretary of Health and Human Services shall report to the Congress on his plans for implementing the provisions of this Act.

(d) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act. Such amounts shall not be paid out of the trust funds established under Section 201 of the Social Security Act.●

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By Mr. PRESSLER:

S. 2669. A bill to amend title 18 to limit the defense of insanity; to the Committee on the Judiciary

LIMITING THE INSANITY DEFENSE

● Mr. PRESSLER. Mr. President, I send to the desk a bill providing for amendment of the United States Code with respect to the issue of the insanity defense.

This bill would limit the defense of insanity and provide for a mandatory term of confinement for persons acquitted by reason of insanity of the crimes of murder and attempted murder.

I am certainly supportive of the efforts which are being made by the administration and both houses of Congress regarding proposed changes in the rules governing the insanity defense. Most importantly, special recognition should be made of the dedicated efforts of my distinguished colleague from Utah, Senator HATCH. I have joined as a cosponsor of his measures which amend title 18. I am also cosponsoring S. 2572, the Violent Crime and Drug Enforcement Act of 1982, which incorporates the concepts of Senator HATCH's bills.

The bill which I am introducing today follows the leadership of Senator HATCH in limiting the insanity defense. My measure also provides that persons acquitted by reason of insanity of the violent crimes of murder and attempted murder be confined to a suitable institution. Such confinement

would continue under this bill's provisions until such time as it is determined that the person is no longer suffering from a mental disease or defect. At that time, the court could modify the provisional sentence and proceed to sentencing the defendant.

I am hopeful that the Congress will take action quickly to make responsible reforms in the rules governing the insanity defense and respond to the continuing public concern over the problems existing in our criminal justice system.●

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By Mr. MOYNIHAN:

S. 2670. A bill to prohibit all U.S. economic and military assistance and experts—except food and medicine—to, and all imports from, any country whose government has failed to take adequate measures to prevent opium and its illicit derivatives from being produced or refined for export to the United States; to the Committee on Finance.

AMERICAN POLICY TOWARD HEROIN-PRODUCING COUNTRIES

● Mr. MOYNIHAN. Mr. President, I am today introducing, for the consideration of the Senate, legislation to prohibit the provision of foreign military and economic assistance to countries whose governments do not cooperate with American efforts to halt the supply of heroin to the United States.

While the President has, under existing law, authority to interrupt aid to countries whose governments do not cooperate, that authority has never been used with respect to a heroin-producing nation. My proposal would direct that the President take action to: suspend all assistance to; prohibit all exports to; and prohibit imports from countries whose governments fail to cooperate with American officials charged with stemming the flow of illicit opiates into the United States.

In addition to proposing this legislation, Mr. President, I have urged the President to take complementary action. On June 16, I wrote to President Reagan requesting that the administration begin special negotiations with the Government of Pakistan to control the production of opium and heroin.

Approximately 60 percent of the heroin in this country is believed to have come from Pakistan to this country in 1980, the most recent year for which comprehensive assessments have been made.

The current situation with respect to Pakistan is not unlike that which existed in the late 1960's when Turkey was the main supplier of opium poppy to the American illicit market. I was counselor to the President at that time and in 1969 was dispatched by President Nixon to Turkey, as well as to France where much of the opium was being processed into heroin. I held talks with representatives of both of these countries and, eventually, the United States was able to reach agreements with them to curtail opium and heroin production.

This approach was effective in reducing the amount of heroin brought into the United States from Turkey. As I wrote to President Reagan on June 16, I believe that we must employ a similar strategy with respect to Pakistan today.

Meanwhile I propose that Congress also act. The legislation I am introducing today would direct the President to discontinue aid to countries on the basis of the Narcotics Intelligence Estimate published by the National Narcotics Intelligence Consumers Committee, the most comprehensive and authoritative estimate available to the Federal Government on the supply of illegal drugs to the American market.

Under current law, chapter 8 of the Foreign Assistance Act of 1961, as amended, the President has authority to suspend economic and military assistance to countries that fail to curtail drug trafficking resulting in narcotics entering the United States. Aid to heroin-producing countries has never been suspended under this provision. In fact, last year, while the National Narcotics Intelligence Consumers Committee was compiling a report indicating that heroin laboratory activity increased in Pakistan during 1979–80, the administration presented to Congress an extraordinary request for $3.2 billion in aid for Pakistan.

This is folly, Mr. President. The heroin that is produced in southwest Asia contributes materially and significantly to the deterioration of the quality of life in America, and very directly to the crime rate in urban areas. The connection between heroin addiction and crime is too well established to be ignored. The Federal Government simply must be more assertive in enlisting the help of the governments of countries in which heroin originates. If that support is refused, or is halfhearted, there is no good reason to continue the provision of American military or economic assistance to those governments.

I solicit the support of my colleagues.

Mr. President, I ask unanimous consent that the text of the bill be printed at this point in the RECORD, along with a copy of my June 16 letter to President Reagan.

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

S. 2670

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That (a) notwithstanding any other provision of law, the President is authorized and directed to—

(1) suspend all United States assistance to or for,

(2) prohibit all United States exports to, and

(3) prohibit the importation into the United States of any article that is the growth or manufacture of,

any foreign country whose government has failed to take adequate measures to prevent opium or any of its illicit derivatives from begin produced or refined for illegal export to the United States. Such prohibition shall continue in force until the President determines, and so reports to Congress, that the government of such country has taken adequate measures to prevent opium or its illicit derivatives from being produced and refined for illegal export to the United States.

(b)(1) Subsection (a) does not require that assistance which involves only the provision of food or medicine be suspended and does not require that exports of food or medicine be prohibited.

(2) Subsection (a) does not apply with respect to the production and export of opium or its derivatives solely for licensed pharmaceutical purposes.

(c) As used in this section—

(1) the term "United States assistance" includes any assistance of any kind provided by grant, sale, loan, lease, credit, guaranty, or insurance, or by any other means, by any agency or instrumentality of the United States Government to or for the benefit of any foreign country, including assistance under the Foreign Assistance Act of 1961 (including programs under title IV of chapter 2 of part I, relating to the Overseas Private Investment Corporation, but excluding programs under chapter 8 of part I, relating to international narcotic control assistance); sales, credits, and guaranties under the Arms Export Control Act; sales under title I and title III and donations under title II of the Agricultural Trade Development and Assistance Act of 1954 of nonfood commodities; financing programs of the Commodity Credit Corporation for export sales of nonfood commodities; financing under the Export-Import Bank Act of 1945; assistance under the Migration and Refugee Assistance Act of 1962; programs under the Peace Corps Act; assistance under the Inter-American Foundation Act; assistance under the African Development Foundation Act; financial assistance for foreign persons or groups under the Mutual Educational and Cultural Exchange Act of 1961; and assistance of any kind under any other Act; and

(2) the term "United States exports" includes any export, which is subject to United States control, of any item or service of any kind (including technical data or other information) which is licensed or which is subject to licensing under the export Administration Act of 1979, section 38 of the Arms Export Control Act, the Atomic Energy Act of 1954, or any other Act; and

(3) the term "illicit derivative" includes opium, morphine, heroin, or any other opiate derivative which is a controlled substance (as defined by the Comprehensive Drug Abuse Prevention and Control Act of 1970).

(d) The President is directed to ascertain, and report annually in writing to Congress, on the basis of the annual Narcotics Intelligence Estimate published by the National Narcotics Intelligence Consumers Committee, which foreign countries have failed to take adequate measures under the terms of this section.

U.S. SENATE,
*Washington, D.C., June 16, 1982.*

THE PRESIDENT,
*The White House,*
*Washington, D.C.*

DEAR MR. PRESIDENT: Yesterday former Secretary of Health, Education and Welfare Joseph A. Califano presented New York's Governor Hugh Carey with a report startling in its findings and profound in its importance to America. In his Report on Drug Abuse and Alcoholism, Mr. Califano found, among other things, that the number of heroin addicts in New York City has increased by fifty percent since 1978 and that heroin addiction has risen dramatically throughout the United States.

On May 25 the Senate Drug Enforcement Caucus, of which I am a member, was briefed by Judge William Webster, Director of the Federal Bureau of Investigation, Dominick DiCarlo, Assistant Secretary of State, and others knowledgeable about the supply of illicit drugs in this country. We were told that 60 percent of heroin imports came from Southwest Asia. And that Pakistan is the region's largest and most accessible source of opium poppy having produced 125 metric tons of raw opium in 1980.

The current situation is not unlike that which existed in the late 1960's when Turkey was the main supplier of opium poppy. I was Counselor to the President at that time and in 1969 was dispatched by President Nixon to Turkey, as well as to France where much of the opium has been processed into heroin. I held talks with representatives of both of these countries and eventually, the United States was able to reach agreements with them to curtail opium and heroin production.

This approach was effective in reducing the amounts of heroin brought into the United States that began its journey in Turkey. I believe that we should use the same strategy with Pakistan today. We have the means to exert pressure on those countries refusing to aid us in stopping this plague. We should use these means, including the cessation of all forms of aid to those countries that persist the illegal export of opium. We have had success in doing so in the past. And I am convinced that we can repeat this success. I look forward to hearing from you.

Sincerely,

DANIEL PATRICK MOYNIHAN.●

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By Mr. HATCH (for himself, Mr. THURMOND, Mr. DECONCINI, Mr. GRASSLEY, Mr. LEAHY, and Mr. MATHIAS):

S. 2671. A bill to provide for the establishment of a Commission on the Bicentennial of the Constitution; to the Committee on the Judiciary.

BICENTENNIAL OF THE CONSTITUTION

Mr. HATCH. Mr. President, 6 years ago our Nation paused to reflect on 200 years of independence. The culminating moment of that celebration came on July 4, 1976, when we commemorated the production of the great document, the Declaration of Independence, that enunciated the intent of the American people to be free. We are all familiar with the aspirational language of that document:

We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable rights, that among these are life, liberty, and the pursuit of happiness.

With this elevating affirmation of purpose, the former colonies of Britain in the new world embarked on a course that would produce the United States of America. A war, a loosely bound confederation of sovereign States, and 11 difficult years came between the aspirations of the Declaration and the contract between the people and the States to carry out its noble objectives.

These two documents, the Declaration and the Constitution, launched the free peoples of America upon a course of self-government—a course we have learned is fraught with responsibilities and obligations as well as opportunities and liberties. In the words of Abraham Lincoln:

All this is not the result of an accident. It has a philosophical cause. Without the Constitution and the union, we could not have attained the result; but even these, are not the primary cause of our great prosperity. There is something back of these, entwining itself more closely about the human heart. That something, is the principle of "Liberty to all"—the principle that clears the path for all—gives hope to all—and, by consequence, enterprise and industry to all.

The expression of that principle, in our Declaration of Independence, was most happy and fortunate.

("Fragment on the Constitution", Lincoln, A., quoted in "The Living Constitution," Padover, Saul, pg. 65.)

As Lincoln realized, the Declaration expressed the goal, the motivating philosophy; the Constitution created the structure to "attain the result." In one sense, the Declaration was the "end," the Constitution the "means" of the American experiment in self-rule.

I mention these two documents and their common goal because we have committed vast national resources recently to commemorating the inauguration of our independence with the signing of the "ends" document. Soon the bicentennial of the signing of the "means" document will be upon us. Today, I would propose that we establish a commission to coordinate the commemoration of the bicentennial of the events leading to approval of the Constitution in 1787. I am honored as chairman of the Constitution Subcommittee to introduce this proposal and announce to my colleagues in the Senate that was created by the Constitution that all members of the subcommittee, Judiciary Committee, Chairman THURMOND, and Senators GRASSLEY, DECONCINI, LEAHY, and MATHIAS are cosponsors of this bill.

Let me outline briefly the elements that we found to be important to the process of commemoration:

First, we recognize that a commemoration must be true to the Constitution in that it should recognize an active role for the States. Washington cannot be the focus of all activity.

Second, we recognize that a commemoration must be true to the Constitution in that it should recognize an active role for the private sector. Already private organizations have done a great deal to develop interest in the bicentennial and to outline a wide variety of means by which our Nation can give honor to our Constitution. The Government cannot be the focus of all activity.

Third, while the fireworks and glamour of our Revolutionary Bicentennial were impressive, I would hope that a commemoration would encourage among the people a deeper understanding of what the Constitution is all about. There is a need for celebration, but there is also a need for reflection.

Fourth, we hope that the diversity of understanding that exists in this country about the Constitution and its provisions will be reflected in its commemoration. There will be no "party line" on what is most important about the Constitution.

In just a few moments I would like to trace with you briefly the primary events that gave us the Constitution. As I mentioned earlier the Declaration set forth the aspirations of the American people to establish a government of liberty. At the time, those two words, "government" and "liberty" were mutually exclusive. The world only knew powerful central governments which required citizens, or more accurately, subjects, to give all fealty to a sovereign leader or group of leaders. The struggle to find a form of government that protected, rather than abridged, liberty really began in 1776.

The surrender of General Cornwallis at the battle of Yorktown in 1782 only allowed the inhabitants of America to begin their internal struggle to find the proper mode of self-government. The ill-fated first attempt created the Articles of Confederation. Numerous, unresolved disputes between the States disclosed very early that a confederation would not guarantee either a lasting government or lasting liberty. One such dispute, however, between Maryland and Virginia over navigation and jurisdiction of the Potomac River provided the impetus for a strong national government.

To resolve the dispute, each State appointed a set of commissioners to discuss the issues. At the invitation of George Washington, they met in Mount Vernon and, in addition to resolving their waterway disagreement, recommended that a convention of all the States be convened "to take into consideration the trade of the United States" and "consider how far a uniform system in their commercial regulations may be necessary to their common interest and their permanent harmony * * *." Attendance at the trade convention in Annapolis, Md.,

was disappointing. The five States that met, however, proposed that a convention of all the States be held in Philadelphia on the second Monday in May 1787 to correct as many weaknesses in the existing system of government as possible.

The potentially sweeping implications of a nationwide convention to "revise" the Government met with stiff opposition. Several States feared a return to a "tyrannical" central control reminiscent of the British Monarchy. The Continental Congress was also concerned about a possible erosion of what little power they possessed to rule the Nation. Despite such obstacles, after some hesitancy, the Congress permitted a national convention in Philadelphia for the "sole purpose of revising the Articles of Confederation and reporting to Congress and the several legislatures such alterations and provisions therein as shall when agreed to in Congress and confirmed by the States render the Federal Constitution adequate to the exigencies of Government and the preservation of the Union."

With specific instructions not to revise anything more than the Articles of Confederation, all the States, except notably Rhode Island, sent delegations to Philadelphia. The historic significance of that convention became apparent when William Randolph of Virginia proposed a new form of government. Three coequal branches of government, the famed system of checks and balances, was the hallmark of that proposal. Needless to say, intense debate ensued. A proposal to preserve the Articles of Confederation was narrowly defeated.

The success of this bold move to fashion a new government hung in the balance. It was threatened from the outside by England and Spain who each could use any failure at self-government as an excuse to reclaim lost territories and reestablish their reputation of world supremacy. It was also threatened from the inside by parochial apprehensions that the large States might dominate the smaller in any unified government. Perhaps the apparent insolubility of these dilemmas prompted Benjamin Franklin, not known for his dedication to the religious institutions of his day, to move that the sessions open every morning with prayer.

Finally, on July 5, the delegates arrived at the "great compromise" of the convention. Each State was allowed equal representation in the "upper" house of the legislature while proportional representation was preserved in the "lower" house. This broke the impasse and prophesied that the convention would indeed arrive at a proposal for a government "of the people, by the people, and for the people."

Ratification by the States, however, would be another matter. The debates in the States were, for the most part, close and hotly contested. Pennsylvania ratified by a margin of 23, Massachusetts by a margin of 19, New Hampshire by a margin of 11. Although New Hampshire was the ninth State to ratify which satisfied the terms of the document, the Nation realized that the new government was doomed without the concurrence of Virginia and New York.

In Virginia the voices of well-known patriots such as Patrick Henry, George Mason, and "Light Horse" Harry Lee rose up against the document. John Marshall, James Madison, and William Randoph defended the wisdom of the convention's product. By the narrow margin of 10 votes out of 168, Marshall, Madison, and Randolph prevailed. A month later, Alexander Hamilton secured a similar victory in New York by only a 3-vote margin. This sealed the victory for, in the words of George Washington, "that precious depository of American happiness, the Constitution of the United States."

This history is familiar to us all. As the findings of this bill state, however, "the maintenance of the common principles that animate our republic depend upon a knowledge and understanding of their roots and origins." At this point, I would like to ask unanimous consent that the bill be printed in the RECORD along with two addresses by the Chief Justice that will give guidance to the commemoration commission and Congress as we approach this pivotal bicentennial event. I urge my colleagues to aid the Constitution Subcommittee in setting up this process to commemorate our Constitution.

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

S. 2671

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That there is established a Presidential Commission on the Bicentennial of the United States Constitution, hereinafter referred to as the "Commission".

FINDINGS

SEC. 2. The Congress finds that—

(1) the bicentennial of the Constitutional Convention's adoption of the Constitution occurs on September 17, 1987;

(2) the Constitution enunciates the limitations on government, the inalienable rights of man, and the timeless principles of individual liberty and responsibility for the people of the United States of America;

(3) this document has set an enduring example of representative democracy for the world; and

(4) the maintenance of the common principles that animate our republic depend upon a knowledge and understanding of their roots and origins.

PURPOSE

SEC. 3. It is the purpose of this Act to establish a Commission to promote and coordinate activities to commemorate the bicentennial of the Constitution.

MEMBERSHIP

SEC. 4. (a) The Commission shall be composed of sixteen members as follows:

(1) thirteen members appointed by the President, three of whom shall be appointed upon the recommendation of the Speaker of the House of Representatives, three of whom shall be appointed upon the recommendation of the President pro tempore of the Senate and three of whom shall be appointed upon the recommendation of the Chief Justice of the United States;

(2) the Chairman of the Committee on the Judiciary of the House of Representatives;

(3) the Chairman of the Committee on the Judiciary of the Senate; and

(4) the Chief Justice of the United States.

(b) Such members shall be chosen from among individuals who have demonstrated scholarship, a strong sense of public service, and abilities likely to contribute to the fulfillment of the duties of the Commission.

(c) Members of the Commission shall be appointed for the life of the Commission.

(d) The Commission shall select a chairman from among its members who shall serve as Chairman for the life of the Commission.

(e) Eight members of the Commission shall constitute a quorum, but a lesser number may conduct meetings.

(f) A vacancy in the Commission shall not affect its powers, and shall be filled in the same manner in which the original appointment was made.

ADMINISTRATIVE PROVISIONS AND POWERS

SEC. 5. (a) The Commission shall appoint a staff director who shall be paid at a rate not to exceed the rate of basic pay provided for level V of the Executive Schedule pursuant to section 5316 of title 5, United States Code.

(b) The Commission is authorized to appoint and fix the compensation, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, of such additional publicly paid personnel up to five persons, as the chairman finds necessary to carry out the purposes of this Act. Such personnel shall be compensated at a rate not to exceed a rate equal to the maximum rate for GS-18 of the General Schedule under section 5332 of title 5, United States Code. The Commission may hire additional personnel out of private donations.

(c) Each member of the Commission shall serve without compensation, except that each member shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties.

(d) The Commission may procure temporary or intermittent services under section 3109(b) of title 5, United States Code, at a rate of pay not to exceed the rate of basic pay for GS-15 of the General Schedule under section 5332 of title 5, United States Code.

(e) The Commission is authorized to procure supplies, services, and property, and make contracts, in any fiscal year, only to such extent or in such amounts as are provided in appropriation Acts.

(f) The Commission is authorized to enter into agreements with the General Services Administration for procurement of necessary financial and administrative services, for which payment shall be made by reim-

bursement from funds of the Commission in such amounts as may be agreed upon by the Chairman and the Administrator of the General Services Administration.

(g) The Commission is authorized to accept, use, solicit, and dispose of donations of money, property, or personal services.

(h) The Commission may use the United States mails in the same manner and upon the same conditions as other departments and agencies of the United States.

(i) The Commission shall have the authority to design and use a logo as the official emblem of the bicentennial. The Commission shall issue rules and regulations regarding the use of such logo, as they deem appropriate to carry out the purposes of this Act.

DUTIES OF THE COMMISSION

SEC. 6. (a) The Commission shall—

(1) plan and develop activities appropriate to commemorate the bicentennial of the Constitution, including a limited number of projects to be undertaken by the Federal Government seeking to harmonize and balance the important goals of ceremony and celebration with the equally important goals of scholarship and education;

(2) encourage private organizations, and State and local governments to organize and participate in bicentennial activities commemorating or examining the drafting, ratification, and history of the Constitution and the specific features of the document;

(3) coordinate, generally, activities throughout all of the States; and

(4) serve as a clearinghouse for the collection and dissemination of information about bicentennial events and plans.

(b) In planning and implementing appropriate activities to commemorate the bicentennial, the Commission shall give due consideration to—

(1) the historical setting in which the Constitution was developed and ratified, including such antecedents as the Federalist Papers, the Articles of the Confederation, and the ratification debates in the States;

(2) the contribution of diverse ethnic and racial groups;

(3) the relationship and historical development of the three branches of the Government;

(4) the importance of activities throughout all of the States regardless of when such State achieved Statehood;

(5) the unique achievements and contributions of the participants in the Constitutional Convention of 1787 and the State ratification proceedings;

(6) the diverse legal and philosophical views regarding the Constitution;

(7) the need for reflection upon both academic and scholarly views of the Constitution and the principle that the document must be understood by the general public;

(8) the substantive provisions of the Constitution itself; and

(9) the impact of the Constitution on American life and government.

(c) The Commission shall seek the cooperation, advice, and assistance from both private and governmental agencies and organizations, including the National Endowment for the Arts, the National Endowment for the Humanities, the Library of Congress, the Smithsonian Institution, the National Archives, the Department of Interior, State and local governments, learned societies, academic institutions, and historical, patriotic, philanthropic, civic, and professional groups, and bar associations.

(d) The Commission may, in carrying out the purposes of this Act, delegate authority to State advisory commissions to assist in implementing this Act.

(e) Within 2 years after the date of enactment of this Act, the Commission shall submit to the President and each House of the Congress and the Judicial Conference a comprehensive report incorporating specific recommendations of the Commission for commemoration and coordination of the Bicentennial and related activities. Such report shall include recommendations for publications, scholarly projects, conferences, programs, films, libraries, exhibits, ceremonies, and other projects, competitions and awards, and a calendar of major activities and events planned to commemorate specific historical dates. Each year after such comprehensive report, the Commission shall submit an annual report to the President and each House of the Congress and the Judicial Conference until such Commission terminates.

TERMINATION

SEC. 7. The Commission shall terminate on September 30, 1988.

AUTHORIZATION OF APPROPRIATIONS

SEC. 8. There are authorized to be appropriated $300,000 for fiscal year 1983 and such sums as may be necessary for the subsequent fiscal years through fiscal year 1988.

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REMARKS OF WARREN E. BURGER, CHIEF JUSTICE OF THE UNITED STATES TO THE SEMINAR ON LEGAL HISTORY

HOW LONG CAN WE COPE

It may seem premature to be thinking about the next significant bicentennial celebration in our national life, but our experience with the bicentennial of 1976 demonstrates the desirability for long advance planning. It is not too soon to turn our minds to the 200th anniversary of the document signed in Philadelphia almost exactly 191 years ago. We take considerable pride, and I think appropriately, in the fact that we have functioned as a nation under this one written Constitution for nearly two centuries. No other nation can match that.

The events of the past 40 years have brought home to us very forcefully that freedom is fragile. This is particularly true of the freedom of our open society where we not only permit, but at times almost seem to invite attacks, because of our commitment to flexibility and change and our dedication to the values protected by the first amendment. Eric Hoffer, with his uncomplicated logic and simplicity of style, has expressed his deep concern that our system of government and our free society may be more fragile in many respects than other societies, and he has suggested that "The Social Body" is perhaps more vulnerable and fragile than the human body.[1]

It has been an article of faith with us that the artificial and manipulated systems of authoritarian regimes, no matter how strong they seem for a time, do not possess the powers of restoration or recuperation possessed by our kind of Government. It is within the memory of all of us that a great many people in the 1930's and even later, accepted Hitler's boast that he was creating a "1,000 year Reich." They remembered, too, that even before Hitler, as well as in more recent times, other people saw Soviet communism as "the wave of the future." It was Lincoln Steffens who said after a visit to Russia that he had "been over into the future and it works." [2]

Surely the events of the last 40 or more years in world history underscore the importance of both the philosophy of freedom and the mechanisms and practices we have set up to insure a continuance of freedom.

We are surely committed to a significant celebration of the creation of our constitutional system under the Constitution, which in 200 years took us from 3 million struggling pioneers into a great world power, and individual initiative was the secret of this success. It is, therefore, not too early to begin thinking and planning to be sure that what we do will be an appropriate recognition of the importance of the event and to serve as a guide to correct whatever flaws we see and to plan for the years ahead.

I submit that an appropriate way to do this will be to reexamine each of the three major articles of our organic law and compare the functions as they have been performed in recent times with the functions contemplated in 1787 by the men at Philadelphia. The Constitution was, of course, intended to be a mechanism to allow for the evolution of governmental institutions and constitutional concepts. But we should examine the changes which have occurred over two centuries and ask ourselves whether they are faithful to the spirit and the letter of the Constitution, or whether, with some, we have gone off on the wrong track.

This undertaking is too serious, too broad in scope and too important to be accomplished within 1 year. I suggest for your consideration, and to those with similar interests, that we set aside, not 1 year or even 2 years, but 3 years for this enterprise. Although the sequence need not be rigid, I would suggest that in 1985 we devote ourselves to an examination of article I; in 1986, we should address the powers delegated by article II; in 1987, we should address article III. Let me briefly suggest a few of the differences between the expectations of the framers and present-day practices, bearing in mind Marshall's statement that the Constitution was "intended to endure for ages to come, and consequently, to be adapted to the various crises in human affairs."

ARTICLE I

Under article I, all legislative powers were vested in the Congress of the United States, or as Jefferson said, "the great council of the Nation." It does not require the skills of historians or political scientists to observe that Congress in 1978 is a very different institution from what was contemplated in 1787. But we must do more than study how the Congress of today is different; we should proceed to assess whether the Congress is functioning according to the spirit of the Founding Fathers, even as we recognize that changes were inevitable with changing times and new problems.

What are the kind of changes that ought to be looked at? Surely, the growth factor is one. The House of Representatives has grown from 45 to 435; the Senate from 26 to 100. In the original contemplation, membership in the Congress was not to be a full-time occupation. The framers anticipated part-time public service of the leading citizens of each State. They were to come to Philadelphia (and later to Washington) for only a few months out of the year and spend the remaining 7 or 8 months back

[1] Letter from Eric Hoffer to Warren E. Burger dated Mar. 21, 1969.

[2] Lincoln Steffens, The Autobiography of Lincoln Steffens, (New York: Harcourt, Brace & Co., 1931), p. 799.

home on a farm or at a law practice or lumber mill. Now, it is a full-time profession—and necessarily so—given what we ask of them.

Obviously Members of the Congress cannot be expected to function today as they did in the time of Clay, Calhoun and Webster when there were no typewriters, no computers, and when both communication and travel were very different from the present day. But some of the changes which we now observe in the functioning of the Congress are so fundamental that they can profitably be reexamined in light of original expectations about the functioning of the legislative branch. For at least the first 100 years, each Member of Congress could do all his own homework very largely as members of the British House of Commons still do. Each diligent Member of Congress could readily read every bill proposed and understand what was being presented. Members of Congress are now torn between their mounting obligations to assist individual constituents in their dealings with the bureaucracy—to respond to mail—and the demands of the numerous subcommittees and committees upon which they serve. The mail is increased—perhaps—by new word processing equipment available to interest groups, with one set of word processing machines communicating with another machine. Added to all this is the constant need to mend political fences—which, of course, is democracy at work.

These cross-pressures, the immense increase in the volume of legislative business and the need to match the size and specialized capabilities of the executive branch experts accounts in large measure for the enormous expansion of congressional staffs. Indeed, some say that Congress is now not 535 persons but rather 535 plus thousands of staff members in the House and Senate. The Congressional Quarterly Weekly report tells us that currently the congressional staffs aggregate about 16,500.[3] The increase in the size of staffs seems to have induced some proliferation of the number of lobbyists—or perhaps it was the other way around. The number of corporations maintaining offices in Washington has grown in 15 years from about 50 to 300. More than 16,000 trade associations and labor unions have offices in this Capital.

But the central focus in reexamination of the operations under article I are the new problems which have added to the burdens of the Congress. Observers say that floor debate no longer occupies the role it did in times past. Members of Congress tend to become specialists—concentrating on the work of their own committees—rather than the generalists of an earlier day. A large part of the work of congressional staffs is devoted to "servicing" constituents entirely apart from the legislative process itself. This may be an appropriate part of the Democratic ethos, but it is surely some distance from what the authors of the Constitution intended. This is not said critically but rather as the reality of present day life. Indeed my reflections on this subject rest on what Members of Congress have said—publicly and privately.

A well-informed and highly sophisticated journalist, Elizabeth Drew, recently described the dilemma of Members of Congress attempting to cope with the flood of bills submitted and the lesser but still overwhelming flood of proposals energing from committees.[4] Many Members of Congress have stated that it is almost impossible for any Member to read all the proposed legislation. Some critics suggest that the increase in staffs has led directly to this increase in the number and length of proposed bills and committee reports. I do not know. But it is possible that a Senator with a staff of 50 or 60 or 70 persons may have more burdens than benefits given the inexorable workings of Parkinson's law. I do observe that rather than having their workload lessened, Congressmen seem to find themselves overwhelmed and many are retiring prematurely. We also see what perhaps is another result of current operations, and that is a legislative product where, all too often, the meaning and intent of Congress are blurred and the entire policy issue winds up in the courts for resolution.[5] And often the courts have great difficulty discerning the true intent of Congress.

The purpose of these observations is neither to challenge nor to criticise the process. It is simply to point out the world of difference between functions contemplated in 1787 and the reality of 1978. A full year is needed to make a concentrated analysis by political scientists, historians, and other specialists—and Members of Congress—to stimulate a serious national discussion. Such an analysis can be made in a more orderly and rational way if the discussion of one branch is conducted entirely independent of discussion of the other two branches. It is, therefore, desirable to set-aside the year 1985 for comprehensive reexamination of the article I functions.

ARTICLE II

The operations of the executive branch, like those of the Congress, have also undergone dramatic evolution and change. In 1789 there was only a handful of "executives" in the executive branch along customs collectors and postmasters.[6] The total budget of the Federal Government in dollars was smaller by far at the beginning than that of a modest sized city—Colorado Springs—for example.[7] Communication between the first executive and the legislative branch was casual and informal.[8]

Although the members of the first Supreme Court wisely resisted President Washington's request for advisory opinions and declined to perform other functions which they deemed to be executive in nature, there is little doubt that Chief Justice Jay gave advice to Washington over the dinner table and even in writing. The President had no professional staff for himself. His close advisors also included the Cabinet secretaries and the Vice President.

Although the executive branch grew greatly from 1789 to the First World War, our wartime President, Woodrow Wilson, pecked away at his Hammond typewriter, turning out speeches and messages to Congress—and an outline of the League of Nations.

President Hoover had three or four staff aides, then called "secretaries", who assisted him with his problems, including one former Congressman who presumably handled legislative relations. Franklin Roosevelt, as a candidate, attacked Hoover for his excessively large staff. Yet, as we know, the great expansion of the White House staff began under President Franklin Roosevelt as the whole executive branch burgeoned to meet the emergencies created by the worldwide depression. Thus one matter to be reflected upon in 1986 is the implications of the size of the executive branch. Another question deserving analysis is what we now understand from the provision of article II stating that the Executive power shall be vested in the President. Today Executive power is actually in the hands of a few thousand of nearly 3 million civilian employees of the executive branch. There are 150,000 employees in the Department of Health, Education and Welfare alone—more than the standing army of the country in early parts of this century.

There are other changes. For nearly a half century the executive branch initiated much of the significant legislation. It is interesting to note that the Civil Service Commission is holding a workshop this December—and I use the Commission's language—to "help train agency personnel who will be assuming assignments in the formulation of legislation." This is entirely appropriate but it perhaps in part explains why Congress needed specialist staffs to cope with the executive. The growth in the rulemaking activity of the Federal agencies has given rise to concern and indeed to challenges by recent Presidents who thought their policies were being frustrated.

One example of changes brought on in the electronic age is the relationship of President with the media. Perhaps we should ask whether any President should be expected to have at his fingertips, and on the top of his head, a comprehensive and totally accurate response to every question submitted from an audience consisting of several hundred politically sophisticated media reporters? At times we read a superficial comparison to the British system where the Prime Minister and his Cabinet Ministers appear in the Commons for the question period. But the comparison is flawed because in Britain there is a fixed agenda for the question period. The Prime Minister or any member of his Cabinet need be well-informed only on the specific and limited subjects covered by that agreed agenda.

Is it possible that the media, the Presidency, and the Nation would be better served if Presidential press conferences were—at least—confined to agreed subjects?—for example, the problems of The Middle East, or inflation or energy—rather than having every press conference open to the entire range of problems confronting the country. The evening news and the morning papers would be able to focus with greater clarity and in greater depth on particular policy issues and the media might thus be better able to inform the public in the long run.

These are just a sample of some of the issues and problems which might be discussed during the year 1986 by political scientists, historians, journalists, and those who have actual first-hand experience in government. Others having border experience in government will see many areas for inquiry.

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[3] The Congressional Quarterly Weekly Report, Feb. 11, 1978.

[4] Elizabeth Drew, "A Tendency to Legislate", The New Yorker, June 26, 1978, pp. 80-86.

[5] See Carl McGowan, "Congress and the Courts", 62 American Bar Association Journal, pp. 1588-1590 (Dec. 1970); and see *TVA* v. *Hill*, 98 S. Ct. 2279 (1978); *SEC* v. *Sloan*, 98 S. Ct. 1702 (1978).

[6] See Leonard White, The Federalists (Toronto: Collier, MacMillian, 1948).

[7] The expenditures of the federal government were 5.1 million dollars in 1972. The expenditures of Colorado Springs in 1977 were 53.7 million dollars.

[8] James S. Young, The Washington Community (New York: Columbia University Press, 1966).

ARTICLE III

Questions about the present functioning of the Judiciary compared with original expectations could be dealt with in 1987. Since I cannot qualify either as a totally expert witness on the subject or as totally unbiased, I will leave it to others to flesh out the full scope of the inquiry for there is a long list of questions deserving serious study.

I suspect that by the time the delegates reached article III that they were getting weary in the hot and humid Philadelphia summer. The entire judicial article contains only 369 words. The first Judiciary Act of 1789 authorized 13 U.S. district judges and six members of the Supreme Court. Perhaps the feeling of those weary delegates at the constitutional convention was that a branch of government which would consist initially of only 19 judges did not call for much rhetoric—or much attention. The Constitution provided that the Federal courts would have a limited and special function—in that day largely deciding Admiralty cases.

The number of judges has grown from those first 19 to 397 authorized district judges, 97 judges of the courts of appeals, and another 21 judges of three specialized tribunals—a total of 515. Another 130 senior judges continue to serve—fortunately for us. This number will soon increase by approximately 150 when Congress passes the omnibus judgeship bill—which may happen this week.

The Supreme Court has increased from six justices to nine, remaining at that figure for over a century. I do not know of anyone advocating increasing the membership of the Supreme Court—least of all the present Justices. One wag commented that nine members of the Supreme Court have produced sufficient mischief in this country and any increase would be intolerable.

With 19 federal judges in 1789—and for at least 100 years—there were no significant "management" problems. Even with the 100 or more judges during the time Taft was Chief Justice, the management problem was not enormous. But Taft saw into the future and fought for the creation of the conference of senior circuit judges (not the Judicial Conference of the United States) to assist in "managing the business of the courts", as he called it. The administrative office of the United States courts was created in 1939 with essentially housekeeping functions. The Federal judicial center began operations in 1968 as the research, development and educational arm of the Judiciary. In 1971 the position of circuit executive—a management assistant for the chief circuit judges—was created for each circuit. We must also count supporting personnel—court clerks, bailiffs, court reporters and so forth, or a total of 9,377 persons.[9] We see, therefore, that the judicial branch, while small, has increased greatly since 1789.

For nearly 9 years Congress has failed to create a single new judgeship and the courts have had to cope with the enormous increase in workload with additional law clerks and staff lawyers. The pressure of caseloads has led to an increase in the proportion of cases decided without oral argument and often without a formal, written opinion. Lawyers oppose this.

Some responsible and well-informed lawyers and scholars have criticized the increasing complexity of judicial procedure arguing that overuse of pretrial processes complicate and delay trials. Others have echoed the criticism, made first by Roscoe Pound in 1906, that the excesses of the adversary system hinder rather than promote the ends of justice. The processes of administrative law are being challenged and questions are raised as to the soundness of trying complex antitrust cases before 12 lay jurors picked at random from the population.

These developments inspire a series of questions, questions about the efficiency of courts functioning under such demands, questions about the growth of a judicial "bureaucracy", and even questions about the duties placed on the Chief Justice are emerging. Should it be expected that the Chief Justice, with all the duties of other justices of the court, be called upon to be the "Chief Executive" of the Judicial Branch. Congress made the Chief Justice Chairman of the Judicial Conference of the United States with duties that absorb hundreds of hours each year. It made him chairman of the Federal judicial center, with similar time demands. These two organizations are expected to develop innovative programs and mechanisms to improve and speed up justice. Because Chief Justices have somehow been able to manage up to now does not mean this can continue to be true in the third century under the constitution. Seven years ago a committee of distinguished lawyers and scholars, chaired by Professor Paul Freund of Harvard, recommended that another court be created to take part of the work now resting on the Supreme Court. No action has been taken on that proposal.

There are serious questions as to how long Justices can work a 60 hour week and maintain appropriate standards.

At least as important as the need to examine the increase in the size of the Judicial Branch is the need to examine the powers exercised by the Judiciary. The authors of the Constitution did not contemplate that the Judiciary would be an overseer of the other two branches. At most, they expected that the judicial function would be confined to interpreting laws and deciding whether particular acts of the Congress or of the executive were in conflict with the Constitution, but even that was not explicit. Surely, that is all Marshall's opinion in Marbury v. Madison means.

Paradoxically, in recent years, the Supreme Court has been subjected to criticism from both ends of the spectrum. On the one hand, there are critics who suggest that the Supreme Court, like the other two branches, has become "imperial" in the sense of exercising powers not assigned to it by the Constitution. On the other hand, there are those who say that the Supreme Court has been too passive and has not undertaken to engage in wide ranging social and political activism thought to engage in wide ranging social and political activism thought by some to be called for by contemporary problems. It will be for others to evaluate these contentions. All this is rich fodder for symposia in 1987.

We make a large point of the independence and separateness of the three branches, but the authors of the Constitution also contemplated that there would be coordination between the branches deriving from a common purpose. That they should consult on some matters is beyond doubt. How far that should go is a subject for careful study.

The uniqueness and true genius of the document is that it has precluded any one of the branches from dominating any other. This will continue so long as we are faithful to the spirit and letter of the Constitution.

Project 1987 is already underway and the Judicial Conference of the United States last year authorized the appointment of a special committee to prepare for an observance of this significant historic event. If we—collectively—use the "lead time" now available to us, we can develop a program worthy of the importance of the occasion.

Although none of us can alone determine the totality of what the Bicentennial of 1787 should be, you—here today—are uniquely qualified to evaluate the merits of this proposal and to help with its implementation if you find merit in it.

If we concentrate along these lines for 1 year on each of the three branches and their functions, perhaps with the latter part of the third year devoted to an overview of all that has been discussed, debated and analyzed in the preceding years, conceivably we may produce a series of papers comparable in utility, if not in quality, with the federalist papers of 200 years ago.

Whatever the program is to be, the time to begin planning is now.

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REMARKS OF WARREN E. BURGER CHIEF JUSTICE OF THE UNITED STATES AT THE AMERICAN LAW INSTITUTE

This morning—given the place we meet, the approaching 1987 Bicentennial of our Constitution, and the 300th Anniversary of this City—rather than discussing current legal problems, I ask you to indulge me in some historical reminiscences, looking back at the struggles that began and culminated here in Philadelphia two centuries ago.

It takes a certain amount of presumption for any lawyer to speak to other lawyers about the Constitution. This is especially true if one is speaking at a gathering of the American Law Institute, for in this room we have the foremost minds of our profession. All this is underscored when the Institute is meeting in Philadelphia, where, in that hot, humid summer of 1787 the delegates to the Constitutional Convention labored 16 weeks to draft that document.

As we approach the Bicentennial of the Constitution, I would hope that lawyers will be talking to each other and talking with nonlawyers about the Constitution, how it came about, and what it means. It should not be thought of as a subject exclusively, or even primarily, for lawyers. And so, with that admonition to myself, I will try, in opening this, the 59th Annual Meeting of the Institute, to stir your recollections of events, well known but often overlooked.

I do not mean to stir recollections about the contents of that document but rather to ask: how did it come about that 55 men in a country of barely three million were cast by history to take actions that would place them forever in the Halls of Fame of Freedom, when they were sent here by 12 states to consider how the newly independent people would govern themselves? I say 12 states, for one—Rhode Island—sent no one to speak for it.

From time to time in recent years, nonlawyer friends particularly have expressed to me serious concerns about the attacks on the Supreme Court, on the Constitution and the institutions which sprang from it. There is nothing new about such attacks, and there is nothing inherently bad in most of them. When the people challenge their servants—the Executive, the Congress and the Courts—temperately and with reasoned debate—we have nothing to fear. That is what our open society is all about.

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[9] Excluding 2,902 probation officers.

Of course, we know that the Constitution itself was under attack from the moment it was signed, here in Philadelphia. The delegates had labored four months to produce the document, but on that cool Autumn morning—Monday, September 17—42 delegates were present, and as we know, three refused to sign their names to the draft.

Benjamin Franklin, one the wisest of all the Founding Fathers and the most senior, made some observations as the final meeting opened, and his words are so important, and so filled with wisdom that I ask you to indulge my recalling them—even though you know them well. He said this:

"Mr. President, I confess that there are several parts of this Constitution which I do not at present approve, but I am not sure I shall never approve them: For having lived long, I have experienced many instances of being obliged by better information or fuller consideration, to change opinions even on important subjects, which I once thought right, but found to be otherwise. It is therefore that the older I grow, the more apt I am to doubt my own judgment, and to pay more respect to the judgment of others."

Other men has less moderate things to say about the new Constitution, some of them very harsh indeed. Later in the following year, at the Massachusetts Ratification Convention, one delegate had this to say:

"Mr. President, . . . some gentlemen have called on them that were on the stage in the beginning of our troubles, in the year 1775. I was one of them. And I say that if anybody had proposed such a constitution as this in that day, it would have been thrown away at once. It would not have been looked at. . . . Does not this constitution . . . take away all we have—all our property? Does it not lay all taxes, duties, imposts, and excises? And what more have we to give?"

Another delegate, Mr. Smith, answered him saying:

"Mr. President, I am a plain man and get my living by the plow. I am not used to speaking in public, but I beg your leave to say a few words to my brother plowjoggers in this house. I have lived in a part of the country where I have known the worth of good government by the want of it."

Smith explained that he had been a member of the convention that formed his own state Constitution and that he had learned something of the need for checks and balances of power. He concluded, saying this:

"I did not go to any lawyer to ask his opinion. We have no lawyer in our town and we do well enough without. I formed my own opinion and [I] was pleased with this Constitution."

We know that to secure the ratification of the Constitution was no easy task, with articulate and popular heroes like Patrick Henry in Virginia opposing it, and with Thomas Jefferson somewhat cool. We know, too, that it was only the great prestige of George Washington and James Madison, buttressed by a rising young public leader, John Marshall, who out-debated that great orator Patrick Henry in the Virginia Convention, that brought about Virginia's ratification. Without Virginia's ratification there would have been no Constitution—at least at that time.

I have always found it difficult, and I suspect others may share that difficulty, to really understand how separate and how independent were the 13 sovereign states that made up the Confederation preceding the Constitution. We know, of course, that the men of Massachusetts Bay regarded themselves as allies—allies of other states; they thought themselves quite different from the men of Virginia or Maryland or New York. This confusion of allegiances is illustrated in the circumstances surrounding Lincoln's offer to Robert E. Lee, in 1860, of the command of all the Union armies after the fall of Fort Sumter.

Lee—who loved the Union, was distressed at the idea of dissolving the Union, and hated slavery—was nevertheless so much a product of the age of his father, General "Lighthorse" Harry Lee, one of Washington's generals, that instead of accepting Lincoln's offer, he resigned from the Army. He went immediately to Richmond to offer his services for the defense of Virginia—not for the support of secession, not for the defense of slavery, not for the dissolution of the Union, but simply in the 18th Century mind-set of men who were Virginians first and Americans second. This episode has always helped me understand the enormous difficulty of getting the Constitution ratified.

Now let me take you back from this digression to 1787 when even the word "constitution" was not a familiar one. We remember that there was a great fear of central governments stemming from the fact that the Revolution had been fought to escape from the clutches of a distant and strong central government in London. When the Continental Congress met in New York early in 1787 to consider convening what we now know as the Constitutional Convention, the authorizing resolution was carefully circumscribed. The delegates to that meeting in Philadelphia were to be sent there as a committee ". . . for the sole and express purpose of revising the Articles of Confederation." There was no hint of drafting a new Constitution, although Patrick Henry later refused to be a delegate from Virginia, because, as he put it, he "smelled a rat."

You recall the language of the Articles of Confederation. They reflect how jealous the states were about their own sovereignty. The language of the enabling resolution of the Congress reads in the terms of a treaty. The words are these, and we must marvel as we recall them:

"The said states hereby severally enter into a firm league of friendship with each other."

A firm league! This is Massachusetts, New York, Pennsylvania, Maryland, Virginia and eight other states speaking to each other! Of course we know from the history of the Revolution itself that the bonds between the 13 colonies were very loose indeed. The terrible privations, the needless deaths from starvation and freezing suffered by Washington's troops, only a few miles from where we meet today, attest to the looseness of the Confederation. That looseness caused those men at Valley Forge to suffer through a terrible winter, because the states had no binding duty to provide the promised food, the material and the money necessary to support the Revolution and its armies.

It was indeed a loose confederation. It had no power to levy taxes, no authority to raise armies and it is nothing short of a miracle that the Revolution was successful, or that there was any occasion to convene what we now describe as the Constitutional Convention. It was our good fortune that George III had to keep a good deal of his powder dry to deal with France and Spain.

One state, for example, paid nothing in the way of taxes or contributions to the Confederation for at least five years before the meeting in Philadelphia. Rhode Island, remember, declined even to send delegates to Philadelphia in 1787! The soldiers under Washington often furnished their own clothing, their own guns, even their own gunpowder at times. Hamilton, the financial genius of the Revolution and the Confederation, and later of the new government under the Constitution, was described in the war period as "Receiver of Continental Taxes"—the "receiver," not "collector!" Taxes were like church or Red Cross contributions, purely voluntary.

These terrible experiences not only dictated Washington's strategy of trying to keep his armies on the run and out of reach of the British, but also shaped his political philosophy, and that of his officers, that for some purposes a strong central or federal government was imperative. A young captain in Washington's army, who spent the winter with him at Valley Forge, had his views take shape in terms of that need for a strong central government. And those views, as we know, found their way into his opinions when the Captain became Chief Justice 20 odd years later. Marbury v. Madison, McCulloch v. Maryland and Gibbons v. Ogden bear the imprint of that winter at Valley Forge. Thus did Valley Forge help shape our Constitution jurisprudence. The ambivalence of those people who were fearful of a central government very nearly cost us the victory in the Revolution—and the Constitution as well.

As we watch current events, after more than 40 years of power flowing from the states to the federal government beyond what the framers contemplated, some political philosophers profess to see the American people as not yet having become politically mature. Hamilton surely had it impressed upon him that if the payment of taxes by the people and by the states was a matter purely voluntary like church contributions, there would never be a nation.

Hamilton said that what was needed was not the kind of structure that appealed to ". . . the narrow colonial sphere in which we have become accustomed to move," but rather for ". . . that enlarged kind suited to the government of an independent nation."

When we realize that nearly a century later so great an American as Robert E. Lee could not shake off the shackles of "narrow colonial" attitudes, it is not surprising that Hamilton did not succeed in persuading the Continental Congress in 1787 to enact the proposed resolution which in terms called for a Constitutional Convention. He had to settle for what in effect was a committee to review the Articles of Confederation. Madison, Hamilton and others knew that the structure created by the Articles of Confederation, including the Continental Congress, was what we call today a "paper tiger." Those Articles were hardly more than a multi-lateral treaty among 13 sovereign states agreeing to cooperate and collaborate for limited purposes.

We remember, of course, that there were rigid limits on commerce in 1787. Most of the 13 states printed their own money. The one thing which merchants and businessmen hoped for was a system that would open up the channels of commerce. Imperative to commerce would be a common currency, a central revenue system, a central banking system, a central authority to deal with other nations—and no trade barriers between the states.

Businessmen, of course, knew that there could never be any real prosperity in commerce while the states had separate currencies and customs duties with protective tar-

iffs for those within each of the states. Only a Constitution creating a strong central government could provide the foundations needed for an expansion of the economy.

Madison, who is often called the "father of the Constitution," had been a close student of the history of governments. He had immersed himself deeply in study before going to Philadelphia. One of his writings can be read as an important foreshadowing of what emerged here in Philadelphia and later in opinions of the Supreme Court. Madison had written:

"Let the national Government be armed with a positive and complete authority in all cases where uniform measures are necessary. . . . Let it have a negative, in all cases whatsoever, on the legislative acts of the States [and] [l]et this national supremacy be extended also to the judiciary department."

Madison could not match the eloquence of his fellow Virginians, Thomas Jefferson or Patrick Henry, but he was a profound thinker, a craftsman, an engineer in terms of political science. And, as we know, it was the great good fortune for our country—and for the very idea of freedom—that Madison became the principal draftsman, if not the principal architect, of the Constitution. Philosophically, he was then more attuned to the ideas of Washington, Hamilton, and Adams concerning the new country than he was to the thinking of his close friend and ally Thomas Jefferson. Given Jefferson's visions of a nation of farmers, artisans, and strong yeomen, and his fear of a strong central government, perhaps it was just as well that Madison arrived in Philadelphia nearly two weeks in advance of the formal meetings of the delegates and that Jefferson, like Patrick Henry, did not attend the Convention at all.

It surely must be clear that a loose federation of 13 sovereign states would have doomed us to a Balkanization that would have made us easy victims of Spain, France and England.

It is difficult to recreate the atmosphere that must have existed in this city in that summer of 1787. In terms of 18th Century travel and communications, our 13 states were very distant from each other, and spread the length of the Atlantic Coast from New England to Spanish Florida. Yet we were hemmed in by British military forces to the North and by Spain and France to the South with continuing concerns about Florida, Louisiana and control of the Mississippi River. Surely these sophisticated delegates could feel the hot breath of England and France and Spain, each of them waiting for the propitious moment to pounce on the new country and recover its lost territories. Perhaps it was something of this concern, these fears, that moved Benjamin Franklin, who was not known to be dedicated to orthodox religious institutions, to offer the motion that a chaplain be invited to open the Convention evey morning with a prayer. And Madison, at the close of the Convention, said that all people must: ". . . perceive in [the Constitution] a finger of that Almighty hand which has been so frequently . . . extended to our relief in the critical stages of the revolution."

Perhaps the one thing the delegates shared, because of what they had suffered as colonists, was a feeling that a government with built-in checks and balances was imperative. Just how to achieve those checks and balances and still have a strong nation and a government was to keep them here in Philadelphia for those many hot weeks. We remember that a theme underlying all the debates and all of the discussions had to do with the notion of the states surrendering some of their authority and sovereignty to a new, unknown and as yet undefined national government.

James Wilson, one of the ablest men at the Convention, and Pennsylvania's first Justice on the United States Supreme Court, at one point put his finger on this problem saying:

"If no state will part with any of its sovereignty, it is in vain to talk of a national government."

A government of delegated power must have other power holders willing to do some sharing. And Wilson went on to say:

"I do not see the danger of the states being devoured by the national government. On the contrary, I wish to keep them from devouring the national government."

The fear of central power, the fear of a national government, was hammered at and hammered out all during the convention, and the tensions that these ideas developed were revealed in the rather bitter comments of James Wilson and John Dickinson. Dickinson at one point said:

"If the general government should be left dependent upon state legislatures, it would be happy for us if we had never met in this room."

As with any deliberative body, small or large, when the issues are of great consequence, and especially when they probe into unknown territory, feelings grow tense and utterances occasionally can become harsh. Yet, that the Constitutional Convention was a process of give and take, there can be no doubt. On the main proposition, that is the system of checks and balances, with three coequal and independent departments, Madison, Hamilton, Morris and Wilson would not yield.

The day after the Convention on September 18, 1787, the delegate from New Hampshire wrote to a member of his family, saying:

"It was done by bargain and compromise, yet notwithstanding its imperfections, on the adoption of it depends whether or not we shall become a respectable nation, or a people torn to pieces by intestine commotions, and rendered contemptible for ages"

Franklin's closing speech perhaps said it as well as could have been said:

"In these sentiments sir, I agree to this constitution with all its faults if they are such."

When asked what the Convention had created, you recall Franklin's answer: "A republic, if you can keep it."

The delegates left Philadelphia exhausted but rightly entitled to be elated, but the document produced had yet to run the gauntlet of the states' ratification processes.

As we know, the outcome was determined by the action of Virginia, the largest of the states. There the debate was long and heated. Patrick Henry was the chief spokesman against ratification. John Marshall, at that time a rising young lawyer in his mid-30s, was the chief spokeman for the Constitution. His victory over the formidable Patrick Henry brought him into national prominence.

In five short years, this City will be a Mecca for all who love freedom and look to Philadelphia as a shrine where a small body of men launched the greatest experiment in government in all human history.

We have survived and prospered for 200 years because our strength was not simply in the concepts of the Declaration and the Constitution—great as they are—but because of the strength of the people, of personal integrity, of individual responsibility, of the traditions of home and family—and of religious beliefs.

Now—soon—the 200th Anniversary of the Constitution in 1987 will provide the occasion to reexamine those beliefs and rededicate ourselves to those values. Let us be sure we do not miss this opportunity.

Mr. MATHIAS. Mr. President, I am delighted to join the members of the Senate Judiciary Subcommittee on the Constitution today in introducing legislation to commemorate the bicentennial of the Constitution of the United States, which is only 5 years away. This legislation will create a special commission to coordinate the commemorative celebrations and activities on the Federal, State, and local level, and in the private and public sectors.

The bicentennial observance provides an occasion for all Americans to reflect upon the unparalleled achievement of our Founding Fathers in developing this unique document—the document which William Gladstone called the "most wonderful work ever struck off at a given time by the brain and purpose of man." The bicentennial period will provide us with an opportunity to raise the level of American consciousness about the content of our Constitution and the importance of the Philadelphia Convention. Our celebration of this bicentennial must be, above all, a time of constitutional education.

We cannot implement the Constitution in the spirit in which it was written unless our knowledge of it is as intimate as the knowledge of the members of the Constitutional Convention. We cannot execute the provisions of the Constitution unless we understand the underlying principles which were so familiar to the framers of the Constitution. Issues present themselves which demand resolution against the framework of the Constitution. We will be inadequate to the job of resolving those issues unless we know as much about the Constitution as the delegates to the Convention who wrote it.

Therefore, we in Congress must meet our responsibility and enact legislation to help insure that such a commemoration comes about. Since the 94th Congress, I have been sponsoring legislation to achieve that purpose. Since then, much valuable time has been lost. Now, however, a bill is being introduced which we hope will move through Congress quickly. I applaud Senator HATCH and the other members of the Senate Judiciary Subcommittee on the Constitution in developing this bill. The commission that will be created by this legislation is a suitable vehicle for commemorating the bicentennial—which is after all the fundamental purpose of this legis-

lation. I am sure that everyone who is concerned that our Nation celebrate a meaningful constitutional bicentennial shares my pleasure in the introduction of this bill, and will join me in urging its swift passage.

Mr. THURMOND. Mr. President, today I am joining my colleagues from the Subcommittee on the Constitution of the Committee on the Judiciary in introducing a bill to provide for the commemoration of the bicentennial of the Constitution. In just 5 years we will be celebrating the 200th anniversary of this amazing document and we must make appropriate plans for a thoughtful and proper commemoration.

The measure being introduced would provide for the appointment of a 16-member Commission charged with developing a specific plan for the celebration of the events leading up to the signing of the Constitution and the subsequent ratification process. The Commission is directed to encourage State, local, and private participation in planning activities, while taking on a limited number of Federal projects.

The thrust of this legislation is to educate and reflect upon the philosophical underpinnings of our Constitution as illustrated by the words of the individuals involved in its creation and by the events leading up to its ratification. In this regard, I recall the writings of James Madison who has often been called the "Father of the Constitution." Mr. Madison immersed himself in study before attending the Constitutional Convention and in one of his writings he foreshadowed what ultimately emerged in Philadelphia. He wrote:

> Let the national government be armed with positive and complete authority in all cases where uniform measures are necessary . . . Let it have a negative, in all cases whatsoever, on the the legislative acts of the States.

Mr. President, the writings of Madison and other great men who were devoted to the idea of freedom deserve review and reflection as we approach the bicentennial of the document they created. The 200th Anniversary of the Constitution will provide the occasion for us all to examine the beliefs held by that small group of individuals who convened in 1787 and dedicate ourselves to the values underlying those beliefs. I feel this measure will provide the proper framework to celebrate and commemorate this Nation's most important historical event.

In closing, let me remind my colleagues of Benjamin Franklin's response when questioned as to what had been created at the Constitutional Convention. He replied: "A Republic, if you can keep it."

Let us devote ourselves to doing so in commemorating the Bicentennial of the Constitution.

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By Mr. QUAYLE:

S. 2672. A bill to reform the insanity defense and to establish a verdict of guilty but mentally ill; to the Committee on the Judiciary.

REFORM OF INSANITY DEFENSE

● Mr. QUAYLE. Mr. President, like many of my colleagues, I am surprised at and disappointed in the verdict in the case of Mr. John W. Hinckley, Jr., the man who tried to assassinate President Reagan. But I am not diappointed by the judge, who merely followed the Federal law, or the jury, who I believe followed the instructions of the court. The court, the judge, and the jury did their duty as set forth by the law, in finding Mr. Hinckley innocent by reason of insanity.

I am not alone in my concern for this particular case. In addition to many of my colleagues, including the Senator from Utah, the Senator from Nebraska, and the Senator from Pennsylvania who have spoken out on this issue, many across the Nation have expressed their disbelief and disappointment in our Federal laws and even our judicial system itself. Criticism of the Hinckley case has been expressed around the country. The plain question put to me by my constituents is "What happened?"

How can the man known to have shot the President and wounded three others in a violent attack possibly be eligible for release into society only 50 days after the close of his trial?

Mr. President, my constituents do not fault the jury or the judge or even the legal system. The American people find fault with us, the Congress, for not having effectively dealt with criminal reform or the specific criminal defense of insanity.

The questions and concerns of all of us have been put most succinctly in today's Washington Post by Mr. James Grady, a Washington author. I would ask unanimous consent that Mr. Grady's column be printed in the RECORD. As Mr. Grady said, there are victims scattered throughout John Hinckley's path. But one more victim, the U.S. Congress, can be avoided if we have the sense to act here.

The Congress has never in its history addressed the issue of the defense plea of innocent by reason of insanity. At this time I would add my own thanks to the junior Senator from Pennsylvania who yesterday in this body pointed out that the Congress has never dealt with this issue.

Mr. President, I am today introducing legislation to reform the criminal defense of insanity. Most importantly, this legislation differs from previously offered bills in that it would establish a verdict of "guilty but mentally ill."

The purpose of my bill is three-fold: First, this legislation recognizes the defense of insanity by using the M'Naghten rule, modified by a somewhat stricter limitation referring to a "result of a mental disease or defect." Second, this bill would clearly place the burden of proof upon the defendant to establish by a preponderance of the evidence the defense of insanity. Finally, this legislation will establish the verdict of "guilty but mentally ill" in the Federal law, a verdict now available to the courts in my own State of Indiana.

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

[From the Washington Post, June 23, 1982]

(James Grady)

. . . AND SUCCESS

By all accounts, the most successful American of the 1980s is John W. Hinckley Jr., "the man who tried to assassinate Ronald Reagan."

This common identification of Hinckley shows the reporting error that masks his success; his goal was not to assassinate the president. Hinckley sought and found fame. It doesn't matter that he didn't kill Ronald Reagan because Hinckley never wanted that. Ronald Reagan could have been or—given Hinckley's history—might have been Jimmy Carter. Or John Lennon, if Hinckley had been imaginative enough to be the first to realize that politicians aren't the only ones with limelights to steal.

What price has Hinckley paid for his glory? Almost none.

Instead of continuing his chancy life as a drifter, he is in all probability now assured of quality food, shelter and medical attention for the rest of his life. How many other Americans are that lucky? Or that deserving? He lost nothing when society took away his freedom of motion because he wasn't going anywhere anyway except in pursuit of his dream.

Which he caught. Hinckley wanted specific fame, fame in which he won the attention of a movie star he idolized and in so doing, forged their names, together in history. Pity his dream girl, Jodie Foster, for Hinckley's criminal success has her innocent name carved on its heart.

True, he'll never "get" Jodie Foster in the flesh, never "have" her love. But love—either sexual or personal—means little to Hinckley. Besides, he didn't want Jodie Foster to love him. He wanted to be the man the public saw at the center of her life. And he is.

To execute Hinckley would have changed nothing about his success except the way in which his name is flashed in lights. Death deprives him only of the necessity of certain ultimately transitory biological functions like breathing and backaches. Execution would have won Hinckley another set of headlines in the weekly supermarket tabloids: "Last Gasps of Twisted, Star-Crossed Lover Turned Presidential Shootist!"

Hinckley is the Me Generation come of age. His ego is absolutely free of any self-doubt or confusing questions about moral consequence. The vacillations ascribed to him by witnesses at his trial are concerned with effectiveness, not justice. He worried only about whether his "Taxi Driver" like dramatic production would work, not whether it was right or wrong.

There'd been failures on his way to fame before. He'd tried to be rock star and a Nazi, but both of these time-proven techniques required too much commitment and talent for our John. Yet he was undaunted, savvy enough to realize that the path to success

has many milestones. At some you stumble. But Hinckley worships the Sole Commandment of the National Football League Religion: winning is the only thing.

Our boy's only strength is that unshakable faith in his own petty pleasure. He pursued his Hollywood Princess far more diligently than most of us dare pursue our dreams. How many of us who sigh when Jacqueline Bisset or Robert Redford flash on the silver screen have the courage to approach our object of romance? Have, like Hinckley, the determination to pursue our yearnings across this continent? The spirit to give that full 110 percent effort extolled by coaches everywhere? Rejections and failures didn't discourage John boy. He kept plugging away for fame, fighting to be as big as the Beatles, reaching for his Andy Warhol prime time promise—and more. John Boy Hinckley wouldn't settle for a fleeting 15 minutes. He wanted history.

How easy it was for him to get it.

Of course, our boy had the good luck to live in a culture where success is the final ethic and during these modern times when two new dimensions have been added to the success game: success is increasingly measured by fame, not fortune, and never before has the process of mere fame been so instutionalized and industrialized as it is America today. Fame's temples are everywhere, from "respectable" weekly magazines like People to the supermarket tabloids; from TV's "soft" feature programs mixed in with the "hard" news shows to "personality specials" where the height of success is to have Barbara Walters ask what kind of tree you'd be if God had been less discriminating in his creative plan. This television season threw away all pretense, and gave America a show flat-out dedicated to that two dimensional vision, "Fame." "I'm gonna live forever!"

To cast Hinckley as insane or a victim of American society is absurd semantics. You are only crazy if you fail. Ask the Wright brothers, who were the ultimate loony birds. Ask the 19th century feminists, who had to be certifiably nuts to believe any woman was worth more than the procreation, recreation and exploitation ordained by both nature and divine civilization. As for being a "victim," Hinckley lost next to nothing in conceiving, calculating and controlling an "impossible" dream, which he blasted into reality.

But there are victims scattered throughout Hinckley's ultimate success: Jodie Foster, Ronald Reagan, James Brady, Thomas Delahanty, Timothy McCarthy. Their friends and families. Even Hinckley's family. And everyone who doesn't want to become a casualty on some creep's bloody stairway to the stars.●

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By Mr. DOLE (for himself, Mr. ROTH, and Mr. D'AMATO). S. 2673. A bill to amend the Internal Revenue Code of 1954 to provide a Federal income tax credit for tuition; to the Committee on Finance.

TUITION TAX CREDIT

● Mr. DOLE. Mr. President, I have been a longtime supporter of providing Federal income tax relief for lower and middle income families who carry the additional burden of supporting the public schools while sending their children to private schools. Because of this double burden, an alternative to public education simply is not available to lower income families today and is not available to middle-income families without substantial sacrifice. Inflation in recent years has made matters worse. Yet alternatives to public education contribute to the pluralism that help make our society strong. Alternatives to public education can also help stimulate improvements in our public schools through the competition those alternatives present. A strong system of private schools, available to all income classes, should contribute to a better education for all of our children. And an educated, skilled populace is an essential ingredient in maintaining and improving this Nation's technological and industrial prominence.

President Reagan made a campaign promise to provide relief to these families who carry a double burden by providing a tax credit for a portion of the tuition they pay for their children's education. Today, I am pleased to assist the President in taking the first step down the path of fulfilling that promise by introducing the administration's tuition tax credit bill.

PHASED-IN, NONREFUNDABLE CREDIT

This bill would phase in, over 3 years, a nonrefundable tax credit for one-half of tuition payments for the primary or secondary education of a taxpayer's dependents, up to a maximum per student of $100 in 1983, $300 in 1984, and $500 thereafter. The credit would be phased out for families with incomes of more than $50,000 per year, and those with income in excess of $75,000 per year would be ineligible. The well-to-do will not benefit from this bill.

NO CREDITS FOR DISCRIMINATORY SCHOOLS

Although I support tuition tax credits in principle, I would not support any bill without adequate safeguards insuring that tax credits would not be allowed for payments to private schools with racially discriminatory policies or practices. Earlier this year, the Finance Committee had occasion to review the controversy surrounding the granting of tax-exempt schools with racially discriminatory policies. It is clear from this experience that we must be careful in considering any new tax provision that might provide even indirect assistance to racially discriminatory private schools. This bill contains several provisions intended to disallow tax credits for tuition payments to racially discriminatory schools. The Finance Committee must carefully review these provisions to insure that the allowance of tuition tax credits will not in any way frustrate our fundamental national policy against racial discrimination in education.

The administration's bill has a three-pronged approach to this problem. In the first place, a school cannot qualify to recieve tax-creditable tuition payments under this bill unless it is a tax-exempt ecucational institution under code section 501(c)(3). The Supreme Court will soon be considering the nondiscrimination standards that must be met in order to enjoy Federal tax exemption.

A school's failure to satisfy those standards will automatically disqualify it from receiving tax-creditable tuition payments. This bill, of course, would not affect the question of what nondiscrimination standards are applicable, under sections 501(c)(3) and 170 of the Internal Revenue Code, to tax-exempt private schools generally. That decision remains with the Court.

This bill goes further, and adds two additional provisions designed to disallow tax credits for tuition payments to discriminatory private schools. At the end of a calendar year for which tuition tax credits may be claimed, the school would be required to submit to the IRS a statement, subject to penalties for perjury, certifying that the school has not followed a racially discriminatory policy during the calendar year.

In addition, if the Attorney General received a complaint that the school had discriminated against an individual, the Attorney General would be authorized to bring a declaratory judgment proceeding in district court to establish that a school, in fact, maintained a racially discriminatory policy. If the Attorney General prevailed in such a suit, credits would be disallowed for tuition payments to the school for 3 years.

It is my hope that the Finance Committee would review the nondiscrimination standards and procedures set forth in this bill with the assistance and counsel of experts and interested laymen in the fields of education, civil rights, and law.

CONSTITUTIONALITY

In addition to the discrimination problem, many opponents claim that, because of the religious affiliation of many private schools, tax relief for tuition payments violates the establishment clause of the first amendment. I do not agree, but it does not necessarily matter what I or any other Senator thinks about the constitutionality of this measure. So long as we are convinced that the provision does not clearly violate the first amendment, and the court decisions in this area are anything but unanimous and clear, it is up to the Supreme Court to decide the constitutionality of this provision, not us.

FISCAL RESTRAINT

Other opponents of tuition tax credits point to the burgeoning deficits and the painful process that Congress faces over the next year or 2 in learning what "fiscal restraint" means as reasons not to move forward. Our task on the Finance Committee in making tough decisions on medicare, medicaid,

and welfare, and in finding more than $20 billion in new revenues for fiscal year 1983 is perhaps one of the more painful, though necessary steps down that road. I am the first to admit the difficulty of the task we face.

In light of these challenges, immediate action on this bill or on any new or expanded tax expenditure may not be possible. The administration has recognized these restraints and is to be commended for scaling back, especially in the early years, the fiscal impact of the proposed tuition tax credit. With the 3-year phase in, the lack of a refundability provision, the lack of credits for college-level education, and the high-income phaseout, the fiscal 1983 cost of this bill is estimated at approximately $100 million, and for fiscal 1984, approximately $600 million. While we certainly must complete the process of finding the revenues the budget resolution directs us to find, before we turn to any new or expanded tax expenditures, an improving economy later this year and success in finding additional spending cuts may permit us to make progress on modest versions of ideas such as this sooner than some of us anticipated in the darker months of the recession that now shows signs of ending.

In short, Mr. President, tuition tax credits for low- and moderate-income families is an idea whose time has come. I will not deny that the proposal presents some thorny issues, but I do not think any are incapable of solution. I welcome constructive suggestions for improvement and hope we can meet any responsible criticisms. If I were not confident of the ultimate and timely success of this measure, I would not introduce it today.

Mr. President, I ask unanimous consent that the bill, an explanation of the bill, and the President's transmittal letter be printed in the RECORD.

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

S. 2673

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

SEC. 1. SHORT TITLE.

This Act may be cited as the "Educational Opportunity and Equity Act of 1982".

SEC. 2. CONGRESSIONAL FINDINGS.

The Congress finds that it is the policy of the United States to foster educational opportunity, diversity, and choice of all Americans. Therefore, Federal legislation should recognize that:

(A) pluralism is one of the great strengths of American society, that diversity in education is an important contributor to the pluralism, and that nonpublic schools play an indispensable role in making that diversity possible;

(B) the existence and availability of alternatives to public education tend to strengthen public education through competition and to improve the educational opportunities of all Americans;

(C) Americans should have equal opportunities to choose between the education offered by public schools and that available in private educational systems and should not be compelled because of economic circumstances to accept education provided by government created and government operated school systems, and that to force such a selection is an unfair and unjust discrimination against persons of lesser means;

(D) increasing number of American families are unable to afford nonpublic school tuition in addition to the state and local taxes that go to support public schools, and that tax relief for nonpublic school tuition expenses is necessary if American families are to continue to have a meaningful choice between public and private education at the elementary and secondary level;

(E) tax relief in the form of tuition tax credits is the fairest way to extend a choice in education to a wide range of individuals, that tax relief in the form of tuition tax credits creates the least possible danger of interference in the lives of individuals and families consistent with achieving these ends, and that tax relief in the form of tuition tax credits achieves these ends with a minimum of complexity so that those for whom the tax relief is intended will be able to understand and take advantage of it;

(F) the tax revenue loss occasioned by a tuition tax credit for a child would be small compared to the cost to state and local taxpayers of educating the child at a public school;

(G) equality of educational opportunity is the policy of the United States, and the tax relief afforded by this legislation should not be used to promote racial discrimination.

Therefore, the primary purpose of this Act is to enhance equality of educational opportunity, diversity, and choice for Americans. The Congress finds that this Act will expand opportunities for personal liberty, diversity, and pluralism that constitute important strengths of education in America.

SEC. 3. CREDIT FOR TUITION EXPENSES.

Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1954 (relating to credits allowable) is amended by inserting before section 45 the following new section:

"SEC. 44H. CREDIT FOR TUITION EXPENSES.

"(a) GENERAL RULE.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this subtitle for the taxable year an amount equal to 50 percent of the tuition expenses paid by the taxpayer during the taxable year to one or more educational institutions for any of his dependents (as defined in section 152(a) (1), (2), (3), (6), or (9)) who has not attained the age of 20 at the close of the taxable year in which the tuition expenses are paid and with respect to whom the taxpayer is entitled to a deduction for the taxable year under section 151.

"(b) LIMITATIONS.—

"(1) MAXIMUM DOLLAR AMOUNT PER INDIVIDUAL.—The amount of the credit allowable to a taxpayer under subsection (a) with respect to tuition expenses paid on behalf of each dependent shall not exceed—

"(A) $100 in the case of tuition expenses paid during the taxpayer's first taxable year beginning on or after January 1, 1983;

"(B) $300 in the case of tuition expenses paid during the taxpayer's first taxable year beginning on or after January 1, 1984; and

"(C) $500 in the case of tuition expenses paid for each taxable year of the taxpayer beginning on or after January 1, 1985.

"(2) PHASEOUT OF CREDIT ABOVE CERTAIN ADJUSTED GROSS INCOME AMOUNTS.— The maximum amount specified in paragraph (1) shall be reduced by the following percent of the amount by which the adjusted gross income of the taxpayer for the taxable year exceeds $50,000 ($25,000 in the case of a married individual filing a separate return)—

"(A) 0.4 percent for the first taxable year of the taxpayer beginning on or after January 1, 1983;

"(B) 1.2 percent for the first taxable year of the taxpayer beginning on or after January 1, 1984; and

"(C) 2.0 percent for each taxable year of the taxpayer beginning on or after January 1, 1985.

"(c) SPECIAL RULES.—

"(1) ADJUSTMENT FOR SCHOLARSHIPS AND FINANCIAL ASSISTANCE.—Tuition expenses paid by the taxpayer shall be reduced by any amounts which were paid to the taxpayer or his dependents as—

"(A) a scholarship or fellowship grant (within the meaning of section 117(a)(1)) which is not includible in gross income under section 117;

"(B) an educational assistance allowance under chapter 32, 34, or 35 of title 38, United States Code; or

"(C) other financial assistance which is for educational expenses, or attributable to attendance at an educational institution, and that is exempt from income taxation by any law of the United States (other than a gift, bequest, devise, or inheritance within the meaning of section 102(a)).

"(2) DISALLOWANCE OF CREDITED EXPENSES AS DEDUCTION.—No deduction or credit shall be allowed under any other section of this chapter for any tuition expense to the extent that such expense is taken into account in determining the amount of the credit allowed under subsection (a) unless the taxpayer elects, in accordance with regulations prescribed by the Secretary, not to apply the provisions of this section to such tuition expenses for the taxable year.

"(d) TAX CREDIT NOT ALLOWED FOR AMOUNTS PAID TO RACIALLY DISCRIMINATORY INSTITUTIONS.—

"(1) REQUIRED ANNUAL STATEMENTS.—No credit shall be allowed under subsection (a) for amounts paid to an educational institution during a calendar year unless, at the end of such calendar year, the educational institution files with the Secretary (in such manner and form as the Secretary shall by regulation prescribe) a statement, subject to the penalties for prejury, that

(A) declares that such institution has not followed a racially discriminatory policy during such calendar year; and

(B) indicates whether the Attorney General has brought an action against such institution under section 7408 during such calendar year or either of the two preceding calendar years.

On or before January 31 of the calendar year succeeding the calendar year to which the statement relates, the institution shall furnish a copy of the statement to all persons who paid tuition expenses to the institution in the calendar year to which the statement relates. No credit shall be allowed to a taxpayer under subsection (a) for amounts paid to an educational institution during a calendar year unless the taxpayer attaches to the return on which the taxpayer claims the credit with respect to such calendar year a copy of the statement specified in this paragraph.

"(2) DECLARATORY JUDGMENT PROCEEDINGS.—If an educational institution is declared to have followed a racially discriminatory policy in an action brought pursuant to section 7408, then no credit shall be allowed under subsection (a) for amounts paid to such educational institution—

"(A) in the calendar year during which the Attorney General commenced the action pursuant to section 7408, and

"(B) in the calendar years immediately succeeding the year specified in subparagraph (A).

"(3) DEFINITION.—For purposes of this subsection, an educational institution follows a 'racially discriminatory policy' if it refuses, on account of race—

(A) to admit applicants as students;

(B) to admit students to the rights, privileges, programs, and activities generally made available to students by the educational institution; or

(C) to allow students to participate in its scholarship, loan, athletic, or other programs.

A racially discriminatory policy shall not include failure to pursue or achieve any racial quota, proportion, or represenation in the student body. The term 'race' shall include color or national origin.

"(4) TIME OF DISALLOWANCE.—No credit shall be disallowed under paragraph (2) until the judgment against the educational institution in the action brough under section 7408 has become final. A judgment becomes final within the meaning of this paragraph when all parties to the action have exhausted all appellate review.

"(5) STATUTE OF LIMITATIONS.—If a credit is disallowed under paragraph (2), the period for assessing a deficiency attributable to the disallowance of such credit shall not expire before the expiration of 3 years from the date the judgment becomes final within the meaning of paragraph (4). Any such deficiency may be assessed before the expiration of such three-year period notwithstanding the provisions of any other law or rule of law which would otherwise prevent such assessment.

"(6) ENFORCEMENT RESPONSIBILITY.—Exclusive authority to enforce the prohibition against following a racially discriminatory policy under this subsection, or to undertake activities connected with enforcing this subsection, is vested in the Attorney General. Under this subsection, the Secretary has authority solely to receive the statements referred to in paragraph (1); to disallow credits for amounts paid to an educational institution which has failed to file such a statement as provided in paragraph (1); to disallow a credit in the case of a taxpayer who fails to comply with the procedures prescribed by the Secretary for claiming the credit; and to disallow credits for amounts paid to an educational institution against which a final judgment has been entered in an action under section 7408 as provided in paragraphs (2) and (4).

"(e) DEFINITIONS.—For purposes of this section—

"(1) EDUCATIONAL INSTITUTION.—The term 'educational institution' means a school that

"(i) provides a full-time program of elementary or secondary education;

"(ii) is a privately operated, not-for-profit, day or residential school; and

"(iii) is exempt from taxation under section 501(a) as an organization described in section 501(c)(3), including church-operated schools to which subsections (a) and (b) of section 508 do not apply.

"(2) TUITION EXPENSES.—The term 'tuition expenses' means tuition and fees paid for the full-time enrollment or attendance of a student at an educational institution, including required fees for courses, and does not include any amount paid for

"(A) books, supplies, and equipment for courses of instruction at the educational institution;

"(B) meals, lodging, transportation, or personal living expenses;

"(C) education below the first-grade level, such as attendance at a kindergarten, nursery school, or similar institution; or

"(D) education above the twelfth-grade level."

SEC. 4. DECLARATORY JUDGMENT PROCEEDING.

Subchapter A of Chapter 76 of the Internal Revenue Code of 1954 (relating to judicial proceedings) is amended by redesignating section 7408 as section 7409 and by inserting after section 7407 the following new section:

"SEC. 7408. DECLARATORY JUDGMENT RELATING TO RACIALLY DISCRIMINATORY POLICIES OF SCHOOLS.

"(a) IN GENERAL.—Upon petition by a person who alleges that he has been discriminated against under a racially discriminatory policy of an educational institution, the Attorney General is authorized, upon finding good cause, to bring an action against the educational institution in the United States district court in the district in which the educational institution is located, seeking a declaratory judgment that the educational institution has followed a racially discriminatory policy and has, pursuant to such policy, discriminated against the person filing the petition.

"(b) TIME FOR FILING PETITION.—The petition shall be filed with the Attorney General within 180 days after the date on which the act of racial discrimination is alleged to have been committed against the person filing the petition.

"(c) NOTIFICATION AND OPPORTUNITY TO COMMENT.—Upon receipt of the petition, the Attorney General shall promptly notify the educational institution in writing of such petition and the allegations contained therein. Before any action may be filed, the Attorney General shall give the institution a fair opportunity to comment on all allegations made against it and to show that the racially discriminatory policy alleged in the petition does not exist or has been abandoned.

"(d) TIME FOR BRINGING ACTION.—An action may be filed by the Attorney General no later than 1 year after receiving the petition.

"(e) DEFINITIONS.—When used in this section, the terms 'educational institution' and 'racially discriminatory policy' shall have the same meaning as assigned to such terms in section 44H.".

SEC. 5. TECHNICAL AND CONFORMING AMENDMENT.

(a) The table of sections for subpart A of Part IV of subchapter A of chapter 1 of such Code is amended by inserting immediately before the item relating to section 45 the following:

"SEC. 44H. Tuition expenses."

(b) Section 6504 of the Internal Revenue Code of 1954 (relating to cross references with respect to periods of limitation) is amended by adding a new paragraph (12) at the end thereof:

"(12) Disallowance of tuition tax credits because of a declaratory judgment that a school follows a racially discriminatory policy, see section 44H(d)(5)."

(c) The table of sections for subchapter A of chapter 76 of the Internal Revenue Code of 1954 (relating to civil actions by the United States) is amended by striking out the item relating to section 7408 and inserting in lieu thereof:

"Sec. 7408. Declaratory judgment relating to racially discriminatory policies of schools.

"Sec. 7409. Cross references."

SEC. 6. TAX CREDITS ARE NOT FEDERAL FINANCIAL ASSISTANCE.

Tax credits claimed under this section shall not constitute Federal financial assistance to educational institutions or to the recipients of such credits.

SEC. 7. EFFECTIVE DATE.

The amendments made by section 3 of this Act shall apply to taxable years beginning after December 31, 1982, for tuition expenses paid after that date.

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THE WHITE HOUSE,
*Washington, D.C., June 22, 1982.*

Hon. GEORGE BUSH,
*President of the Senate,*
*Washington, D.C.*

DEAR MR. PRESIDENT: I am herewith transmitting to the Senate proposed legislation entitled "The Educational Opportunity and Equity Act of 1982." This bill would provide for increased diversity in educational opportunity by providing tax relief for parents who choose to send their children to nonpublic schools.

Diversity in educational opportunity has been one of the great strengths of our nation. It is a foundation of our pluralistic society and essential to a nation which places a high value on individual freedom.

We are justly proud of our public schools, which now offer a free education through the primary and secondary school levels to all American children willing to take advantage of it. At the same time, we must remember the important role that has been played since the beginning of our nation by the diverse nonpublic schools which also offer an education to American children. Now, as they did prior to the establishment of our public school system, parents cherish their ability to choose from a wide range of educational opportunities for their children. It is of great importance to the continued vitality of our society that parents have a meaningful choice between public education and the many forms of private education that are available.

It is also important that there be innovation and experimentation in education. The existence of many private, as well as public, schools assures that new and possibly more effective teaching approaches will not go untested. It is also important that the differing needs and demands of students and their parents be met. Parents who, for whatever reason, are not satisfied by the education available in their local public schools should be able to seek an education better suited to their children elsewhere. Furthermore, the existence of a viable private alternative should maintain a healthy pressure on public education authorities to maintain educational standards and meet student needs.

As we are all aware, the cost of education, both public and private, has risen dramatically in recent years. We all bear the burden of the rising costs of public education through state and local taxation, directly or indirectly. But those parents who wish their children to attend nonpublic schools must also bear the additional burden of paying private-school tuition. This additional cost has always severely limited the ability of

lower-income families to choose the nonpublic educational alternative for their children. Rising costs are now putting private schools beyond the reach of a growing number of middle-income Americans as well. If we are to provide a meaningful choice to those who have not had it in the past, and preserve a choice for those for whom it is in danger of becoming an illusion, we must find a way to lighten the "double burden" these families bear.

We must also bear in mind that private schools do more than offer alternative educational choices to students and their parents. Nonpublic schools also carry a significant part of the burden of providing primary and secondary school education in this country. If it becomes financially impossible for many of the families now sending their children to nonpublic schools to continue to do so, the resulting increase in public school attendance will place large and unwelcome new tax burdens on state and local taxpayers. The cost to taxpayers of offering some tax relief to parents, so that they can afford to keep their children in the private schools of their choice, is modest compared to the cost of educating their children in the public schools.

Thus, in order to promote diversity in education and the freedom of individuals to take advantage of it, and to nurture the pluralism in American society which this diversity fosters, I am transmitting to Congress today a draft bill which provides federal tax credits for the tuition expenses of children attending nonpublic primary or secondary schools. Starting in 1983, the Education Opportunity and Equity Act of 1982, if enacted, would allow a tax credit for the tuition expenses of each student attending a private, nonprofit primary or secondary school. By 1985, when this new tuition tax credit would be fully phased in, a credit equal to 50 percent of tuition expenses paid during the year, but not to exceed $500, would be allowed for each student.

While it would be desirable for the reasons I have already mentioned to extend as well, the large losses in federal tax revenues which would result make it impossible to recommend such legislation at this time. Today's proposal makes an important start by providing this relief where it is most necessary.

Sincerely,

RONALD REAGAN.

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EXPLANATION OF ADMINISTRATION BILL

The Administration's bill would allow an individual taxpayer to take a credit against income tax in an amount up to 50 percent of the qualifying tuition expenses paid by the taxpayer in a taxable year. Qualifying tuition expenses are expenses paid for tuition and fees to send certain dependents under the age of 20 full-time to private elementary or secondary schools. Qualifying tuition expenses do not include amounts paid for books, supplies, equipment, meals, lodging, transportation, or personal expenses, or for education below the first-grade level or above the twelfth-grade level.

The credit is allowed only for expenses paid with respect to students for whom the taxpayer is allowed a dependency exemption and who bear any of the following relationships to the taxpayer: children and descendants; stepchildren; siblings, stepbrothers, and stepsisters; nieces and nephews; and members of the taxpayer's household, other than the taxpayer's spouse, whose principal place of abode is the taxpayer's home. To be allowed a dependency exemption, the taxpayer must provide more than half of the student's support for the calendar year in which the taxpayer's year begins, and except for the taxpayer's children and stepchildren, the student must have less gross income than the amount of the exemption.

The amount of the credit that is allowable for the taxable year with respect to a student is subject to two limits. First, the maximum amount of credit that may be claimed by the taxpayer for each student in any taxable year is $100 for the taxpayer's first taxable year beginning on or after January 1, 1983, $300 for the first taxable year beginning on or after January 1, 1984, and $500 for taxable years beginning on or after January 1, 1985.

Second, the maximum amount of credit per student is reduced as the taxpayer's adjusted gross income increases over $50,000 and is phased out entirely for taxpayers with adjusted gross incomes of $75,000 and over. For the first taxable year beginning on or after January 1, 1983, the $100 per student maximum credit is reduced by .4 percent of the taxpayer's adjusted gross income over $50,000; for the first taxable year beginning after January 1, 1984, the $300 per student maximum credit is reduced by 1.2 percent of the taxpayer's adjusted gross income over $50,000; and for taxable years beginning on or after January 1, 1985, the $500 per student maximum credit is reduced by 2.0 percent of the taxpayer's adjusted gross income over $50,000.

The amount of tuition expense for which a taxpayer is allowed a credit does not include expenses that are paid by scholarships and other educational aid that are not includible in the taxpayer's or in the student's income. If the scholarship is paid directly to the school and the school sends a tuition bill to the taxpayer that is net of the scholarship, the taxpayer is not deemed to have been paid the scholarship; the scholarship is excluded from the computation of tuition expense altogether.

A school with respect to which credits are allowable must provide a full-time elementary or secondary school program and must be a private, not-for-profit, day or residential school.

In addition, the school must be exempt from taxation under section 501(a) as an organization described in section 501(c)(3). Church-operated schools shall, pursuant to section 508(c), continue to be exempt from the provisions of section 508 (a) and (b). The fact that credits are claimed for payments to a church-operated school shall not serve as a basis for imposing any new requirements on such schools in this regard.

The bill contains strong provisions to ensure that no credits will be permitted for amounts paid to schools that follow racially discriminatory policies.

A tax credit cannot be claimed unless the school is a tax exempt organization under section 501(c)(3). The bill also creates a new layer of protections above and beyond the 501(c)(3) requirement. In order for tuition expenses to be eligible for the credit, the school must annually file with the Secretary a statement under the penalties of perjury that it has not followed a racially discriminatory policy. In addition, the Attorney General of the United States, upon petition by an individual who claims to have been discriminated against by a school under a racially discriminatory policy, may seek a declaratory judgment in a United States district court in which the school is located that the school follows a racially discriminatory policy. If a final judgment is entered that the school follows a racially discriminatory policy, tuition tax credits are disallowed for the year in which the complaint is filed by the Attorney General and the two succeeding calendar years. The disallowance does not take effect until all parties have exhausted their rights to appeal the declaratory judgment.

The proposal defines a racially discriminatory policy as a policy under which a school refuses, on account of race: to admit applicants as students; to admit students to the rights, privileges, programs and activities generally made available to students by the school; or to allow students to participate in its scholarship, loan, athletic or other programs. A racially discriminatory policy does not include the failure by a school to pursue or achieve any racial quota, proportion, or representation among its students.

The proposal is effective for tuition expenses paid after December 31, 1982, in taxable years beginning after that date.●

● Mr. PACKWOOD. Mr. President, I am delighted that the administration has submitted its tuition tax credit proposal today. As one who has worked and worked over the years with Senator MOYNIHAN and others to help enact tuition tax credits, I look forward to working with the administration and other interested Members of Congress for enactment of this needed change.

Senator MOYNIHAN and I first introduced tuition tax credit legislation in 1977. We held extensive hearings in the Finance Committee. The Finance Committee approved tuition tax credits for elementary, secondary, college, and vocational students. However, the Senate deleted tuition tax credits for students at elementary and secondary schools in August of 1978.

Also in 1978 the House of Representatives approved a bill providing tuition tax credits for elementary, secondary, college, and vocational students. No bill was enacted in 1978, because the House and Senate could not agree on a single proposal. Specifically, the House of Representatives insisted on inclusion of elementary and secondary students, and the Senate objected.

Senator MOYNIHAN and I reintroduced tuition tax credit legislation in 1979, but we felt that we could not win enactment of tuition tax credits at the elementary and secondary level without Presidential support.

After President Reagan's election in 1980, we reintroduced tuition tax credit legislation, now pending before Congress as S. 550. In 1981 we had extensive hearings on S. 550. We believe that submission of this administration's proposal on tuition tax credits can be a very significant additional step toward enactment of tuition tax credits.

We have engaged in this cause because we believe in the importance of giving parents an opportunity to choose the best education for their children. We think the best educational opportunities will result if there are both public and private schools. We

think that the continued existence of some schools not run by governments is in the best interest of quality education in America. The continued existence of non-Government schools is threatened by lack of adequate financial support. Parents who might consider enrolling their children in a non-Government run school face the double financial burden of paying taxes to support public schools and paying tuition to attend private schools. If they opt for the private school, they bear the cost of educating their child, while saving the cost to the Government of educating the child. I believe that a tuition tax credit for the parent in this situation is fiscally prudent as well as sound educational policy.

As I said a few minutes ago, I am delighted that the administration has submitted its new tuition tax credit bill, and I look forward to reviewing the proposal and working for enactment of tuition tax credits.●

TUITION TAX CREDITS

● Mr. MOYNIHAN. Mr. President, the proposal of tuition tax credits by a President of the United States is a moment to consider in the context of history, for it is the first time an American President has sent Congress legislation to provide such credits. Several candidates for the office have pledged so to do but only President Reagan has been in a position to keep that pledge and he has done so today by sending to Congress the text of S. 2673.

I commend the President for fulfilling his promise; I shall work with him toward the passage of tuition tax credit legislation in the time remaining in this Congress. Such a task shall not be without difficulty. For all the positive aspects of this bill there are some provisions that must give Congress reason to pause.

As my colleagues surely know, Senator PACKWOOD and I have been strong proponents of tax credit legislation. I have introduced four such measures since my election to this body in 1976. In 1978, the House of Representatives passed a tuition tax credit bill; the Senate nearly did so. Only active oppostion by the administration, in 1978, prevented tuition tax credits from becoming law.

Mr. President, tuition tax credit legislation was nearly enacted not simply because of promises made during recent national campaigns. There is a larger promise extended to all the school children of this Nation; a promise dating from the enactment of the Elementary and Secondary Education Act of 1965, a promise, in the words of the plank in the Democratic Platform of 1964 which I crafted stating:

New methods of financial aid must be explored, including the channeling of federally collected revenues to all levels of education, and, to the extent permitted by the constitution, to all schools.

I speak from what is, by now, a rather long involvement with the question of Federal aid to education 17 years ago, when those of us in the administration of President Johnson set out to draft a program of assistance to America's schools, there was implicit in our debates an agreement that all schools would benefit. Indeed, the support of leaders in nonpublic education for the Elementary and Secondary Education Act of 1965 followed from the understanding that their schools, too, would one day benefit.

That promise has yet to be kept. Nonpublic schools, in virtually every respect, are similar to public schools. They are good schools. In many areas, particularly in the urban center, they educate large numbers of minority and disadvantaged children—precisely those that Congress sought to assist with passage of the 1965 act. Nonpublic schools, of necessity, operate on limited budgets. Over the past 5 years, Senator PACKWOOD and I have chaired 5 full days of hearings in the Senate on tuition tax credit legislation and if one thing has been established, it is that nonpublic schools are neither elitist institutions nor are they to be somehow suspect for not being operated under the auspices of the Government.

Providing assistance to nonpublic schools is, then, a complement to our Nation's general commitment to assisting all elementary and secondary education. I reject the view that tuition tax credits can be provided at the expense of aid to public schools. I have repeatedly said the public schools come first. If tuition tax credits would serve to harm public schools, I would not favor their enactment. The point is that both sectors of our educational apparatus need and deserve support. When Senator PACKWOOD and I introduced tuition tax credit legislation earlier in this Congress, I also introduced two separate bills designed in large part to aid public schools. None has yet passed. All three should, and I regret they have not as yet received the consideration they merit.

Does the President's bill fulfill the commitment made to nonpublic schools and their students nearly two decades ago? It could. But it will take some work. I would offer three reservations about this special proposal.

First, there must be an absolute requirement that no school that follows a discriminatory policy based on race should be allowed to benefit from the availability of a tuition tax credit provision in the United States Tax Code. Whether the civil rights protections in the President's bill and those in current law are clearly sufficient to this end will be the principal test for whether or not I can support this particular bill. The President, groups supporting this bill, and its advocates in Congress are in accord on the need for such protections. I would be less than candid, however, if I did not indicate that the administration's decision of January 8, 1982 to reverse a decade-long policy of enforcing nondiscrimination provisions with respect to these schools generates a certain degree of anxiety as to the administration's commitments in these matters. The administration will have to address this question with greater clarity before Congress will enact this legislation. Officials from the Treasury and Justice Departments will be asked for explanations as to how they will prevent tuition tax credits from being used on behalf of schools that discriminate. For my part, I pledge to do all I can to eliminate whatever doubts persist including, if necessary, proposing additional safeguards.

Second, the administration's omission of a refundability provision in its bill means that low income families will be unable to benefit from enactment of tuition tax credits. Those families with no tax liability, or a liability less than the amount of whatever credit they might be entitled to receive, are percisely those with the least number of options to choose from in educating their children. Tuition tax credits should expand educational opportunity. The administration's bill would restrict the usefulness of tax credits for that portion of the population that Federal aid to education must and should serve. I will offer an amendment to the administration's bill that would make tuition tax credits fully refundable.

Last, there are those who would challenge the legality of tuition tax credits. There should be, in my view, a procedure whereby constitutional challenges to tuition tax credits could receive expedited review in the courts. Therefore, I will offer an amendment to the administration's bill that provides for expedited review so that parents who wish to make use of the credits will not face a prolonged period of uncertainty when making decisions as to the education of their children.

Mr. President, I would hope that the reservations I have expressed would not serve to detract from the commendation the President deserves for having put forth this legislation. I would hope, only, that we regard the administration's bill as a working draft—a proposal we might now use in the Finance Committee and on this floor to move our Nation forward to enactment of an equitable and reliable tuition tax credit measure.

The issue is above politics. Both the platforms of the Republican Party and the Democratic Party have consistently pledged support for the concept of Federal assistance to nonpublic

schools. The most recent Democratic platform said:

Private schools, particularly parochial schools, are also an important part of our diverse educational system. The Party accepts its commitment to the support of a constitutionally acceptable method of providing tax aid for the education of all pupils in schools which do not racially discriminate and excluding so-called segregation academies.

The Republican Party platform in 1980 was even more explicit:

Federal education policy must be based on the primary of parental rights and responsibility. Toward that end, we reaffirm our support for a system of educational assistance based on tax credits that will in part compensate parents for their financial sacrifices in paying tuition at the elementary, secondary, and post-secondary level.

I note, too, that Ronald Reagan was not the first Presidential candidate to endorse tuition tax credits. So did George S. McGovern. So did Hubert H. Humphrey.

The consensus on the need for tuition tax credits derives, as I have said, from this Nation's commitment to assisting in the education of its young people. It is a commitment born in the struggle for the first program of Federal aid to elementary and secondary education in the 1960's. It is a commitment that ought now to be fulfilled in the 1980's. As I wrote of this matter in 1961 in The Reporter, "Public Policy is open to discussion." The President has provided us with a vehicle for such a discussion.●

## ADDITIONAL COSPONSORS

S. 139

At the request of Mr. HATCH, the Senator from Wisconsin (Mr. KASTEN) was added as a cosponsor of S. 139, a bill entitled the "Comprehensive Health Care Reform Act."

S. 1018

At the request of Mr. CHAFEE, the Senator from Washington (Mr. JACKSON) was added as a cosponsor of S. 1018, a bill to protect and conserve fish and wildlife resources, and for other purposes.

S. 1929

At the request of Mr. HATCH, the Senator from North Dakota, (Mr. BURDICK) was withdrawn as a cosponsor of S. 1929. a bill to amend the Public Health Service Act and the Federal Cigarette Labeling and Advertising Act to increase the availability to the American public of information on the health consequences of smoking and thereby improve informed choice, and for other purposes.

S. 2000

At the request of Mr. DOLE, the Senator from Illinois (Mr. DIXON) was added as a cosponsor of S. 2000, a bill to amend title 11, United States Code, to establish an improved basis for providing relief under chapter 7, and for other purposes.

S. 2167

At the request of Mr. SPECTER, the Senator from Utah (Mr. GARN) was added as a cosponsor of S. 2167, a bill to amend the Unfair Competition Act of 1979 and Clayton Act to provide for further relief in the event of unfair foreign competition.

S. 2225

At the request of Mr. BAUCUS, the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 2225, a bill to amend the Internal Revenue Code of 1954 to remove certain limitations on charitable contributions of certain items.

S. 2242

At the request of Mr. RIEGLE, the Senator from Ohio (Mr. METZENBAUM) was added as a cosponsor of S. 2242, a bill to amend titles XVIII and XIX of the Social Security Act to provide more adequate coverage of the services of mental health specialists under the medicare part B program and under the medicaid program.

S. 2270

At the request of Mr. LUGAR, the Senator from Alaska (Mr. MURKOWSKI) was added as a cosponsor of S. 2270, a bill to amend section II of the Social Security Act to provide generally that benefits thereunder may be paid to aliens only after they have been lawfully admitted to the United States for permanent residence, and to impose further restriction on the right of any alien in a foreign country to receive such benefits.

S. 2304

At the request of Mr. DECONCINI, the Senator from Nebraska (Mr. ZORINSKY) was added as a cosponsor of S. 2304, a bill to amend title 18 to limit the application of the exclusionary rule.

S. 2455

At the request of Mr. HEINZ, the Senator from Washington (Mr. GORTON), the Senator from Illinois (Mr. DIXON), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Pennsylvania (Mr. SPECTER), the Senator from New Mexico (Mr. SCHMITT), the Senator from California (Mr. CRANSTON), the Senator from Georgia (Mr. NUNN), the Senator from Maryland (Mr. MATHIAS), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Kentucky (Mr. FORD), the Senator from Louisiana (Mr. LONG), and the Senator from North Dakota (Mr. ANDREWS) were added as cosponsors of S. 2455, a bill to extend the targeted jobs tax credit.

S. 2517

At the request of Mr. MATHIAS, the Senator from Utah (Mr. GARN) was added as a cosponsor of S. 2517, a bill to revise the first section of the Clayton Act to expand the scope of the antitrust laws, and for other purposes.

S. 2550

At the request of Mr. HEINZ, the Senator from Connecticut (Mr. WEICKER) and the Senator from Maryland (Mr. MATHIAS) were added as cosponsors of S. 2550, a bill to provide a program of Federal supplemental unemployment compensation.

S. 2562

At the request of Mr. ROTH, the Senator from Iowa (Mr. GRASSLEY) was added as a cosponsor of S. 2562, a bill to transfer the functions of the Department of Energy to other agencies, to maintain continuity in vital programs and relationships, to recognize the Federal Energy Regulatory Commission as a separate independent regulatory agency, and for other purposes.

S. 2572

At the request of Mr. THURMOND, the Senator from Kansas (Mrs. KASSEBAUM) was added as a cosponsor of S. 2572, a bill to strengthen law enforcement in the areas of violent crime and drug trafficking, and for other purposes.

S. 2598

At the request of Mr. MCCLURE, the Senator from North Carolina (Mr. HELMS) was added as a cosponsor of S. 2598, a bill to provide for the disposal of silver from the national defense stockpile through the issuance of silver coins.

SENATE JOINT RESOLUTION 159

At the request of Mr. ROTH, the Senator from Oklahoma (Mr. BOREN) and the Senator from Oregon (Mr. HATFIELD) were added as cosponsors of Senate Joint Resolution 159, a joint resolution entitled "the White House Conference on Productivity Act."

SENATE JOINT RESOLUTION 163

At the request of Mr. KENNEDY, the Senator from South Carolina (Mr. HOLLINGS) was added as a cosponsor of Senate Joint Resolution 163, a joint resolution on nuclear weapons freeze and reductions.

SENATE JOINT RESOLUTION 178

At the request of Mr. HATCH, the Senator from Texas (Mr. BENTSEN), the Senator from Arkansas (Mr. BUMPERS), and the Senator from Hawaii (Mr. INOUYE) were added as cosponsors of Senate Joint Resolution 178, a joint resolution to authorize and request the President to proclaim the second week in April as "National Medical Laboratory Week."

SENATE JOINT RESOLUTION 183

At the request of Mr. SPECTER, the Senator from Missouri (Mr. EAGLETON) was added as a cosponsor of Senate Joint Resolution 183, a joint resolution to authorize and request the President to issue a proclamation designating October 19 through October 25, 1982, as "Lupus Awareness Week."

SENATE JOINT RESOLUTION 188

At the request of Mr. INOUYE, the Senator from Kansas (Mrs. KASSEBAUM), the Senator from Massachusetts (Mr. TSONGAS), the Senator from Kentucky (Mr. FORD), and the Senator from Maryland (Mr. SARBANES) were added as cosponsors of Senate Joint Resolution 188, a joint resolution to authorize and request the President to designate March 1, 1983, as "National Recovery Room Nurses Day."

SENATE JOINT RESOLUTION 193

At the request of Mrs. KASSEBAUM, the Senator from South Dakota (Mr. PRESSLER), the Senator from Arkansas (Mr. PRYOR), the Senator from Maine (Mr. MITCHELL), the Senator from Nebraska (Mr. EXON), and the Senator from Ohio (Mr. GLENN) were added as cosponsors of Senate Joint Resolution 193, a joint resolution designating the week of November 7 through November 13, 1982 as "National Respiratory Therapy Week."

SENATE CONCURRENT RESOLUTION 46

At the request of Mr. LEVIN, the Senator from West Virginia (Mr. ROBERT C. BYRD), the Senator from Maryland (Mr. SARBANES), the Senator from North Dakota (Mr. ANDREWS), the Senator from Montana (Mr. MELCHER), the Senator from Alabama (Mr. HEFLIN), the Senator from Idaho (Mr. SYMMS), the Senator from West Virginia (Mr. RANDOLPH), the Senator from New Hampshire (Mr. RUDMAN), the Senator from Utah (Mr. GARN), the Senator from Arizona (Mr. DECONCINI), the Senator from Nebraska (Mr. EXON), the Senator from Kentucky (Mr. FORD), the Senator from South Dakota (Mr. ABDNOR), the Senator from Nebraska (Mr. ZORINSKY), the Senator from New Jersey (Mr. BRADY), the Senator from Arkansas (Mr. PRYOR), the Senator from Oklahoma (Mr. BOREN), the Senator from Connecticut (Mr. DODD), the Senator from Tennessee (Mr. SASSER), the Senator from Colorado (Mr. HART), the Senator from Maine (Mr. MITCHELL), the Senator from Vermont (Mr. LEAHY), the Senator from New Hampshire (Mr. HUMPHREY), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Iowa (Mr. JEPSEN), the Senator from Louisiana (Mr. JOHNSTON), and the Senator from Mississippi (Mr. STENNIS) were added as cosponsors of Senate Concurrent Resolution 46, a concurrent resolution expressing the sense of the Congress with regard to the mutual security efforts of the United States and Japan.

SENATE CONCURRENT RESOLUTION 100

At the request of Mr. HEINZ, the Senator from North Carolina (Mr. HELMS) was added as a cosponsor of Senate Concurrent Resolution 100, a concurrent resolution expressing the sense of the Congress that pending steel unfair trade practice cases be vigorously pursued and promptly concluded.

SENATE RESOLUTION 411

At the request of Mr. PRYOR, the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of Senate Resolution 411, a resolution expressing the sense of the Senate that the Secretary of Health and Human Services should not adopt as final rules proposed rules issued on May 24, 1982, relating to survey and certification procedures for nursing homes and other health care facilities and suppliers participating in medicare and medicaid programs.

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## SENATE CONCURRENT RESOLUTION 108—CONCURRENT RESOLUTION RELATING TO THE LAW OF THE SEA TREATY

Mr. PELL submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations;

S. CON. RES. 108

Whereas a comprehensive ocean law treaty is of strategic importance to the United States and to the protection of its foreign policy interests;

Whereas for more than ten years the United States has taken a leadership role in promoting a comprehensive treaty on the law of the sea;

Whereas the United States supported the resolution adopted by the United Nations in 1970 which endorsed, inter alia, the principle that the seabed and ocean floor and subsoil thereof beyond the limits of national jurisdiction are the common heritage of mankind;

Whereas the Third United Nations Conference on the Law of the Sea, representing more than one hundred and fifty countries, over an 8 year period formulated a comprehensive treaty;

Whereas the United States reviewed the draft treaty on the Law of the Sea and participated in the 11th session of the Third United Nations conference on the Law of the Sea in March and April of 1982;

Whereas on April 30, 1982, the Conference adopted the draft treaty, the Convention on the Law of the Sea, by an overwhelming majority despite the objection by the United States to certain provisions of the treaty;

Whereas the provisions of the treaty make vital and valuable revisions in and additions to the existing body of international law concerning the law of the sea, including provisions governing fishing, marine scientific research, protection of the marine environment, and exploitation of offshore energy resources;

Whereas provisions of the treaty relating to military navigation and over-flight are vital to the national security interests of the United States;

Whereas the treaty establishes a regime of uniform national boundaries that is vital to the efficient transportation of energy resources and other goods in international commerce;

Whereas the establishment of such a regime of uniform national boundaries would limit the steady seaward expansion by certain countries of their national boundaries;

Whereas the seabed contains an abundant supply of hard minerals such as nickel, copper, manganese and cobalt, and it is in the national interest of the United States for these minerals to be available independently of the export policies of foreign countries; and

Whereas opportunities exist for the United States to improve certain provisions of the treaty adopted on April 30 through constructive participation in the meetings of the Drafting Committee of the Conference on the Law of the Sea to be held in July and August of 1982 and in the sessions of the Conference to be held in September and December of 1982: Now, therefore, be it

*Resolved by the Senate (the House of Representatives concurring),* That the Congress urges the executive branch—

(1) to avoid taking any actions which could foreclose eventual United States participation in the Convention on the Law of the Sea;

(2) to conduct an evaluation of United States objectives for ocean use and relevant foreign policy interests with respect to the Convention, weighing the different alternatives available to the United States; and

(3) to designate a high level United States representative to monitor and participate in the meetings of the Drafting Committee of the Conference on the Law of the Sea and in the sessions of the Conference to be held with respect to the Convention on the Law of the Sea in July, August, September, and December of 1982 and thereafter, in order to demonstrate the continuing commitment of the United States to the multilateral process of forumlating a law of the sea and to demonstrate the strategic importance of the Convention to the United States.

● Mr. PELL. Mr. President, on May 6, 1982, I shared with the Senate my views on the dismal conclusion of the law of the sea negotiations on April 30. I said, at that time, that in my view, the world had been profoundly changed with respect to the legal regime governing the oceans by the final action of the Conference in New York, when participants voted overwhelmingly, 130 to 4, to adopt the draft Law of the Sea Convention—with the United States casting one of the few "no" votes. Whether the United States likes it or not, and whether the United States becomes a party to the treaty or not; the Law of the Sea Convention will enter into force sometime after the formal signing ceremony in December 1982, once at least 60 nations have had the opportunity to ratify the treaty.

The United States can of course remain outside the treaty framework, and continue to assert that its rights are protected and guaranteed by customary international practices. However, this certainly will not go unchallenged by countries which have become signatories to the treaty. Such confrontation is hardly likely to do much to further international cooperation in the uses of the oceans. Rather, it is more likely to further instances of international conflict. This is neither in our foreign policy or national security interests.

Mr. President, when I spoke to my colleagues on May 6, I urged President Reagan to carefully consider the possibility of making one last try at fash-

ioning a compromise which would be acceptable to him as well as other conference participants prior to the December signing ceremony. I further suggested that the President might consider appointing a special emissary to carry out this mission. My reason for making these suggestions was that I believed that other Conference participants, even at such a late date, would still prefer to have the United States as a party to the treaty. Furthermore, I also believed that in order to encourage U.S. participation, they would be prepared to make additional compromises to the text between now and December if the United States were to demonstrate a modicum of interest in the treaty as well as some flexibility in our position.

I still believe that a possibility exists, slight though it may be, that the administration might yet be able to obtain improvements in the text which would make U.S. participation in the treaty attractive to President Reagan. It is because of this belief that today I am submitting Senate Concurrent Resolution 108. An identical resolution was submitted in the House on June 15 by my colleague from Rhode Island, Representative CLAUDINE SCHNEIDER along with 22 other cosponsors.

I urge my colleagues to give serious consideration to this resolution which reiterates our long-term recognition of the need for a comprehensive Law of the Sea Treaty; highlights the benefits to be gained by such a treaty; reminds us of the many beneficial provisions which have already been incorporated in the text, and calls attention to at least four opportunities which still exist where changes could be made in the text if all parties were willing, prior to the signing ceremony in December. Finally, and most importantly, the resolution urges the President to proceed cautiously in making any decision that might foreclose, once and for all, U.S. participation in a comprehensive Law of the Sea Treaty; and also urges the President to designate a high level U.S. representative to monitor and participate in upcoming meetings of the conference to assess whether last minute compromises might still be possible.

Mr. President, I urge my colleagues to support this resolution. Such support will send a signal to the administration that the Congress still believes that U.S. economic and foreign policy interests will be best served by the adoption of a mutually acceptable and universal Law of the Sea Convention.●

## SENATE RESOLUTION 416—RESOLUTION TO REFER S. 1483 TO THE COURT OF CLAIMS

Mr. GRASSLEY submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 416

*Resolved*, That the bill (S. 1483) entitled "A bill to amend title 28 of the United States Code to make the United States liable for damages to certain individuals, to certain uranium miners, and to certain sheep herds, due to certain nuclear tests at the Nevada test site or employment in a uranium mine, and for other purposes" now pending in the Senate, together with all the accompanying papers, including modifications and amendments to the title and text of such bill made by the Committee on Labor and Human Resources of the Senate and the Committee on the Judiciary of the Senate, is referred to the Chief Commissioner of the United States Court of Claims. The Chief Commissioner shall proceed with the same in accordance with the provisions of sections 1492 and 2509 of title 28, United States Code, and, using radioepidemological studies, shall report thereon to the Senate, at the earliest practicable date, giving such findings of fact and conclusions thereon as shall be sufficient to inform the Congress of the number of claimants involved, and the nature and character of the demands as claims, legal or equitable, against the United States or gratuities and the amount, if any, legally or equitably due from the United States to such claimants.

● Mr. GRASSLEY. Mr. President, I am submitting a resolution that would refer S. 1483 to the Court of Claims for a determination of what criteria will be used for establishing eligibility for compensation under this bill.

S. 1483 has a very worthy goal: The legislation proposes to compensate individuals for injury resulting form radiation exposure that may have been generated by atmospheric testing of nuclear weapons at the Nevada Test Site.

The bill was jointly referred to the Judiciary and Labor Committees. The Judiciary subcommittee which I chair, the Subcommittee on Agency Administration, had a hearing on S. 1483 together with the full Committee of Labor. While we heard some testimony on the science of radioepidemeology and the means by which high radiation doses may be extrapolated to low radiation doses, I am not at all convinced that we have the data before us to make a decision as to what doses cause specific forms of cancer, who contracted cancer from the fallout, and who will be compensated under the bill.

Again, I am not doubting the legislation's very worthy intent, but I am concerned with the criteria which would be used for establishing eligibility for compensation. There are three unknows in this bill:

First, scientists have been unable to determine what levels of radiation cause individual cancers.

Second, we have no documentation before us as to the levels that individuals may have received.

Third, we have no documentation as to how many individuals may have received doses.

Even the Congressional Budget Office estimate, which only addresses thyroid cancer, is just that—an estimate. That estimate pegs the thyroid cancer cost alone at $14 billion, hardly an authorization that we can agree to without some quantification.

Congressional reference cases are referred by either body of Congress to the Chief Commissioner of the Court of Claims pursuant to title 28, section 1492 and section 2509. The Chief Commissioner designates a trial commissioner for the case and a panel of three commissioners of the court to serve as a reviewing body. The trial commissioner proceeds in accordance with the applicable rules to determine the facts. He appends to his findings of facts conclusions sufficient to inform Congress whether the demand is a legal or equitable claim or a gratuity, and the amount, if any, legally or equitably due from the United States to the claimant.

By referring this bill to the Chief Commissioner, we are ridding the bill of many uncertainties. Optimally, when the results of the reference are transmitted to Congress, we will know who we are compensating and at what level of dosage we are compensating them. We will be in a better position all around to see that justice is done with foresight and certainty.●

## SENATE RESOLUTION 418—ORIGINAL RESOLUTION REPORTED TO WAIVE BUDGET ACT

Mr. McCLURE, from the Committee on Energy and Natural Resources, reported the following original resolution; which was referred to the Committee on the Budget:

S. RES. 418

*Resolved*, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 2133. Such waiver is necessary because S. 2133, as reported, authorizes the enactment of new budget authority which would first become available in fiscal year 1983, and such bill was not reported on or before May 15, 1982, as required by section 402(a) of the Congressional Budget Act of 1974 for such authorizations.

## AMENDMENTS SUBMITTED FOR PRINTING

### URGENT SUPPLEMENTAL APPROPRIATIONS

AMENDMENT NO. 1902 AND 1903

(Ordered to be printed and to lie on the table.)

Mr. KASTEN submitted two amendments intended to be proposed by Mr. KASTEN to the bill (H.R. 6645) making urgent supplemental appropriations for the fiscal year ending September 30, 1982, and for other purposes.

AMENDMENT NO. 1904

(Ordered to be printed.)

Mr. PROXMIRE (for himself, Mr. DECONCINI, Mr. EXON, and Mr. RIEGLE) proposed an amendment to the bill H.R. 6645, supra.

## AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. BAKER. Mr. President, I ask unanimous consent that the Governmental Affairs Committee be authorized to hold a nomination hearing during the session of the Senate at 9 a.m. on Wednesday, June 23, to consider the nominations of John A. Terry, of the District of Columbia, to be associate judge of the District of Columbia Court of Appeals; George W. Mitchell and Steffan W. Graae, of the District of Columbia, to be associate judges of the superior court of the District of Columbia.

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

SUBCOMMITTEE ON ENVIRONMENTAL POLLUTION

Mr. BAKER. Mr. President, I ask unanimous consent that the Subcommittee on Environmental Pollution, of the Committee on Environment and Public Works, be authorized to meet during the session of the Senate on Thursday, June 24, at 2 p.m., to conduct a hearing on amendments to the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act.

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

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be authorized to meet during the session of the Senate on Wednesday, June 23, at 10 a.m., to continue the markup of the reauthorization of the food stamp program.

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

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be authorized to meet during the session of the Senate on Thursday, June 24, at 2 p.m., to continue the markup of the reauthorization of the food stamp program.

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

SUBCOMMITTEE ON AGRICULTURE PRODUCTION, MARKETING, AND STABILIZATION OF PRICES

Mr. BAKER. Mr. President, I ask unanimous consent that the Subcommittee on Agricultural Production, Marketing, and Stabilization of Prices, of the Committee on Agriculture, Nutrition, and Forestry, be authorized to meet during the session of the Senate on Thursday, June 24, at 9:30 a.m., to hold a hearing on the proposed revisions in the dairy price support program.

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

COMMITTEE ON SMALL BUSINESS

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Small Business Committee be authorized to meet during the session of the Senate at 9:30 a.m. on Wednesday, June 23, to hold a hearing on minority business and its contribution to the U.S. economy.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Foreign Relations Committee be authorized to meet during the session of the Senate at 4:30 p.m. on Wednesday, June 23, to receive a briefing from Ambassador Richard Fairbanks from the Department of State on the current situation in Lebanon.

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

COMMITTEE ON INDIAN AFFAIRS

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Indian Affairs Committee be authorized to meet during the session of the Senate at 9:15 a.m. on Wednesday, June 23, to consider S. 2084, the Ancient Indian Land Claims Settlement Bill.

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

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet during the session of the Senate on Thursday, June 24, at 10 a.m., to hold a hearing on S. 2562, the Federal Energy Reorganization Act of 1982.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Thursday, June 24, at 11 a.m., to receive a briefing on intelligence matters.

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

COMMITTEE ON THE JUDICIARY

Mr. HATFIELD. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet in executive session during the session of the Senate on Wednesday, June 23, in order to consider and act on the following committee business: The nominations of Mr. Thomas P. Jackson, Judge John P. Moore, and Mr. Henry A. Mentz, Jr., to be district judges; the following bills: S. 2320, S. 1739, S. 1880, and H.R. 4441, the following interstate compact: H.R. 4903; and the following commemorative resolutions; Senate Joint Resolution 183 and Senate Joint Resolution 193.

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

## ADDITIONAL STATEMENTS

### "AARP HEALTH AND LONG-TERM CARE POLICY RECOMMENDATIONS"

● Mr. PRYOR. Mr. President, mounting health care costs continue to be one of the major worries of older Americans today.

In 1980, it is estimated that per capita health care costs for persons 65 or older averaged $2,500.

The harsh reality is that rapidly rising health care costs constitute one of the chief drains upon the elderly's limited income.

This point has been made repeatedly to me when I have visited my constituents in my home State of Arkansas.

The Nation's largest organization representing the elderly—the American Association of Retired Persons—is also deeply concerned about the impact of spiraling health care costs.

This issue was given priority attention at a recent AARP legislative council meeting, which focused on key issues confronting older Americans. In addition, the legislative council developed recommendations in several areas to improve the economic well-being of the elderly.

I am especially pleased that AARP has stressed the importance of preventive measures to maintain good health for older Americans as well as to hold down health costs.

The legislative council has also called for policies to promote alternatives to institutionalization. Unfortunately, today, our health care system has an institutional bias. The net impact is that far too many older persons are placed prematurely in a nursing home or other long-term care facility at a much higher public cost, when they could receive care at home. This is not only wasteful of our precious resources but may also produce adverse psychological effects for the elderly because most older persons would prefer to remain in their own homes if at all possible.

An improved and more humane response to the mental health needs of older Americans is another priority concern of the legislative council. Some experts estimate that only 1 out of 5 elderly persons who needs mental health care actually receives treatment.

Once again, AARP's legislative council has developed a thoughtful policy document which should be of interest to all Members of the Senate.

Mr. President, it merits the attention of every Senator, and I ask that

the AARP health and long-term care policy statement and policy recommendations be printed in the RECORD.

HEALTH AND LONG-TERM CARE POLICY

HEALTH AND THE ELDERLY: AN OVERVIEW

The Association's health policy is based on three points: first, how best to improve the health of the elderly; second, how best to contain health care costs; and, third, how to maintain health and avoid illness.

A definition of "health" for the elderly must incorporate the special problems (i.e., chronic impairments) that distinguish them from the non-elderly. Therefore, the definition must emphasize the individual's functional independence in conducting daily activity. In this context, the elderly's access to treatment for acute illness is important, but so is their need for services—rehabilitative, social and personal care services as well as medical service—that will help them remain active and in good health. In addition, such efforts as biomedical research, nutritional and preventive health services and health education, are important if we are to cope with chronic illness as well as prevent and cure those diseases and conditions which disproportionately afflict older persons.

The elderly's special health problems are all the more important because the population is aging. By the turn of the century, the number of elderly over age 85, the most intensive utilizers of health and health-related support services, will have almost doubled to 3.8 million. The types of services needed to maintain health must be promoted and geriatric medicine must be given far more emphasis—especially in programs of government assistance to medical schools and students.

OBSTACLES TO PROMOTING THE HEALTH OF THE ELDERLY: THE ACUTE CARE SYNDROME

There are obstacles to promoting improvements in the elderly's health status. One is the belief that all needed levels of care can be supplied through the present medical system. Another is the conflict between escalating health care costs and the country's limited resources. A third obstacle is that health services available to the elderly are usually overlapping, confusing, fragmented and unevenly distributed.

Today's health care system is concerned almost exclusively with treatment of illness and acute care intervention. Since health status is affected far more by nutrition, housing, lifestyles and environment than by medicine, it makes little sense for the nation to allocate an increasing portion of its scarce resources to medicine for the treatment of illness after the fact. Yet, that is precisely what is happening.

Because of the structure and economics of the health care system, minimal or even negative growth rates in the economy do not constrain the proportion of resources allocated to the treatment of illness in acute care, institutional settings. Health care services are taking a larger and larger share of the nation's total resource "pie," rising from 6.7% of GNP in 1967 to 9.4% in 1980. If more resources are to be allocated to more health-effective and cost-effective measures and less to purely medical care, the health care industry must be restructured.

THE HEALTH CARE INDUSTRY: ITS GROWTH, STRUCTURE AND SHORTCOMINGS

The health care industry is one of the nation's largest economic sectors. Since Medicare began, health spending has increased at an average of 12.2% per year while the economy as a whole has grown at an annual rate of only 9.0%. In 1980, health spending totalled $247 billion, 15.2% above 1979 levels—the fastest growth rate in 15 years.

The rapid growth of this economic sector has been due partly to the expansion of the number of elderly persons who, as a group, need and utilize health services far more than the non-elderly. However, adding much more to demand for medical services has been the expansion of the third-party payment system. By 1980, third-party payments accounted for slightly over two-thirds of personal health care expenditures, 90.9% of hospital expenditures, and 63% of expenditures for physician services. This growing demand for medical services has more than been met through a 50% expansion of hospital capacity, hospital personnel, and health care professionals since 1960.

Government has subsidized both the demand and supply sides of this growth. On the demand side, growth of the private third-party payment system has been promoted by the tax laws. In the current (FY '82) fiscal year, revenue loss to the U.S. Treasury as a result of the exclusion from taxable income of both employer and employee health insurance premium payments will total approximately $16.6 billion. In addition to this subsidy, Blue Cross/Blue Shield plans are tax exempt in most states, further facilitating the public's purchase of high-option, first dollar health insurance coverage. On the supply side, hospital expansion has been stimulated by the Hill-Burton program and by the tax exemption of hospital construction bonds. The greatly liberalized business depreciation schedules contained in the 1981 Economic Recovery Tax Act will exacerbate the problem. Finally, the supply of health professionals has been stimulated by $5 billion of federal spending for training between 1964 and 1976.

Government subsidies to increase the supply of medical facilities, services and personnel were expected to moderate health care costs. However, because the third-party payment system insulates providers from cost considerations and makes patients sensitive only to the costs for which they are directly responsible, there is little restraint on the rate of increase in the charges of providers or the costs they incur. Moreover, physicians tend to overutilize hospitals, the most expensive component of the medical care system, and this overutilization is promoted by the third-party payment system which reimburses hospitals for virtually all costs incurred but does not cover less costly, out-of-hospital services.

CONSEQUENCES FOR THE ELDERLY OF THE CURRENT HEALTH CARE INDUSTRY STRUCTURE

As a consequence of the structure and economics of the health care industry, over recent years, medical costs in general and hospital costs in particular have been growing much faster than prices in general. Between the years 1965 (before Medicare was in effect) and 1979, the increases in the nation's total health bill far outstripped the general rate of inflation. Costs more than quintupled in the space of 14 years.

In 1980, the per capita health care bill for all persons averaged $1,067, an amount which has increased 396% since the inception of Medicare in 1965. For the elderly, however, the per capita health bill averaged approximately $2,500, an amount which has increased 525% over the same period.

While the rapid escalation in health care costs has increased the per capita health bill of the elderly, the Medicare program pays a smaller share (38%) of that bill than it did when the program first began. The elderly now pays 43% of their annual health bill out of pocket. One reason for this situation is that less than half (46%) of physicians participating in Medicare Part B (Supplementary Medical Insurance) are willing to accept "assignment" (i.e., accept as payment in full whatever Medicare determines to be the allowable charge for the service or procedure provided). In fiscal year 1979 the difference between the amount of unassigned Part B claims submitted by the elderly patients and the amount Medicare actually reimbursed totalled at least $1.1 billion—an amount for which the elderly themselves were responsible.

One approach to increasing the number of physicians who accept assignment under Part B of Medicare is embodied in legislation supported by the Associations. Provisions of the bill include a simplified and uniform claims form, multiple billing listing of patients, expedited claims processing, and automatic funds transfer for those physicians willing to accept assignment. Other approaches may include payment of Medicare "allowable" fee determinations directly to physicians with Medicare collecting from the patient the 20% co-insurance and any applicable deductibles. Also consideration could be given to shortening the lag time (presently up to 18 months) which exists in the method of adjusting Part B "allowable" charges. The Associations also encourage the development of regional or local directories which would identify physicians who usually accept assignment. This information would be valuable for elderly individuals choosing a physician and cold serve as another incentive for physicians to accept assignment.

Also contributing to the elderly's large out-of-pocket expenses is the lack of or incomplete Medicare coverage for a broad array of health services and products, including custodial nursing home care; out-patient prescription drugs; dental care; home health care; homemaker/chore services; personal care services; eyeglasses (and examinations); hearing aids (and examinations); and routine physical examinations as well as most other preventive health services. At the same time, private health insurance covers only 6% of total per capita expenditures.

To relieve the elderly from the rapidly rising out-of-pocket expenses, gaps in the Medicare benefit package should be closed. A substantial reduction in provider fraud and abuse (see subsequent discussion) could help pay for the extension of Medicare's current benefit package to include at least some of the non-covered items and services cited above. Going further, a Medicare Part C program covering such items and services could be enacted with the costs financed from a monthly premium similar to the Part B premium, federal general revenues and/or an increased federal excise tax on tobacco and alcoholic beverages.

NEW DIRECTIONS FOR THE ELDERLY: PRO-COMPETITION PROPOSALS GAINING MOMENTUM

Despite the vast sums being funnelled into health care for the elderly, major health needs are not being met. As the elderly population grows, the problem of meeting those needs will become critical. Restructuring the health care industry must be the means for controlling costs and the means for developing a comprehensive, efficient and rational system to accommodate these unmet needs.

A properly restructured system should include such components as: (1) adequate, supervised residential facilities for those wishing to remain in their communities; (2) a range of facilities and services to provide alternatives to hospitals and nursing homes; and (3) innovative and compassionate means of caring for the terminally ill outside of the hospital or nursing home. If needed new services are to be promoted, however, the rate of expansion of the medically oriented health industry must be checked.

Over the years the Associations have consistently advocated a national health insurance program (NHI) that would carry out a complete restructuring of how health care services are delivered and financed. The ultimate objective of such a program should be the availability of adequate health care for all Americans based on need rather than on ability to pay. The NHI program we seek should contain elements such as more primary health care providers, with a shift in emphasis and resources away from institutionalization and acute care services and toward preventive medicine and home health care; comprehensive benefits, including a coordinated system of long-term care services, with universal and mandatory coverage; immediate reforms in payment system, including prospective, negotiated rate (or fee) setting by states for institutional care and physicians' services; financing by a combination of savings from strong cost containment legislation, employer-employee payroll taxes, increased excise taxes on alcohol and tobacco, and general revenues; and a patient-oriented health care system with majority representation of consumers on policy making and administrative boards.

However, given the firmly established industry structure and the present climate of shrinking resources and fiscal austerity, the achievement of a fully operational national health insurance program must necessarily be a long-range goal. Nevertheless, this should not preclude incremental, short-term, progress toward that goal; indeed, a restructuring of the health care system utilizing step-by-step changes in the current financing and service delivery mechanisms is imperative. Given the extraordinarily rapid escalation in health care costs, it will only be from stringent cost containment efforts and from the substantial savings that can be generated from eliminating waste, duplication and inefficiency in the current system of medical care that the public at large and the elderly in particular can expect any improvement in health status while devoting no greater real share of the federal dollar and no greater portion of the nation's resources to health care.

In this context, it is important to note that the Associations have opposed the many "quick-fix" catastrophic-only health insurance proposals that have been advanced to date. Usually incorporating provisions to enhance "consumer choice" (a euphemism for greater cost sharing) and health care competition while providing some degree of protection against "catastrophic" illness, these proposals have offered very little for the elderly. Not only do they ignore the major cause of catastrophic health expenses for older Americans—the cost of nursing home care—but they are likely to increase substantially the demand for costly acute care (institutional) services and further escalate the health care cost spiral.

A number of "pro-competition" legislative proposals are now being advanced in the Congress aimed at promoting competition in the health care marketplace. Deregulation of the health care industry (such as repealing Title XV of the Public Health Service Act, health planning) would accompany proposed competition producing measures. For Medicare and/or Medicaid beneficiaries, a voucher plan is being considered whereby individuals would be given a fixed sum or credit with which to purchase their health insurance in the private health insurance market. Proponents of this approach view it as an attempt to create a choice among competing private health plans and, at the same time, make consumers more conscious of rising health care costs by requiring them to assume a greater portion of such costs out-of-pocket.

The general concept and intent of these legislative proposals seems to have some merit. Voucher or pro-competition approaches to reforming the health care financing and service delivery system could be effective in the long run in controlling costs if they end up promoting prepayment and prospective reimbursement or budgeting.

However, the Associations have serious reservations about the short-term impact on the elderly of these proposals as presently constructed. Significantly increased cost-sharing would be required of elderly Medicare beneficiaries whose health care costs are already 2½ times greater than the population as a whole. As with the catastrophic-only proposals, this approach ignores the major source of catastrophic health care costs for the elderly-long term care services.

The key to the success of a voucher proposal is informed consumer choice among competing qualified Health Plans. To date, however, elderly consumers, like most other consumers, have been ill-equipped to make rational, cost conscious purchasing decisions in the absence of comparative cost, quality and performance information. This is especially true in health care decision-making where physicians still make over 70% of all treatment (cost) decisions and where information continues to be denied consumers by providers on the grounds of confidentiality and privilege.

If any voucher proposal were found to be acceptable to the Associations, participation would have to be voluntary, and it would have to be clear that such a proposal would not be used merely as a means for achieving savings in Medicare program costs (by setting the voucher amount too low).

Finally, we view the total deregulation of the health care industry in the absence of any other demonstrably effective means for restraining the rate of growth in health care costs as detrimental to the interests of health care consumers in general and the elderly in particular. The challenge is to learn how best to use competition along with effective government regulation to achieve a much more efficient allocation of our health care resources, without abandoning commitments to equity, access, affordability and quality in the delivery of health care services.

THE GOVERNMENT'S ROLE IN CONTROLLING HEALTH CARE COSTS

Despite government efforts to control costs and spending by regulating the health industry, little success has been achieved. Powerful economic incentives contributing to the growth of health care spending tend to overwhelm the regulatory effort.

Since a large part of the industry's billings are fully reimbursed, experiments have been undertaken to pay hospitals on the basis of prospectively approved budgets. While 30 states have adopted various prospective rate setting programs for reimbursing hospitals, only six states have implemented programs with strong mandatory controls. For those six states, the average annual rate of increase in hospital costs was 11.2% from 1976 to 1978, while the remaining states were experiencing rates of increase of 14.3% per year. In view of their performance, the Associations continue to advocate federal legislation designed to promote the establishment of state mandatory rate review programs.

In comparison to the degree of success achieved in those six states with strong programs for containing costs, the hospital industry's own Voluntary Effort (VE) program has been largely ineffective. Statistics indicate that for 1980, the annual rate of increase in in-patient hospital expenditures was 16.2%, well above the VE's own goal of 11.1% and above *all* other items measured by the C.P.I. Excessive increases have continued into 1981. For the first seven months of 1981, hospital room charges rose at an annual rate of 13.6% compared to a 9.1% annual rate of increase for the all-items C.P.I.

While reducing hospital utilization and the number of hospital beds may be the only long range way to reduce the rate of increase in hospital costs, certainly improvements in hospital management practices such as shared services, joint purchasing, energy conservation and individualized testing procedures should be encouraged as short-term means for restraining costs. Permitting Medicare to participate fully in existing as well as new rate setting programs could also help restrain costs; currently, the Health Care Financing Administration (HCFA), which administers Medicare, has only limited authority in this regard.

As another means for containing health care costs in the short term, both federal and state governments should do more to control and eliminate provider fraud and abuse. Although kickbacks, rebates and fraudulent billings—and the cost of these practices—have been well-documented, only 28 fraud control units have been established at the state level (under the 1977 Anti-Fraud and Abuse Amendments). The number of these units should be expanded and federal and state governments should complement this strategy by awarding competitive, fixed price contracts for such items as lab services.

The effectiveness of other federal and state efforts to control health care costs in the short or long term has come under increasing scrutiny by the Congress. For example, Professional Standards Review Organizations (PSROs), which were to restrain costs by assuring, through a "peer review" process, that quality services are delivered in the most economical way, have been seriously questioned on the grounds that the benefits do not justify the cost. Indeed, in 1981, Congress authorized the Secretary of Health and Human Services to terminate by the end of fiscal year 1982 up to 30% of the current PSROs.

While the Associations cannot condone public spending for ineffective programs, we believe that PSROs have been hampered in fulfilling their objectives. For example, the property of public disclosure of information by PSROs has been called into question.

The Associations believe that disclosure and dissemination of this information is essential to carry out the purposes of the PSRO program, assist in identifying fraud and abuse and physicians who accept assignment, and facilitate health planning activi-

ty. Clearly, there is a pressing need for much more patient information and education concerning the relative costs and performance of health care providers, especially if competition is to be promoted in the health care marketplace and costs are to be restrained. Given the current situation, it may well be self-defeating to pursue a short term phase-out of the PSRO program without assigning the essential functions of utilization review and public disclosure of information to some other entity.

In another effort, the 1974 National Health Planning and Resource Development Act led to development of a nationwide network of 205 local Health Systems Agencies (HSAs) and 57 State Health Planning and Development Agencies (SHPDAs) which are supposed to control the expansion of costly institutional health services, facilities and equipment by requiring "certificates of need." A recent survey by the American Health Planning Association found that, of the $8.4 billion in capital projects that were reviewed by reporting HSAs, $1 billion (or 11.9%) were disapproved. Of even greater significance may be the extent to which projects were discouraged or modified by HSA review prior to formal submission.

The record of local health planning efforts thus appears favorable, although certainly more needs to be done. Unfortunately, major FY 1982 funding cuts in health planning were made by Congress in the 1981 Omnibus Budget Reconciliation Act. The Associations believe that this action is ill-advised and short-sighted. We will continue to support the development of a more effective health planning network because it has the potential to achieve the kind of change in the health care system that takes into account the concerns of all interested parties. Although the elderly have been under-represented on health planning governing bodies, this deficiency can and should be addressed. Also, effective steps should be taken to assure that those elderly who serve on such bodies are adequately trained.

Because government regulation has accomplished much less in terms of restraining the rate of increase in health care costs and spending than was expected, increased attention is being given to new and less costly ways of delivering health services. Health Maintenance Organizations (HMOs), for example, have demonstrated significant cost savings potential. Their emphasis on prepayment, budgeting, preventive medicine, consumer education and health maintenance techniques has reduced costs. Given the record of success of HMOs, the Associations support legislation which has been introduced which would allow Medicare beneficiaries the option of enrolling in pre-paid HMO-type health plans where one or more such plans exist.

COST CONTAINMENT: THE KEY TO PROGRESS

To restrain the rate of increase in conventional health care spending, the following cost containment strategy should be pursued. First, the economic incentives that are causing excessive expansion of conventional medical facilities, particularly hospitals, should be removed. Second, the rate of increase in hospital expenditures and physician fees should be capped across-the-board (that is, for all types of reimbursement, not only public reimbursement such as under Medicare) to "free-up" resources for other, more health-effective uses. Third, health care service delivery should be restructured away from acute care institutional settings to make available more needed but less costly services (e.g., home health services). Fourth, government regulatory programs with the potential to yield significant savings should be promoted along with effective measures to develop competition in the health care industry.

To help remove the economic incentives which have caused the explosive growth in the supply of medical facilities and physicians, the Associations recommend the following steps:

a. phase-out tax breaks that promote the excessive expansion of hospitals;

b. limit tax deductions for medical insurance premiums paid by employers if the insurance fails to cover outpatient and other lower, less costly levels of care as well as provide multiple health insurance options including at least one pre-paid plan or HMO (where available);

c. stop cost-plus reimbursement under government health programs and cease employing provider-linked intermediaries/carriers in making disbursements;

d. implement prospective budgeting and negotiated fee schedules through regional intermediaries (on the basis of competitive, fixed price contracts);

e. keep health/medical insurance corporations subject to the antitrust laws and abolish any state or federal antitrust exemptions of medical institutions;

f. regulate all corporations selling medical/health insurance to eliminate duplication, encourage competition, and do away with fraud and abuse in the sale of supplemental Medicare (i.e., "Medigap") insurance policies; and

g. subsidize the training of only those health professionals who agree to work in medically underserved areas and provide incentive grants to health profession schools to encourage training and curriculum development in geriatrics; particular attention should, however, be paid to the serious shortage of nursing personnel in many nursing homes.

As stated above, the second element of the containment strategy calls for across-the-board caps on the rate of increase in hospital expenditures and physicians' fees. A major part of the effort to contain health care costs must focus on negotiating—or, if necessary, mandating—less generous rates of provider reimbursement.

Hospitals have registered cost increases in excess of 12.0 percent annually for the last decade. As for physicians, they have been increasing their fees at rates far in excess of the general rate of inflation far too long while maintaining target incomes. Strict limits on hospital growth must be imposed until surplus hospital beds are eliminated and the rate of increase in hospital expenditures is brought into line with average economic growth rates. Similarly, restrictions on physician fees must be implemented until the rate of increase in physicians' income is brought into line with that of non-medical professionals.

The third element of the containment strategy—restructuring health service delivery—should have the effect of expanding the supply of needed services that are less costly alternatives to hospitals and nursing homes. To achieve this objective, competing forms of health care delivery such as HMOs, small clinics and ambulatory health care facilities of all kinds should be promoted to the extent possible. Greater use should also be made of para-medical personnel (for example, geriatric nurse practitioners and physician assistants)—especially in underserved rural and inner-city areas and in such neglected institutional settings as nursing homes. For the elderly, this kind of restructuring would mean better access not only to conventional medical care but also to a variety of needed non-medical, social services like homemaker/chore maintenance services and counseling services.

As for the fourth element of the containment strategy, those government regulatory efforts that have potential to be effective should continue to be supported. As evident from the earlier discussion, the results of those efforts to date have been decidedly mixed. However, the one bright spot in the regulatory effort has been the success achieved by some states through mandatory, prospective budgeting and rate setting in conjunction with certificate-of-need programs. These state efforts should be strongly promoted.

THE MAJOR DEFICIENCY IN THE EXISTING HEALTH CARE DELIVERY SYSTEM—THE LACK OF A COMPREHENSIVE LONG-TERM CARE PROGRAM

From the elderly's point of view, the lack of a long-term care (LTC) system that encompasses medical, social and personal care services provided in a variety of community, home-based and institutional settings is the greatest deficiency in the present health care system. The elderly's access to long-term care is restricted by the non-availability of services and qualified personnel, especially community and home-based care, and by their inability to pay for the services if they are available.

The implications of demographic trends for long-term care policy are significant, since the elderly have the highest incidence of functional disability. Demand for long-term care services is increasing. Yet, current demand is not even being met. Of 8 million persons estimated to be in need of assistance with daily activities, only 2.3 million currently receive long-term care under government programs. Compounding this problem is the inability of nursing homes to attract and retain skilled nursing staff. Estimates range from a 40-60 percent shortfall nationally in our nursing homes.

To the extent long-term care is available, it is based almost exclusively on costly institutional services. In 1980, nursing home costs which totalled $20.7 billion, had the largest rate of increase (16.6% from 1979) in the health care sector, 43% of these costs ($8.7 billion) were covered out-of-pocket. While the average annual cost of a nursing home stay in 1977 was $9,614, the private pay resident may be charged from 20% to 30% more than the publicly supported (mostly Medicaid) resident. Since Medicare consistently covers less than 3% of total nursing home costs, the elderly are forced to rely on their own resources until those are depleted ("spent down") to the point where they become eligible for Medicaid assistance for nursing home care. To insure that an individual's resources are actually depleted, in 1980 Congress strictly prohibited the "transfer of assets" at less than fair market value to achieve eligibility for Medicaid. It is no wonder that nursing home care is the main source of "catastrophic" health expense for the elderly.

Thus, the vast majority of available long-term care resources are consumed by this high-cost institutional care which makes it very difficult to initiate or expand an integrated and community-based service system. If an adequate supply of sheltered living arrangements, congregate housing, homemaker/home health care and other community-

based services were available, an estimated 20 to 40% of the present nursing home population could be cared for in less expensive ways. The ultimate goal, therefore, should be a long-term care program which provides a complete continuum of care and creates in the process a network of community-based centers that would function as providers, payers, certifiers and evaluators of services. (See Policies On Other Aging Issues and the Older Americans Act and Social Services section for further discussion.)

While Medicare and Medicaid are still clearly biased against home and community-based services, some progress has been made in re-orienting the emphasis in these programs. In 1980, minor liberalizations in home health benefits under Medicare were achieved. More recently, congress approved the Medicaid Community Care waiver as part of the 1981 Omnibus Reconciliation Act. States opting to utilize the waiver will be able to provide a wider range of community and home-based services in lieu of nursing home care including services such as case management, personal care services, adult day care, and respite care. The Associations strongly supported this provision and will encourage states to take advantage of this opportunity in order to begin to redirect the focus of their Medicaid long-term services—especially in light of repeated suggestions to block grant and "cap" the funding for the long-term care portion of the program.

The Associations are supportive of a proposal that also would move in the direction of establishing a comprehensive long-term care program for the nation. The legislation, designed as a 6 year, 10-state demonstration project, would add a Title XXI to the Social Security Act in order to consolidate a broad array of health and supporting social services (e.g., home health, homemaker-home health aide services, adult day care, respite care, and home help services). This proposal would also implement a comprehensive pre-nursing home admission and assessment procedure for persons who are "at risk" of nursing home placement.

Although the fate of this legislative proposal is uncertain in view of economic and budgetary constraints, certainly some modest steps should be taken toward achieving a long-term care program and policy for the nation. For example, with respect to home health services, Medicare's "homebound" and "skilled care" requirements should be eliminated and coverage of homemaker/chore services should be provided. In addition, a comprehensive pre-nursing home admission screening and assessment program for potential nursing home residents should be established. To facilitate a broader range of long-term care services (as well as preventive and primary care), Medicare beneficiaries should be encouraged to enroll in HMO's and similar alternative delivery systems.

Another alternative to institutionalization which the federal government should encourage is the use and expansion of ACTION's Senior Companion Program. The program provides opportunities for older low income persons to provide assistance, and support to other older persons who, without this assistance, would probably be institutionalized. Senior Companions provide in-home services to assist impaired elderly individuals to remain at home with needed long-term care services, expedite earlier discharge for others from the hospital, comfort those in hospices and provide companionship for the mentally ill.

Increased private sector involvement in meeting long-term care needs must also be explored. Private insurance companies should be encouraged to add long-term care benefits to existing policies and develop new policies which would specifically address the elderly's long-term care needs. Over the long-term, health insurance accounts similar to IRA's with their deferred tax treatment could be created to provide an incentive to younger people to save for their future long-term care needs.

In addition, the family unit as an important contributor of supporting services, must not be ignored in the design of a comprehensive long-term care program. Family members now provide about 80% of the elderly's long-term care services. With limited resources, the goal must necessarily be to supplement familial care activities, not supplant them. Certainly, disincentives to family assistance (such as the one-third reduction in benefits under SSI when the beneficiary lives with his/her family) should be removed. Moving in a positive direction, federal income tax credits could be created that would provide taxpayers with incentives to care for their dependent elderly in the home and to utilize elderly day care facilities. A relatively small public investment in adult day services, and respite care services, to ease the burden on family members who are the primary caregivers, could greatly help in avoiding a crisis situation when institutionalization of the older dependent family member becomes the only other option.

"MEDIGAP," MENTAL HEALTH AND OTHER HEALTH POLICY ISSUES

Fraud and abuse in the sale of insurance policies (Medigap) to supplement Medicare are widespread and well documented. In the absence of effective state action and in the presence of gaps in Medicare coverage, the Associations fought successfully to secure the enactment in 1980 of a voluntary program of federal certification with minimum standards (minimum loss ratios, no-loss cancellation provisions, standards for renewability, etc.) to govern the advertising and sale of Medigap policies. A special panel is now evaluating state statutes and guidelines to determine which state regulatory programs already meet or exceed these enacted standards. For those that do not, starting July 1, 1982, companies selling policies in these states may request federal certification. Should this legislation fail to prompt appropriate state action, additional legislation mandating federal certification of Medigap policies may be necessary.

Another area where health care policy has responded inadequately to the ederly's needs is in the area of mental health. The National Institute of Mental Health has estimated that during 1980 approximately 80 percent of the elderly who needed such care and assistance did not receive it. Moreover, as many as 30 percent of those older Americans described as "senile" actually have reversible psychiatric conditions, which if treated, would allow them to become better functioning members of society.

With respect to mental health services there should be two goals: access to services—especially community-based services—and avoidance of inappropriate institutionalization. To achieve these goals, comprehensive mental/physical geriatric assessment units should be established to prevent needless institutionalization and facilitate appropriate placement of the mentally infirm. This should yield savings for Medicare by reducing present levels of hospitalization. Also, changes should be made in Medicare so that community mental health centers (CMHCs) will begin to serve the elderly. Such changes should include extending Medicare provider status to CMHCs, increasing the present $250 Part B annual ceiling on outpatient mental health services to at least $1,000, eliminating the 190-day lifetime limit on inpatient psychiatric care under Part A, and incorporating periodic reassessment requirements for Medicare patients with strong utilization review requirements for CMHCs and other providers.

With passage of the Mental Health Systems Act in 1980, progress in better serving the mental health needs of the elderly was expected. Among other things, the Act was designed to make funding available to support a broader, more coordinated range of community-based mental health services to the needy elderly and to link the nursing home to the mental as well as physical health care delivery systems. However, this Act has since been consolidated into the Alcohol Abuse, Drug Abuse and Mental Health Services block grant created by passage of the 1981 Omnibus Budget Reconciliation Act. The States' allocation of substantially reduced funds to programs contained in this block grant must be monitored carefully to insure that the relatively new focus on addressing the mental health needs of the elderly is not lost.

In response to demographic trends and an aging population, an explicit strategy for the delivery of geriatric medical care and health services to the elderly should be adopted. To facilitate this objective, health manpower monies should be appropriated for the establishment and operation of education programs in geriatrics at schools of medicine and the other health professions.

HEALTH PROGRAMS: 1981 IN REVIEW AND A LOOK TOWARD THE FUTURE

Health programs were major targets for budget cutting in 1981, as Congress and the Administration embarked on a dramatic effort to bring government spending for fiscal year (FY) 1982 under control. While most health programs were not cut as much as originally proposed, substantial "savings" were achieved and significant changes in the form of many programs were made as contained in the 1981 Omnibus Budget Reconciliation Act. Because of continuing pressure to hold the line on government expenditures and because health care costs are continuing to escalate rapidly, the Associations believe that the action taken last year represents only the beginning of a trend to make increasingly severe cuts in health care programs serving the elderly and the poor. In order to reverse the trend of cuts, the Associations believe that strong cost containment measures in the health care sector must be enacted.

In *Medicare*, about $1.5 billion in savings for FY 1982 were achieved. The elderly must bear a large portion of the burden, as much of the savings take the form of increased cost-sharing liability for Medicare beneficiaries such as increased deductibles and co-insurance amounts. Efforts in 1982 to make additional substantial cuts in Medicare where the elderly would again be required to shoulder a disproportionate share of the burden will be adamantly opposed by the Associations.

For FY 1982, $920 million in *Medicaid* savings were passed. This was accomplished by reducing the federal share of Medicaid payments to states by 3% in FY 1982, 4% in FY 1983, and 4.5% in FY 1984.

The amount of a state's reduction can be lowered by 1% for each of the following if a state: (a) operates a qualified hospital cost review program (the qualifying states are Connecticut, Maryland, Massachusetts, New Jersey, New York, and Washington); (b) has an unemployment rate exceeding 150% of the national average (Michigan, for example, meets this criterion); or (c) makes certain recoveries from fraud and abuse in the Medicaid program. Additionally, a state is entitled to a dollar-for-dollar offset in its federal payment reduction if it can hold the increase in its Medicaid costs below 9% in 1982. (Program costs have been increasing, on average, at rates of 15% in recent years.)

A cap on federal spending in the Medicaid program was originally proposed for FY 1982 but fortunately was defeated. However, proposals to block grant and cap the federal funding for the long-term care portion of Medicaid are likely to be seriously considered this year. The Associations will strongly oppose any such proposal because of the threat this would pose to quality of care in nursing homes. Such a cap also would severely restrict the supply of Medicaid nursing home beds and, thereby shift increased costs on to the Medicare program since many older patients would be backed up in acute-care hospitals awaiting nursing home beds.

Finally, twenty-two health programs were consolidated into four *health block grants.* Funding was cut by about 25% but several federal "strings" were attached to insure funding for specific programs. Although a major change, this action was less drastic than the Administration's original proposal to consolidate 26 health programs into two large block grants, the newly created block grants are as follows:

Alcohol, Drug Abuse and Mental Health (see preceding section).

Primary Care—Community Health centers have been placed in this block grant. Program administration will be eventually transferred to the States, but for FY 1982, the program will remain categorical and under federal administration.

Health Prevention and Services—This combines eight categorical programs including home health services and the hypertension program.

Maternal and Child Health Care.

The Administration has indicated that it will renew its effort to consolidate programs through block grants. The Associations will continue to oppose such efforts in the context of budget cutting (See Other Aging Issues for further discussion.)●

## GOLDEN ANNIVERSARY OF STATE HIGHWAY USERS CONFERENCE

● Mr. McCLURE. Mr. President, I am proud to rise today to commemorate the golden anniversary of the National Highway Users Conference.

On June 28, 1932, Mr. Alfred P. Sloan, Jr., then president of the General Motors Corp., rose from the depths of the Great Depression and with a group of other business leaders formed an action group to serve private sector interests in highway transportation and traffic safety. An outgrowth of these early meetings was the National Highway Users Conference which was, and still is, the most important coordinating point for road safety improvement in the States.

From this initial seed developed the highly successful organization of coordinated highway users in States across the country. This coalition was formed under the umbrella of a State highway users conference, and through their representation of private and public interests, we have the safest highways in the world.

Last January, I had the privilege of participating in the Idaho Highway Users Conference. I have always enjoyed the opportunity to meet with the group and I am especially impressed with the high degree of professionalism shown at these conferences. It is perhaps the best example of public and private industry joining to accomplish a common goal—improved traffic safety and better highway transportation.

I urge all of my colleagues to join in my commemoration of the golden anniversary of the State Highway Users Conference.

## S. 1692: THE VIEWS OF THE NATIONAL COALITION FOR PORT PROGRESS

● Mr. ABDNOR. Mr. President, legislation that I am pleased to sponsor, S. 1692, has been on the Senate Calendar since December. Considerable opposition appears to exist to what I believe represents a reasonable and responsible compromise on port development and cost sharing. Some port directors apparently believe the Federal cornucopia will somehow be revived. Representatives of other groups see S. 1692 as setting a precedent that might be extended to them.

But much of the approach contained in S. 1692, which is a simple public works cost-sharing bill, has won the endorsement of the National Coalition for Port Progress, which represents the major ports of our Nation. This coalition recently wrote to the majority leader to express the need for early action on port development legislation. I share that belief in the need for early action.

To assist my colleagues in understanding the issue, I ask that a copy of the coalition letter be printed in the RECORD.

The letter follows:

NATIONAL COALITION
FOR PORT PROGRESS,
*Washington, D.C.*

Hon. HOWARD H. BAKER, Jr.,
*Office of the Majority Leader,*
*U.S. Senate, Washington, D.C.*

DEAR SENATOR BAKER: On behalf of the directors of most of the major ports of this country we seek your support and assistance in the effort to enact port development legislation this 97th Congress. There is an urgent and documented need to move ahead with improvements in our deepwater navigation system after years of stagnation. Further, there is a need to reaffirm the national stake in maintaining those channels of large and small ports built by the Federal government and so crucial to our economic welfare.

Senators Abdnor and Moynihan provided great leadership in initiating legislation (S. 1692) in the Senate and stimulating discussion on the many issues associated with port development. The bill's procedural reforms with respect to permits are long-waited improvements needed to shorten and bring greater certainty to the process; the cost-sharing provision for operation and maintenance work includes a cap mechanism to prevent extraordinary demands on a port's ability to levy charges on shipping and can be considered reasonable.

On the other hand, we strongly believe that the legislation should be amended to include and continue a federal role in the funding of improvement projects. We intend to recommend such an amendment to Chairman Abdnor. Finally, the port-specific approach of the bill to user charges is an important principle for any port development legislation. The opposite approach, national uniform user charges, would have ports subsidizing their competitors—a concept that would not make economic sense to the users or their ports.

While S. 1692 does not fully meet the standards adopted by our coalition we believe that those differences should not prevent us from actively promoting the advancement of the legislation. It is in the interest of the ports industry that port development proposals be considered by the full Senate and the House.

Senate Bill 1692 has been reported by the Environment and Public Works Committee since the end of last year. If progress of S. 1692 is halted, or simply slowed, it will mean that navigation policy will remain clouded and that ready projects will not be started.

It has been over six years since the last omnibus water resources bill was signed into law. The confusion in the industry and the private sector caused by this dry spell and the lack of new-start funding requests in recent years must be ended with action on port development legislation this year.

Your good offices and active involvement are critically needed in order to expedite the discussion between interested senators on the treatment of S. 1692 this session and to permit the prompt passage of legislation. Speedy consideration of S. 1692 is in the interest of the port industry and our country. We hope that you will become actively involved in this issue. We stand ready to assist in any way possible.

Thanking you in advance for your consideration of our views, we are

Sincerely,

JAMES H. MCJUNKIN,
*Port of Long Beach.*
RICHARD P. LEACH,
*Port of Houston Authority.*
C. S. DEVOY,
*Port of Galveston.*
ANTHONY J. TOZZOLI,
*Port Authority NY and NJ.*
WALTER A. ABERNATHY,
*Port of Oakland.*

MEMBER PORTS

Port of Long Beach, Calif.;
Port of Los Angeles, Calif.;
Port of Oakland, Calif.;
Port of San Francisco, Calif.;
Port of New Orleans, La.;
Port Authority of New York and New Jersey;
New York City Department of Ports and Terminals;

Port of Brownsville, Tex.;
Port of Corpus Christi, Tex.;
Port of Galveston, Tex.;
Port of Seattle, Wash.;
Port of Tacoma, Wash.;
Port of Houston, Tex.;
Port of Norfolk, Va.;
Port of Stockton, Calif.●

## THE PROPOSED NATURAL GAS PIPLELINE FROM WESTERN SIBERIA TO WEST GERMANY

● Mr. ARMSTRONG. Mr. President, the International Finance Subcommittee of the Committee on Banking, Housing, and Urban Affairs heard alarming testimony Friday which confirmed reports the proposed natural gas pipeline from western Siberia to West Germany will result in some of the greatest violations of human rights in world history.

Michail Makarenko, a recent Soviet emigre who spent 8 years in Soviet forced labor camps, predicted as many as 1 million concentration camp inmates would be worked to death during construction of the Yamal pipeline. Mr. Makarenko supported this astounding charge with voluminous documentary material from both dissident and official Soviet sources.

Makarenko was supported in his assertion that the Soviets will make massive use of forced labor in the pipeline's construction by Ambassador Zdzislaw Rurarz of Poland, who is as skilled an economist as he is a diplomat. Ambassador Rurarz said completion of the Siberian pipeline would be "a blow to the Polish people," and urged the West "not to remain silent" about the human rights aspects of it.

Apparently, however, there are not enough slaves in the Gulag Archipelago to do all the hard, dirty, dangerous jobs that need to be done to construct the pipeline. Two Vietnamese authorities, Doan Van Toai, a former official of the National Liberation Front in South Vietnam, and Le Thi Anh, director of the Vietnamese Information Bureau in Washington, presented evidence that confirmed reports that as many as half a million Vietnamese will be shipped to Siberia and elsewhere in the Soviet Union and Eastern Europe in recompense for Vietnam's war debt to the Soviet Union. Toai and Anh presented the subcommittee with names of people they themselves know who are being sent to Russia against their will.

The appalling abuse of human rights described at Friday's hearing lends a moral justification to the strategic and economic reasons behind President Reagan's decision to extend the sanctions presently in force against U.S. participation in the Yamal pipeline project to the foreign subsidiaries of U.S. corporations as well. As I had written to the President on Thursday, to authorize U.S. participation in the pipeline project would be to make Americans accomplices of a sort in the human rights violations that will occur as a result of its construction. All Senators should applaud the President's decision and stand firmly behind it. At an appropriate time, I intend to offer a resolution commending the President for what he has done.

But we must not let the matter rest here. It is not enough for us not to participate ourselves in what very likely could be one of the great crimes of the century. We must do what we can to stop it.

I have written to U.N. Ambassador Jeanne Kirkpatrick to express my belief that the United States should request a United Nations investigation of the charges pertaining to Soviet use of slave labor on the Siberian pipeline. At an appropriate time, I intend to offer a resolution expressing the sense of the Senate that this be done.

Finally, when the trade reciprocity bill comes before the full Senate, I intend to offer several amendments to it pertaining to East-West trade in general and the Siberian pipeline in particular.

When a transcript of Friday's hearing is available, I urge all Senators to study it with care. Those who do will be as convinced as I that we must act promptly and forcefully to prevent this massive abuse of human rights. In the meantime, I ask that the prepared statements of witnesses Doan Van Toai and Le Thi Anh be printed in the RECORD.

### STATEMENT BY DOAN VAN TOAI

Mr. Chairman and members of the Committee, ladies and gentlemen.

My name is Doan Van Toai, I am 36 years old, and the author of the book "The Vietnamese Gulag." It is an honor and a pleasure to appear before you today to discuss my Vietnamese people and also the untold tragedy befalling them at this time.

The Vietnamese Communists have done the unbelievable—yet it is the truth! They have defeated the French, the Americans and unified the country, but in so doing they have committed many errors and atrocities against their compatriots beyond the imagination of decent human beings. The world, therefore, cannot comprehend these errors and atrocities. They invaded Cambodia, occupied Laos, depended upon the Soviet Union and moved against China. They expelled the ethnic Chinese and their Vietnamese compatriots, and even worse, today they export large numbers of Vietnamese workers to Siberia. To the Vietnamese people, this tragedy is a reminder of the exported African slave labor to North America in the 18th and 19th centuries.

The Vietnamese refugees throughout the world have constantly received the letters from Vietnam displaying the emotion, anxiety, and hopelessness of those who are remaining in Vietnam. The mass media in European countries have extensively reported this tragedy, but some American public opinion still disbelieves this news. When I wrote the article about this issue for the Wall Street Journal one editor asked me where I could find that kind of information. Almost all of the Westerners I have talked with asked for substantive evidence and reliable information for all this news. It is easy to get information from Chile, from Argentina, or from South Korea, but it is not easy to collect it from any of the Communist countries; and it is yet more difficult to get the actual evidence from the Vietnam Communist where there is no freedom for the foreign reporters or for any visiting impartial international organization.

My compatriot Le Thi Amnh, has recently reported to you much information collected from the Vietnamese remaining in Vietnam. As a scholar and the one who has at one time lived and worked with the Vietnamese Communists, I would like to take the liberty here of making a few remarks about the Soviets and Hanoi's reactions to this matter of deportation.

The initial news of this deportation was reported firsthand in the London Economist magazine on September 17, 1981 and it was then repeated by the French mass media. They were talking about the Hanoi authorities having exported 500,000 (five hundred thousand) Vietnamese workers to the Soviet Union—all of whom were between 17 and 35 years of age. Among these workers were so-called "reactionary elements," the stubborn people, the suspected pro-China sympathizers, the independent elements in the former NLF-Vietcong. The working conditions are very harsh and are situated in the coldest area of Siberia. This information also said that 60 percent of their salaries would pay off Hanoi's debts to Moscow, the Vietnamese government would take 20 percent and the workers would receive only the remaining 20 percent. The New York Times last December reported that Hanoi had sent 15,000 (fifteen thousand) Vietnamese workers to Bulgaria. Both Hanoi and Moscow kept silent and never repudiated this information until the Western mass media discovered that these deported Vietnamese workers were actually working on the Russian-built gas pipeline.

First, Hanoi and Moscow announced that "the European Press are slanderers in their bourgeois way," and that "the mass media in the West is involved in the campaign of falsification and anti-Vietnamese." Secondly, they defended themselves concerning the working conditions and the workers' salaries. Izvestia, Moscow's newspaper, said "the Vietnamese are working in the regions with the most suitable climate for them as South Siberia, and the Caspian Sea . . ." and "the Vietnamese had all rights and freedoms provided by Soviet laws." The paper also said "the Vietnamese get free textbooks, other study materials, and are given well appointed housing . . ." (This falsehood is similar to the lie in 1979 when Hanoi authorities said that the prisoners in the re-education camps had meat and milk to eat everyday while the people outside had no meat and milk to eat.)

Later, Tass agency said "at their discretion they can remit part of their earnings to their families at home." This explanation, as the International Herald Tribune remarked, "means that the Vietnamese are not free to dispose of their entire income as they choose."

Concerning the period of time worked and the nature of the work, Tass commented "the Vietnamese are sent mainly for training and work "implying that some might be coming for work only and they work at chemical, textile and machine building plants and irrigation and land reclamation projects." But Leonid A. Kostin, a first deputy Chairman of the Soviet govern-

ment's State Committee for Labor made it clear by saying "the programs provided for a four or up to five years for the Vietnamese, one year for training and the other four for work." While Hanoi's military daily news Quan doi Nhan Dan on January 31, 1982 said that 60,000 (sixty thousand) Vietnamese were sent to Soviet Russia, the pro-government magazine Ket-hop, published in Belgium said that Hanoi has sent 50,000 (fifty thousand) workers to Russia.

However, the Hanoi Embassy in Paris on 16th April 1982 issued an official communique saying that "in 1981 Vietnam only sent 24,500 (Twenty four thousand five hundred) workers to Russia and other socialist countries including 5,000 to the Soviet Union and 11,000 to Czechoslovakia." The destination of the remainder was not given . . . yet Izvestia claimed "7,000 Vietnamese workers were working in the Soviet Union."

All of us know that 5,000 or 7,000 Vietnamese workers cannot in themselves be a major factor in the Soviet labor force of 48 million. These inconsistencies in numbers remind us of the similar denial in 1978 when Hanoi's authorities said they detained only 50,000 prisoners in the re-education camps, but Prime Minister Pham van Dong later said that he released over one million people from the camps! Neither the Soviets nor Vietnamese Communists have denied that the Vietnamese workers will not be involved in building the gas pipeline, and they have ignored the question of how many workers will be exported to the Soviet Union in the future.

Right now, I can give you a short list of nine Vietnamese who are forced to go and work as slaves in Siberia to help construct the gas pipeline. These nine victims are people I recently met through my friends and their relatives still living in Vietnam. Any person can collect such information by contacting Vietnamese refugees living throughout the world.

1. Pharmacist Truong ba Trung, 35, former activist of the third force of Saigon, lived in Le van Duyet street, Ho Chi Minh city, Hoa Hung.

2. Tran minh Tri, former deputy chief district, now is in the Camp of Thanh Hoa, North Vietnam.

3. Nguyen van Bay, former officer of the local army unit of the National Liberation Front of Ben Tranh district, Dinh Tuong province.

4. Tran trung Son, former student activist, Saigon University, Hong thap Tu street, Ho chi Minh city.

5. Le thi Cuc, former police agent of Saigon regime, released from a re-education camp, (last year), le Qaung Dinh street, Binh Thanh district, Ho chi Minh city.

6. Tran cong Nam, former Vietnamese Communist Party member, expelled last March, ethnic Chinese, Hieu Xuong district, Phu Yen province.

7. Nguyen van Binh, 28, worker, Le Minh Zaun New Economic Zone, (whose relatives escaped from Vietnam in 1978).

8. Tran thi Nuoc, 32, former worker and small street merchant, was suspected of having business contacts with an American G.I., Nguyen thien building, Binh Thanh district, Ho chi Minh city.

9. Tran van Mung, Binh Dai district, Ben Tre, was arrested as "a suspected reactionary" and released last April.

These victims are really worried about their fate in the Soviet Union, they wrote to their relatives and to me saying that "it is a voyage without return" because there is no law to protect them and that they have never signed any contract with the Vietnamese government nor Soviet authorities. They wrote cynically that "in the Socialist Republic of Vietnam, the proletariats are for sale." They wonder who will judge the disputes between the Vietnamese workers and the Russian masters, and they do not know even when they may return because Hanoi tells them that "you have an honor to fulfill in international duty and internationalist obligation" as indicated in the political report of the Vietnamese Communist Party. The greatest tragedy is, however, that they have to separate from their families for an unknown time.

Looking at the background of the victims, and their letters to their relatives, it becomes obvious they are being forced to go to work in the Soviet Union, and also it is clear these are people who do not like the regime or the regime does not like them. Hanoi is, in fact, using one stone to kill two birds: it saves itself the cost of feeding half a million mouths and it eliminates the opposition and the dangerous elements at home. At the same time, it assists in the building of a strategic project for the Soviet Union.

We also find substantial evidence by reading the Hhan Dan, Party daily paper published in Hanoi. Since I have actually read this paper I can report that on March 29, this year, Batrop Max-gor-ov, on behalf of the Soviet Communist Party visited Vietnam and said: "The Soviet Union and Vietnam have firmly and actively cooperated in all fields: political, economic and defense to develop largely the natural resources in Siberia and in Far Eastern areas." He also stated "For the next five years, the quantity of transportation between our two countries will be doubled. The cooperation firmly proves the power and efficacy of the Soviet-Vietnam friendship . . . we have the ability and power to accomplish that to which we have agreed."

In the political report read before the fifth Congress of the Vietnamese Communist Party, Le-Duan, the Secretary General of the Party, declared: "the firm cooperation and solid cooperation with the Soviets is a principle, a vital strategy and also is a revolutionary sentiment of the Vietnamese people. Our Party has the duty to teach the Vietnamese people and their next generations to hold this principle and to learn by heart this strategy." Two months ago, in honoring Le-Duan the Soviets awarded him the Lenin medal. In appreciation he said, "the Vietnam-Soviet Treaty of November 1979 upgrades the relationship of our two countries into a new phase. The Vietnamese Communist Party, and the entire people have to endeavor to accomplish this treaty and must consider it the basic principle of their own foreign policy.

Between the 13th and 27th April of this year, Vice Chairman Tokarov of the Council of Study of the Labor Force of the Soviet Union came to visit Vietnam to help Vietnam re-evaluate, rebuild, re-organize and redistribute the Vietnamese labor force. At the same time, V. A. Pechekop, chief of the Soviet Propaganda Advisory Board visited Vietnam to unify the propaganda front between the two countries. It is worth noting that these two visits coincided one with the other!

I would like to insert here a part of the article of Dao thien Thi, Minister of Labor of Vietnam and I would recommend to those who are still skeptical about this deportation of Vietnamese workers to the Soviet Union to read this article entitled "Strengthening the Cooperation of Laborers Between the Soviet Union and Vietnam." It was published in Nhan Dan, The Vietnamese Communist Party daily on April 5, 1982.

"The agreements and solutions concerning the labor cooperation signed by Vietnam and the Soviet Union one year ago has received excellent results and given important significance to the building up of socialism in Vietnam. . . . Under various methods and forms, the Soviets have sent many tens of thousands of experts to Vietnam to build up the cultural, scientific and industrial . . . bases, helping in the training of Vietnamese cadres and technicians. The Soviet Union has also received hundreds of thousands of Vietnamese students, technicians, researchers and laborers going to Russia.

"Accordingly, in the spirit of the cooperation-friendship treaty of our two countries, entered into a year ago, the Soviet Union-Vietnam have increasingly opened into full cooperation under the new methods and the new forms, especially the labor cooperation between our two countries.

"The new forms incorporated have the Vietnamese laborers working at the same time as being trained. This form must be extended for 5 or 6 years. The Vietnamese workers who are working and being trained should fulfill two duties: to contribute their efforts in building communism in their Soviet brother country and to build Vietnam's future later. It is a combination between the patriotic spirit and internationalist spirit.

"In the first year of carrying out the treaty and due to the common efforts on both sides, our two countries have accomplished the project of 1981 in the field of quantity, quality and timing of labor cooperation. In 1982 we will draw on our experiences and accordingly, the treaty agreed upon between our two countries relating to labor cooperation will certainly have been strengthened in development, in quantity and other various fields."

Last year, Hanoi conceded that 24,500 laborers were exported. Next year this number will certainly be many more, at least double as Mr. Max-gor-rov stated. And Max-gor-rov has stated clearly that Vietnam and the Soviet Union have cooperated to work in Siberia for the natural resources.

This labor cooperation is a result of the treaty of November 1979 between the Soviets and Vietnamese which also granted the Soviet Union the use of the military bases in Danang and Camranh Bay for their common military and strategic objectives in the area.

It is clear that Hanoi and Moscow not only cooperated together in occupying Laos and Cambodia but also in the global strategy of the whole world, namely the building of the natural gas pipeline, which is certainly not simply for economic and industrial purposes.

In conclusion may I say that the use of Vietnamese workers as slaves is a shameful and brutal reality. It is indeed, an insulting challenge to all people. On the basis of the United Nations Charter, let us urge the U.N. and the international labor movements to make a full investigation of this inhumane issue. We urge Hanoi and Moscow to allow an impartial international delegation to go and investigate this matter. We urge the countries who sell the pipeline to the Soviets, and who want to give aid to Vietnam to verify these facts of which I speak and are taking place this very minute.

Mr. Chairman and members of the Committee, may I express my deep appreciation

of both my compatriots and myself for your investigation of this Soviet-instigated slavery of my Vietnamese brothers.

Thank you.

*Published figures of Vietnamese slaves deported to Siberia and socialist states at Moscow's behest*

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|---|---|
| London Economist, Sept. 17, 1981 | 500,000 |
| New York Times, December 1981 (sent to Bulgaria) | 15,000 |
| Hanoi Military Daily News, Jan. 31, 1982 | 60,000 |
| Ket-hop, published in Belgium | 50,000 |
| Hanoi Embassy in Paris, Apr. 16, 1982 (5,000 in Soviet Union and 11,000 in Czechoslovakia, whereabouts of others unknown) | 24,500 |
| Izvestia, 1982—to the Soviet Union | 7,000 |

STATEMENT BY LE THI ANH

The Soviet Union's chronic manpower shortage and reliance on foreign workers combined with Vietnam's huge debt to the USSR and shortage of foreign exchange—and her continuing dependency upon Soviet aid to continue her occupation of Cambodia—and to guard her northern frontier against a second Chinese invasion—to keep the people's hunger under manageable proportions and the bankrupt economy going—make the export of Vietnamese laborers to the Soviet bloc not only mandatory but the most logical arrangement for both countries.

In July 1981, an agreement on "the movement of citizens of Vietnam and the Soviet Union between the two countries" was signed, which meant more Soviet advisers would come to Vietnam and more Vietnamese workers would come to the Soviet Union.

In September 1981, Le Duan and To Huu visited Moscow to seek new Soviet aid commitments. President Brezhnev promised Le Duan economic and military aid. But how those debts—over $3 billion—will be paid give the nation's extreme poverty and critical shortage of foreign currencies? The Vietnamese offered to offset their massive debts to the Soviet bloc by sending large numbers of Vietnamese workers to work in the Soviet Union and other Comecon countries. According to East European estimates, some 500,000 Vietnamese will work in the USSR and other East European countries during the second Vietnamese five year plan—from 1981 to 1985.

The workers will receive 40 percent of their salaries in local currency, and the remaining 60 percent will be credited against Vietnam trading debts to the Soviet bloc—especially debts contracted through the purchase of military equipment for the war in Cambodia.

The Soviet Union is anything but enthusiastic about more aid to Vietnam—facing herself severe economic problems and grain shortages. Unless Vietnam can demonstrate she can pay back her debts, it is unlikely that the Comecon countries would be willing to extend new credits.

Therefore, Vietnam has to export the only commodity she has ample supply of, and which is in demand in the Comecon countries, namely human labor.

Last year, the Soviet state commission for labor estimated that there were 2 million job vacancies in industry and that 750,000 additional workers were needed every year to keep existing and planned enterprises operating efficiently (N.Y. Times, 5/6/82). According to official Soviet statements, there were around 2 million unfilled job vacancies in the Soviet Union as of November, 1980—and that President Brezhnev has said that up to 400,000 additional workers would be needed in the next few years to develop new oil and gas fields in Western Siberia (The Economist Foreign Report, September 1981). In February 1981, Nguyen Lam, chairman of the state planning commission put Vietnam's unemployment figure at 1 million (ibid) Vietnam's debts to the Soviet amount to more than $3 billion—and additional debts are being contracted everyday for the purchase of petroleum products, foodstuffs—and especially weapon supplies for the war in Cambodia and other fronts.

The Hanoi government defaulted on a Japanese loan early this year and despite strenuous efforts, it is still unable to secure additional loans from non-communist countries.

According to a Chinese News Agency report last year, total Vietnam's foreign currency reserves were just enough to pay for two weeks of imports. "Vietnam is dependent on the USSR for some 20 percent of her food needs—without which there would be rice riots." (Mr. Douglas Pike's testimony on the House Subcommittee on Asian and Pacific Affairs, October 15, 1981.) As we all know, food riots already occurred in Haiphong, Vinh and Nghe Tinh—in 1980 and 1981.

It is obvious to everyone that a sharp cut in Soviet aid would bring large scale food riots in the streets, the people's misery to unbearable levels and would spell disaster, not only for the economy and the war in Cambodia, but also for the survival of the Communist regime.

The Soviet Union is pumping aid into Vietnam at the rate of $6 million a day. Vietnam has to maintain open that lifeline. A 100 percent cut of Soviet aid would bring about general popular uprising. And the collapse of the Communist regime would come as fast as that of the Republic of (S.) Vietnam when faced with similar aid cuts.

To maintain the most vital inflow of Soviet aid, Hanoi has to pay back its debts. Vietnam has to export. She is currently exporting to the Soviet Union extremely scarce foodstuffs, clothing material and ready-to-wear. She has been exporting the ethnic Chinese for gold (estimated earnings: $4 billion worth of gold, one-third of which lost to corruption). Now the unproductive and destitute economy has nothing left to export except its unemployed manpower.

According to Nguyen Lam, Vietnam has 1 million unemployed. The real figure is several times higher the stagnant and unproductive economy has few job opportunities. New Economic zones are failures. Unskilled manpower remains Vietnam's only exportable commodity. It coincides with the Soviet Union's great need of manpower to develop her Siberian oil and gas fields. Soviet aid is parsimoniously and grudgingly granted and received with wounded national pride and resentment.

Swallowing this pride, and their claim to national independence—Hanoi leaders have agreed to let Vietnamese workers go the the Soviet Union—with the painful awareness that this practice is very reminiscent of the French colonial practice of sending thousands of soldier/workers to France during WWII.

France drafted Vietnamese subjects to fight in the French-German war—and to work in French factories—or to wage war against the French colonies in Africa. But compared to the Vietnamese workers now in the Soviet Union, Vietnamese workers in France in the 1930's and 1940's enjoyed much more freedom.

They lived among Frenchmen, received equal pay for equal work, and received their pay in full. thousands chose to remain in France after the end of the war. They were naturalized French citizens and their children became second generation Frenchmen.

Today "guest workers" to sister Socialist countries live in segregated quarters with no contact with the local populations.

According to Nyan Chanda writing in the Far Eastern Economic Review, 5/14/82, unnamed Vietnamese sources in Hanoi told him that the main purpose of the manpower export is to solve the problem of unemployment, to earn foreign currencies for the country and to receive professional training. The source informed FEER that in spite of the Izvestia article asserting that Vietnamese workers receive normal wages, they in fact receive only room and board plus pocket money for the first three years and a salary only in the fourth year.

Vietnam's Minister of labor, Dao Thiun Thi, writing in the Party newspaper Nhan Dan (4/5/82), wrote that the Vietnamese workers are being sent to cities with warm climate in southern Russia. We know that cannot be the case since families in Vietnam receive letters from their relatives working in Siberia. That is the place where there is a great demand of manpower because of development of oil and gas fields—and where the gas pipeline is being constructed.

Furthermore, most Vietnamese workers are unskilled laborers, it is unlikely that they could fill highly technical positions. Working in the mines would be their likely place of employment.

Other reasons for the export of labor are as follows: Communist societies are totalitarian and single-minded. It requires ideological purity. Therefore, political purge of undesirable "impure" elements are inevitable. For a regime which imposed itself by force upon a democratic society, the cleaning job is monumental.

The Communist government disposes of the Southern society's "impurities" and "undesirables" by: (1) small scale execution; (2) collecting gold and pushing them out to sea; (3) for those associated with the U.S. or the former regime, keep them removed from mainstream society by locking them up for life in concentration camps, euphemistically named "reeducation camps."

The idea is to keep those troublemakers from doing harm to the regime, either by leading the anti-communist resistance or spreading anti-government propaganda.

But those "reeducation camps" have become a problem for Hanoi in world public opinion. The Communist government has been criticized by various human rights groups, and by visiting journalists and statesmen for the continuing detention without trial of hundreds of thousands of persons in jails and concentration camps.

"Reeducation camps" have become a problem for Hanoi with world public opinion, a source of irritation with its former friends in the worldwide "anti-war movement"—especially Hanoi's friends and allies in the U.S., who were instrumental in bringing the aid cut—and insuring Hanoi's victory in the spring of 1975. Prominent among those inquiring human rights groups are Amnesty International, Joan Baez's Humanitas, American Friends Service Committee and Church World Service. Having no diplomatic representation in the U.S., Hanoi still has

to rely upon those former anti-war figures—and sympathetic visiting journalists to serve as its mouthpiece with the American public.

To secure their continuing support, Hanoi has to remove that source of irritation, the "reeducation camps." A master way would be to send the residual inmates as "guest workers" to the Soviet bloc—close most of the "reeducation camps", take visiting journalists to witness the empty camps and declare to the world that the "reeducation" has been completed, that the "reformed" citizens have "volunteered" their services in the USSR.

With one stone Hanoi will kill three birds: (1) Removing a major irritant between Hanoi's regime and the Western/U.S. governments and public opinion, thus clearing the way for normalization of relations and aid—securing the most vital support of the former anti-war activists; (2) sponge off the Soviet debt, and (3) rid the country of undesirable subversive elements.

Our sources of information are as follows:

Each month, some 800 Vietnamese leave Vietnam by plane through the Orderly Departure program. They hand-carry letters from Vietnam. Since the news broke out in Europe last fall, following the publication of the Economist Foreign Report, alarmed Vietnamese in Paris contacted their friends and relatives in Hanoi to inquire. France has a pro-Communist Vietnamese community and these Vietnamese learned through their contacts in Vietnam of the government's policy regarding those "reeducation camp" inmates. Vietnam is a small world with many divided families. Some Vietnamese Communists in Paris have relatives in "reeducation camps." Sources in Hanoi told them: "The residual reeducation camp inmates are a problem for the government. Keeping them in camps, the human rights people and the journalists would constantly inquire and criticize. Killing them off would earn the government the Pol Pot reputation of barbaric 'blood-bath.' If released they would join the anti-government resistance."

Exiling them to the Soviet bloc seems to be an ideal solution for the government. Hanoi has objected to the charges that reeducation manpower will be used in Eastern Europe. The Soviet Union and her allies would not use the "stubborn reactionaries" for fear of sabotage. It must be pointed out that the workers are shipped after initial training and categorization in Vietnam—together with their cadremen who closely control and supervise their work. They have worked for seven years under the same conditions in reeducation camps.

Slaves never love their masters yet slave labor has been extensively used in the building of the great monuments of history. The building of the Yamal gas pipeline is no exception. It is to be expected that work teams composed of reeducation camp inmates and other unreliable elements will be entrusted with menial work at camp sites—such as digging, cleaning and cutting trees—while more sensitive works will be entrusted to reliable elements.

General census and medical examination:

In a few remote parts of the country, people of both sexes between the ages of 17 and 35 have been subjected to a general census and medical examination. They are divided into two categories. Category A includes persons from proletarian, "progressive" families. They will be drafted for service in the armed forces. Category B includes people with bourgeois or "NGUY" background (NGUY: wicked, degenerated puppets), those the government considers dangerous and unreliable elements. They will be trained in work camps and those who pass will be sent to the Soviet Union.

All the young persons undergoing the census are required to sign a statement "volunteering" their service in the Soviet bloc. The government will use those statements to exonerate itself from charges that the workers are sent against their will. But as everyone knows, the facts of life in Communist countries is that no one can refuse to sign the "volunteer" papers.

Ongoing program of workers in the Soviet bloc:

There has been an ongoing program of Vietnamese workers in the Soviet Union. The majority of the workers are from North Vietnam. They signed up for three years, received some training, and although 60 percent of their salaries are used by the government to pay back debts, their lives are slightly better off than in Vietnam. Their numbers as of September 1981 was about 50,000. The majority work in the Soviet Union—some 10,000 in and around Moscow, several thousands in Siberia and the remaining in other parts of the U.S.S.R. and other East European countries.

The Vietnamese did not protest because of the small number and the relatively voluntary character of most recruitment practices. Many North Vietnamese volunteered to work under that program because even with only 40 percent of their pay, life is still a little better in the Soviet Union than in their own country. There is more food available and the threat of hunger is less.

What alarms the Vietnamese community in the new program is the huge number; 500,000 workers will be sent in five years, reports of the use of concentration camp manpower and all other characteristics of slave labor in frozen Siberia. Most of the inmates in reeducation are originally from the South, where the climate is hot. Years of detention and starvation have taken a toll on their health. If sent to Siberia, it is unlikely that many would survive the rigors of 50° temperature to eventually return home. According to the First Guidebook to the USSR Prisons and Concentration Camps [1], temperature in Siberia ranges from 40° to 60° below zero in the winter. According to the Guidebook, and the Der Spiegel [2], during the past 60 years, some 60 million people have died in Siberian work camps.

Recent information gathered from Vietnam, Thailand, and China on the subject of labor export to the Varsovie Pact Countries reveals that an estimated 16,000 persons have been forcibly sent to the Soviet bloc since the beginning of the new program in the fall of 1981. During the first three months of 1982, two Russian ships, the *Obdorst* and the *Doudinka*, transported 2,496 workers. Aircraft carrier *Minsk* and mine sweeper *Denskoucht* transported 3,200 persons and unloaded those at the military port of Okhotsk on March 26, 1982.

An East German ship named *Rugen* transported to East Europe 830 workers, bringing the total for the first trimester of 1982 to close to 6,600 persons.

An ad-hoc committee to oppose the deportation was formed in Paris in October 1981, Dr. Tran Van Do is the Committee's Chairman. It has sent appeals to the United Nations and other human rights and humanitarian organizations. The address is: Khanh Anh Pagoda, 14 Avenue Henri Barbusse, 92220 Bagneaux, France. The name is: Ad-Hoc Committee Against the Deportation of Vietnamese Workers to the Soviet Bloc.●

[1] The First Guidebook to the USSR. Shifrin, Avraham. Stephanus, Edition Seewis, 1981.

[2] Der Spiegel. September 28, 1981, page 197.

## IDAHO'S FAMOUS STATESMAN—A FORGOTTEN MAN

● Mr. McCLURE. Mr. President, I recently received an article that I feel should be added to the RECORD. The article was written abut the late Senator William E. Borah by Idaho statesman reporter Tim Woodward. The title of the article says much about many famous people, who, even after having mountains, schools, buildings, and towns named after them slip into relative obscurity.

Senator Borah was, and still is, considered one of the most famous of my colleagues from Idaho serving in the Senate from 1907 until his death in 1940. Borah was a truly great statesman, a very respected chairman of the Foreign Relations Committee, and a potential candidate for the Presidency. Yet, many know the name not the contribution. I would like to take a brief moment now to remember one of our past colleagues whose statue, by the way, stands just a few feet outside of this Chamber, and know the name of Borah as one belonging to a truly great man.

I ask that the article entitled "Idaho's Famous Statesman—a Forgotten Man," by Tim Woodward, be printed in the RECORD.

The article follows:

### IDAHO'S FAMOUS STATESMEN—A FORGOTTEN MAN

(By Tim Woodward)

It is a sight to stir a florist's heart. From border to border, the grounds of Morris Hill Cemetery are dotted with fresh flowers. There must be thousands of them.

Flags are popular this year, too. Some of the graves have both—flags and flowers Memorial Day is over, but the graves are colorful evidence that most of the people it is intended to honor have not been forgotten.

Not far from the cemetery's eastern boundary is a piece of ground set aside to honor one of Idaho's brightest lights. It is a large, grassy triangle, with roads on each side and shade trees at each corner. Near the center, between two evergreens, are a dark gray headstone and a solitary bouquet. The bouquet is the reason I'm writing this.

Carved in the dark gray marble is a three-word inscription: William Edgar Borah.

Ask people what that name—Borah—means to them. I did, and everyone I questioned said it was the name of a local high school. One said that to him the name had become synonymous with football, for which the high school is well-known. Another speculated that some of the students there might be hard-pressed to identify the man for whom their school is named.

If he is correct, some background is decidely in order William Edgar Borah was only the most famous statesman Idaho has produced. With the exception of Ernest Hemingway, he may have been the most famous Idahoan ever.

William Edgar Borah was elected to the U.S. Senate six times and was considered

one of its greatest orators. He was known as "the Lion of the Senate." (I wonder how many of today's Borah Lions know that.) A Republican, he was respected, and sometimes feared, by presidents of both political parties. In 1936 he lost his own bid for the presidency. He died four years later.

One of the reporters who covered the funeral was John Corlett. The Statesman's former political editor.

"Senator Borah was the one person Idaho was famous for," Corlett recalled. "Ten thousand people passed the bier as he lay in state at the capitol . . . Even the gravedigger wept."

Today it is quiet at the place the gravedigger called "the prettiest spot in the cemetery." The only sounds are those of the ticking sprinklers and the graveyard birds. The senator is buried a few feet away from the grave of his wife, Mary, who died in 1976 at the age of 105. They had no children. No one else shares their grassy triangle, or their sad little bouquet.

Which brings us to the point of our story. On Tuesday evening a woman called me at home to talk about something that happened to her on Memorial Day She said she was decorating some graves at Morris Hill Cemetery when she noticed Sen. Borah's headstone. Until then, she didn't know he was buried there. The thing that really surprised her, though, was that there wasn't a single flower on his grave.

It bothered her so much that she decided to do something about it. She cut some flowers that were growing in her yard, put them in an empty milk carton, and wrapped the carton with aluminum foil. Then she returned and laid the little bouquet on the grave of Idaho's Lion.

"I couldn't believe that no one else had thought to do it," she said. "And I'm not even a Republican."

She wasn't the only one who didn't know where the senator was buried. Dennis Olsen of Idaho Falls didn't know, and he is a Republican. He is chairman of the Republican State Central Committee, to be precise.

"No one should be forgotten, least of all Senator Borah," he said. "I just didn't know that this was the situation, but it's definitely something we ought to be looking into."

Maybe it isn't that important. The world's problems won't be solved by putting flowers on the graves of deceased senators—lions or otherwise. But it's sad, in a way, and a little surprising that so famous a man could be overlooked that way. That's what I thought, at least, until I told the story to Corlett. He wasn't surprised at all.

"As far as I can remember, there has been no effort in all this time to remember him on any particular day," he said. "No one ever arranged for this sort of thing. The gravestone is just there. After his death, he became alsmost a forgotten man."●

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## WHITE HOUSE—HEINZ CORRESPONDENCE CONCERNING THE EXIMBANK

● Mr. HEINZ. Mr. President, during the last few months I have been debating with the White House the importance of the Export-Import Bank and the need for an adequately funded and aggressive Eximbank in order to defend American exports and preserve—as well as create—American jobs. There are many misconceptions with regard to the Bank and its operations. Hopefully, this debate is serving to clarify some of the issues.

In this correspondence I was pleased to learn that it is the President's intention that the Eximbank "maintain an aggressive position in financing U.S. exports," and that "the administration considers Eximbank to be an important instrument of overall trade policy." My efforts have been directed toward insuring that this wise policy is carried out in practice.

In the weeks ahead I intend to continue this debate, particularly in the form of comprehensive hearings in connection with S. 2600, the Export-Import Bank Restructuring Act of 1982, sponsored by myself and 11 of my colleagues in this body.

Mr. President, I ask that the text of my two letters to the President regarding Eximbank, along with a reply on the behalf of the president by Kenneth M. Duberstein, be included in the RECORD.

COMMITTEE ON BANKING
HOUSING, AND URBAN AFFAIRS,
*Washington, D.C., December 18, 1982.*

The PRESIDENT,
*The White House,*
*Washington, D.C.*

DEAR MR. PRESIDENT: I am writing to urge you to reconsider your Administration's policy with respect to the Export-Import Bank. In that regard, there are two important considerations: the costs to our economy of an inadequately funded Bank and the economic benefit to the government of a fully-functioning Bank.

ECONOMIC COSTS OF A WEAK EX-IM

With respect to economic costs, the issue, very simply, is jobs. The Export-Import Bank is a powerful promoter of U.S. exports and thus a significant mechanism for providing employment. What would the unemployment rate be today without that $7 billion export deficit? The Commerce Department has estimated that each $1 billion in lost exports translates into 40,000 lost jobs. Two hundred and eighty thousand more Americans with gainful employment and off of government welfare rolls would have a powerful stimulative effect on the economy.

CASE HISTORY EXAMPLES

Those are gross figures and obviously the Bank cannot bear sole responsibility for our export deficit. Its current policies, however, are making the situation worse than it would otherwise be. Let me suggest several examples:

Earlier this year the Cross Company (Michigan) elected to fill a major contract through its English and German branches, so as to be able to take advantage of official financing unavailable to them in the U.S. due to Eximbank loan authorization limitations. The contract was worth $20 million, which translates into approximately 800 jobs transferred to foreign economies.

A Harris Corporation (Florida) sale to Jordan of $5.5 million was jeopardized by a lack of available Eximbank support. Three hundred and ten man-weeks of work were anticipated for the project.

General Electric lost $15 million of U.S. business with Brazil due to unmatched Japanese financing for installation of an aluminum hot strip rolling mill. That small case resulted in another 600 jobs lost.

Another approximately $23 million of sales by Dresser Industries was lost to foreign competition. Eximbank's reasoning for lack of support: "As you know, we are facing severe budgetary limitations on our Direct Credit Programs." Nine hundred and twenty more jobs were picked up by non-U.S. industries.

The United States holds a major competitive advantage in aerospace industries. That edge is currently in jeopardy, not due to better products, but rather to the lack of available financing at competitive terms. In April, due to its loan limitations, Eximbank had "on hold" cases involving the sale of 12 commercial airliners to different countries. While the U.S. was still on the ground, the European built Airbus flew to the rescue.

Boeing Vertol (Pennsylvania) is about to lose a $56 million sale of helicopters to Norway because the Eximbank offer provided half the coverage and a nearly three percentage point higher rate than the French Aerospatiale offer. One thousand jobs are at stake.

The Eximbank has made a state-by-state breakdown of jobs associated with Eximbank-supported sales. In 1980 a total of 734,084 jobs were involved, nationally. That includes 200 jobs in Colorado, 9,764 in Delaware, 8,264 in Florida, 3,072 in Kansas, 1,600 in Arizona, 82,888 in California, 138,540 in New York, 31,896 in Wisconsin, 21,310 in Pennsylvania, and so on throughout 45 of the 50 states.

PERMANENT JOB LOSSES BY OVERSEAS RELOCATION

In addition to direct job losses, a longer term effect is the number of jobs transferred by U.S. corporations to their overseas operations, never to be heard of again, as it were. The Cross Company case, cited above, is only one example. Unable to obtain competitive financing, U.S. companies are relocating their activities abroad rather than be elbowed out of the market by foreign competition. There, in England, West Germany, and France, these companies can find the competitive export financing that was unavailable to them in the United States. To lose a sale is one thing. To lose an industry is quite another.

As I said in my March 19 letter to you, in order to take advantage of foreign export credit support, U.S. companies are likely to adopt one or more of the following strategies: (1) a shift to foreign procurement for major components of large capital goods; (2) long-term, off-shore subcontractor relationships, particularly in the case of airframe and aircraft engine manufacturers; and, (3) a shift to off-shore facilities for entire projects, which many multinational manufacturing and construction companies already have and more are likely to acquire.

I support the goal of eliminating official export financing subsidies. They are wasteful and counterproductive. If everyone engages in them, no one benefits—except the importers. Inadequate funding of the Eximbank, however, takes us further from achieving that goal by showing our competitors that they can subsidize and profit from it. Meanwhile, the United States loses jobs and further shares of world trade, quite probably for good.

EFFECTS ON THE FEDERAL BUDGET

In my judgment the Office of Management and Budget has compounded its errors with respect to the Eximbank by ignoring the real budgetary impact of a reduction in its authorization. The following table illustrates the long term adverse budgetary impact of a reduction in the Bank's authorization.

BUDGET IMPACT OF $1 BILLION DECLINE IN EXIMBANK LOAN PROGRAM AUTHORIZATION

[Dollars in millions]

| Fiscal years | Outlays | Exports | Income | Tax receipts | Budget impact |
|---|---|---|---|---|---|
| 1982 | $−100 | $−190 | $−247 | $−69 | $+31 |
| 1983 | −300 | −570 | −997 | −277 | +23 |
| 1984 | −250 | −475 | −1,616 | −449 | −199 |

As you can see from the above, there is a short-term, favorable impact totalling $54 million for fiscal year 1982 and fiscal year 1983 combined. But in fiscal year 1984, the year by which we are trying to balance the budget, there is a nearly $200 million unfavorable impact on the federal budget. Furthermore, the total unfavorable budget impact for all three years is $145 million.

A 1980 study by the Treasury Department suggested a 70 percent additionality factor for the Bank; that is, 70 percent of the exports financed by the Bank would not have been made without the support of its direct loan program. A reduction in that program leads to exports foregone, and therefore income and subsequently tax revenues, also foregone, not to mention jobs lost.

COST-EFFECTIVENESS

The examples I have mentioned earlier in this letter clearly demonstrates the costs to our economy of our present policy. With respect to direct federal benefits the Eximbank is a particularly cost-effective means for maintaining the competitiveness of U.S. exports while giving us a strong negotiating position to end subsidies. The actual cost to the U.S. Treasury, even in times of high interest rates, is small. Usually, however, the Eximbank is a source of revenue: since 1945 it has returned $1 billion to the Treasury. The billions of dollars in business and jobs generated by Bank-supported exports makes Eximbank an even more powerful indirect source of savings and revenues to U.S. and local governments.

A recent study by the Wharton Econometric Forecasting Associates demonstrates that a typical Eximbank-supported project could bring a positive ratio of return to government of from 9:1 to as much as 33:1 of income compared to budgetary expenditure. Even at the low end of this range, benefits so far outweigh costs that is is hard for me to understand why the Office of Management and Budget and the Bank itself are so reluctant to let the Bank maintain its normal level of activities.

This reluctance has another adverse effect which concerns me—it amounts to a unilateral surrender to our European and Japanese competitors in the growing export credit war.

INTERNATIONAL CREDIT NEGOTIATIONS

The recent agreement within the OECD to increase the minimum interest rate charged to the less developed countries from 7.75 percent to 10 percent represents progress. But at a time when long-term bond rates in the developed world are running 14 percent and more, further action is needed. We cannot afford to relax our efforts at this critical time when our trade competitors—particularly the French—seem ready to address official export credit rates.

Just as a strong defense posture is the best way to approach arms control negotiations, so a demonstrable willingness to counter unfair official export financing will bring about meaningful negotiations for their mutual and equitable reduction.

The U.S. however, has been sending the wrong signals in this war. As our competitors have increased their financing capabilities, Eximbank support levels have been reduced. In the wake of our competitors' agreement to set 10 percent as their minimum interest rate, the Eximbank has raised its rates to the equivalent of 12.5 percent. Actions such as this only signal our competitors that we are not serious about ending export credit subsidies and that we do not understand or appreciate the proper role of the Eximbank.

SOURCES OF ADMINISTRATION HOSTILITY TO EXIMBANK

I suspect that part of the reason for this Administration's hostility to the Bank is the belief of some economists that U.S. trade balances are largely the result of cyclical factors, including changes in the value of the dollar, and that institutions like the Bank play only peripheral roles. That argument, of course, not only ignores the 70 percent additionality finding of the Treasury, but it also ignores disturbing long run trends in our trade balance. From 1970 to 1976 our annual trade deficit averaged $0.9 billion. Since 1977, it has risen to an average of $28.1 billion, a figure which would have been even larger with increased agricultural surpluses.

A look at market share figures tells an equally gloomy story. In the non-European markets that are rapidly increasing in importance, U.S. market share has been falling; for example, in the 1970-79 period: from 18 percent to 14 percent in Indonesia, 32 percent to 18 percent in Brazil, 46 percent to 37 percent in Venezuela, 30 percent to 23 percent in Korea, and 24 percent to 18 percent in Japan. These are rich markets, some of them much closer to home than to our competitors; yet it is we who are failing to compete.

Looking at these numbers a different way, the U.S. share of manufactured exports has declined from an average of 18.7 percent in 1973-76 to an average of 17.4 percent in 1977 through the first half of 1980. Looking at total free world exports, the U.S. share has declined from 13.7 percent in 1973 to 12.1 percent in the first half of 1980, a significant decline despite a modest improvement since the 197: low of 11.8 percent.

I believe this data illustrates that our economy is undergoing long term structural change which will make it increasingly difficult for us to compete internationally, particularly in the face of growing subsidies by our competitors and proliferating barriers to market entry and investment in the developing world. These problems are the same ones which led to Senate passage of the Export Trading Company Act, the Foreign Corrupt Practices Act amendments, and enactment of changes in the tax treatment of Americans working abroad. You and your Administration supported all these initiatives for the same reasons, indicating clearly that it was time to restore this country's trading ability and make us competitive again. Exactly the same arguments apply to the Eximbank.

POLICY RECONSIDERATION URGED

Mr. President, the facts and logic on this matter are compelling. The economic costs of our policy are clear, as are the benefits of an active Bank. One of the greatest costs is the way it handicaps us in our effort to end the subsidy practices of others. I hope you will reconsider the policies your Administration is pursuing with respect to the Eximbank and our efforts to end export credit subsidies.

With warm regards,
Sincerely,

JOHN HEINZ,
*U.S. Senate.*

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THE WHITE HOUSE,
*Washington, April 2, 1982.*

Hon. JOHN HEINZ,
*U.S. Senate,*
*Washington, D.C.*

DEAR SENATOR HEINZ: The President has asked me to respond further to your letter of December 18 and to assure you that the Administration considers Eximbank to be an important instrument of overall U.S. trade policy. Pursuant to its legislative mandate, Eximbank will continue to maintain an aggressive position in financing U.S. exports. However, like all agencies, Eximbank will do its share to reduce the budget deficits that are projected in the coming years. With a careful targeting of its resources the Bank can still provide effective support for U.S. suppliers competing with their foreign counterparts who are heavily subsidized by their governments.

In each case for which its assistance is requested, the Eximbank will consider such factors as the presence of foreign export credit competition, the degree of technological edge possessed by the U.S. supplier and historical market preferences. In some instances, a financial guarantee may be sufficient or Eximbank financing may be totally unnecessary—as for transactions generally to rich or developed countries or involving older generation aircraft—but in others, Eximbank may have to provide as much as a 75 percent direct loan. While the Bank has had to raise the interest rate on its direct loans recently to preserve the financial soundness of Eximbank, it will increase the competitiveness of its financing where necessary by lengthening the term of repayment.

In your letter, you detailed a number of cases where you suggested that the unavailability of Eximbank financing caused the U.S. supplier to lose the business. I asked the staff at Eximbank to check each of them. In the Harris Corporation case the loss was probably due to noncompetitive Eximbank financing. With regard to the Cross Company case, Eximbank was unable to provide financing because of the moratorium instituted by the previous Board of Directors to enable the present Board to develop its own policies for operating the Bank. In the General Electric case in Brazil, the moratorium also prevented Eximbank from issuing a preliminary commitment for an aluminum rolling mill. The bid was won by the Japanese, and subsequently General Electric was awarded a $5 million contract as a subcontractor with financing to be provided by Japan.

The Bank was unable to identify the exact cases to which the alleged losses of Dresser Industries relate. Regarding the aircraft cases, the Bank's records show that while about twenty aircraft transactions were caught in the moratorium, none has been reported to Eximbank as a loss due to financing. For most of them, either preliminary commitments have been issued by Eximbank or U.S. suppliers have been awarded the bids without Eximbank or U.S. suppliers have been awarded the bids without Eximbank's support. Finally, following an amendment in an outstanding preliminary commitment to increase the amount of the financing to be provided from 42.5 percent to 85 percent (including a 10 percent participation by the supplier with Eximbank's guar-

antee,) Boeing Vertol won the sale of helicopters in Norway.

I would also like to note that the Administration is pleased with the agreement last October to raise minimum interest rates in the Arrangement on Officially Supported Export Credits to a range between 10 percent and 11¼ percent. You will recall that it was reached after Eximbank had raised its own lending rate from 8¾ percent to 10¾ percent and then to 12 percent on non-aircraft cases (with a front end fee of 2 percent of the amount of the Eximbank direct credit.) We believe that the example set by Eximbank in taking such a unilateral action was the major factor behind the rate increases in the Arrangement, and we have pressed for further increases at the meetings of the OECD Credit Group in Paris on March 10-11. The Group will meet again in May to discuss raising interest rates and changing the categories which determine the minimum interest rates applicable to individual countries.

We have several conceptual and technical differences in the way in which you assess the budgetary impact of cutbacks in Eximbank's loan authorizations, as well as the conclusions you have drawn regarding the relationship between Eximbank financing and U.S. jobs, and the decline in the U.S. share of world markets. I have asked the Eximbank staff to discuss these matters in more detail with members of your staff. Notwithstanding these differences, I would like to emphasize again that Eximbank plays an important role in the implementation of the Administration's trade policy, and that it will continue to provide financing so as to enable U.S. exporters to compete effectively for sales throughout the world.

With best wishes,

Sincerely,

KENNETH M. DUBERSTEIN,
*Assistant to the President.*

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U.S. SENATE, COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
*Washington, D.C., June 8, 1982.*

The PRESIDENT,
*The White House,*
*Washington, D.C.*

DEAR MR. PRESIDENT: As you know, I am an enthusiastic supporter of the Export-Import Bank. It is beneficial for American business, for American labor, for our balance of payments, and has a positive real impact on the Federal budget. My duties as Chairman of the Subcommittee on International Finance and Monetary Policy keep me reasonably well-informed on the Bank's activities and the nature of its programs. I was, therefore, confused by the response on your behalf by Kenneth Duberstein, to my letter to you of December 18, 1981. His reply demonstrated not only a misunderstanding of the Bank's operations and its statutory mandate but also clear misinformation.

Mr. Duberstein refers to strong Administration support for the Bank as "an important instrument of overall U.S. trade policy" and that "pursuant to its legislative mandate, Eximbank will continue to maintain an aggressive position in financing U.S. exports." Yet, it is precisely that strong support for the Bank that I and others in the Congress are trying to generate. We find that support woefully lacking when in the midst of an export credit war budget recommendations come to the Congress that if adopted would result in unilateral disarmament. That support also appears to be lacking when high-ranking officials in your administration make statements about the need to eliminate the Bank and its export support activities.

Moreover, far from continuing an aggressive position, the issue is over whether and when the Bank is going to begin such a policy. Mr. Duberstein admitted that four of the six cases that I submitted to you as examples of inadequate support from the Eximbank were legitimate, one (the Harris Corporation case) due to clearly uncompetitive terms and three (the Cross Company General Electric-Brazil, and aircraft cases) due to insufficient budget authority for the Bank. Of the two remaining cases, the Boeing-Vertol sale finally was won by the U.S., but only after intensive pressure from the Congress caused the Bank to revise its policies and assume the aggressive posture that was necessary and which is required by law. The last case, involving Dresser Industries, Mr. Duberstein was unable to comment on.

The instances of business lost due to an Eximbank that is either unwilling or unable to offer competitive financing for U.S. exports are too numerous to relate in detail, but apparently more examples are necessary to establish the point.

Last year Frederick Electronics lost a sale for telex switching equipment to the Philippines, valued at $2,300,000, when Swiss competitors offered official financing of 85 percent of their product at a rate of 9.5 percent interest over ten years. Eximbank's idea of an aggressive stance was to modify its initially uncompetitive offer of 85 percent direct credit at 13 percent to an offer of 65 percent direct credit at 14 percent interest for five years.

Boeing, whose products involve the direct participation of three thousand subcontractors, lost a sale of six 757 aircraft, with a total value of $226,000,000, to French competition when the Bank indicated that it would only offer to finance 42.5 percent of the sale at 12 percent (plus a 2 percent up front fee) over ten years. The competition won the jobs for their own company by offering to finance 80 percent of the sale at 9.25 percent interest.

In another case last year Boeing lost a sale of two new generation aircraft to Jamaica when the French and friends offered attractive financing for their Airbus. Boeing's request for competitive financing is still pending in the Eximbank, which apparently has not yet caught the spirit of the Caribbean Basin Initiative, nor how such support also supports American industry. That sale was worth $127,000,000.

Combustion Engineering lost a Mexican deal worth $138,977,000 because of uncompetitive financing. The Japanese are now building the fossil power plant because they did not follow Eximbank's pricing leadership and offered 100 percent financing at 8.5 percent interest for 12 years. I wonder how the thousands of Americans who might otherwise have had a job from the sale would evaluate how important and effective a tool for U.S. trade policy the administration views the Eximbank, considering that the Bank sought to defend American commerce with an offer to support only 42.5 percent of the sale at 12 percent (plus a 2 percent up front fee)?

Dresser Industries decided to fill a $13 million order through its subsidiary in France because Eximbank was unable or unwilling to offer competitive financing. Rather than exporting a drilling rig, this aggressive policy of the Eximbank helped to export American jobs.

Dresser lost another sale of $14 million worth of motorgraders. Dresser was unable to obtain Eximbank support, and the commercial credit terms were nearly double the 9½ percent rate available to the Japanese exporters.

There are many more examples to cite, but the point is that the Bank, for all of its claims, has yet to begin to support aggressively U.S. exports. Further, the record of the Administration with regard to the Bank has been exactly the opposite of what your intentions, as indicated by Mr. Duberstein's letter, would appear to be. Without adequate program authority (which does not require a nickel of appropriation) Eximbank will not be able to do its job, and export related industries—which include our aerospace, electronics, machine-tool, and other key security-related industries—will suffer, we will lose more jobs, and America's share of world trade will continue to erode.

This is particularly distressing, considering that our export sector could be one of the most powerful vehicles for job creation in our economy. Between the years 1977 and 1980 jobs related to the export of manufactured products from the U.S. rose by 47 percent, for a total of 1.5 million new jobs. This figure accounted for nearly 30 percent of the total increase in jobs for the entire economy during that period of time. At the end of that period one out of every seven workers in America, engaged in manufacturing, produced goods for export. In 1977 that ratio was one out of every ten.

In my own state of Pennsylvania 59 percent of the net growth in private sector jobs was export-related. That figure was 85 percent for New York and 33 percent for Connecticut, all of which are states that have otherwise been suffering economically.

I renew my plea to you to reconsider your Administration's policies toward the Eximbank. I pledge my continued efforts to ensure that American exporters receive the help that they need against the cutthroat practices of our trade competitors.

These are the concerns that I and my colleagues hope to address by the introduction of the Export-Import Bank Restructuring Act. I have sought an awareness of the vital role that Eximbank must play, in defending U.S. exporters and American jobs, on the part of the nominees to the Bank's Board of Directors. Until I am convinced that these nominees are willing, and will be allowed, to pursue the Bank's statutory mandate to aggressively defend American exports and offer truly competitive financing, it will be difficult for me to support their confirmation by the Senate.

I do appreciate Mr. Duberstein's detailed response, even though I am dissappointed by its contents. As my earlier correspondence on this issue should have made clear I am firm in my intent that the issues associated with the Eximbank should be properly addressed. I plan to again raise these issues with the Administration during the course of comprehensive hearings that I am planning to hold this summer in the International Finance and Monetary Policy Subcommittee on the purpose and policies of the Export-Import Bank.

I look forward to your Administration's support on this issue so vital to our economic well-being.

Sincerely,

JOHN HEINZ.●

## THE FUTURE OF TELECOMMUNICATIONS IN AMERICA

● Mr. ABDNOR. Mr. President, during my lifetime I have witnessed the expansion of an industry which has transformed the way our Nation works and plays. The invention of the telephone has dramatically altered the lives of Americans. Even more than the automobile, the telephone has brought people together, virtually eliminating geographic distances and the time it takes for a two-way communication.

This past century has seen the telephone change from an extravagant novelty for the affluent to a commonplace convenience indeed, a necessity, for almost all households in the United States. As the telephone industry emerged and its potential was recognized, the Congress prevailed upon the "American way" and deemed it in the best interest of the country to provide universal basic service at reasonable costs to all who wish to subscribe. To achieve that goal the Congress also saw fit to provide incentives for getting phone service into rural and remote areas. Through the Rural Telephone Administration's action, major portions of the country were included in the national telephone network.

As illustrious as the telecommunications industry's history is, it is apparent that we have only scratched the surface of what lies ahead in the field of providing information from one source to another. The advent of high technology has and will alter not only the method of communication but also the form. Traditional obstacles to obtaining and transmitting information will be removed. A new wave of productivity growth will result, giving a continued boost to our economy and to the standard of living of all Americans.

The Congress continues to deliberate the issues of a changing telecommunications industry. Although I was not directly involved with the legislative efforts of the Commerce Committee, I supported their efforts which resulted in the overwhelming approval of S. 898 in the Senate. However, I am deeply concerned with how Americans are going to be affected by the climate facing the telecommunications industry. I am concerned with the legislative efforts currently underway in the House of Representatives. These efforts challenge the deliberated work of the Department of Justice to divest A.T. & T. of its local phone service companies. It is prudent to question whether the H.R. 5158 approach indeed serves the best interest of the American public and if it truly protects the consumer who relies on the availability of this vital service. I question the wisdom of these efforts.

America has the best telephone communications system in the world. Our technology is being exported in all directions. When it is not purchased, it is imitated. We must take steps to insure that our network remains top-notch. We must give the industry the flexibility it needs to usher in a new era of communication and information transfer. Hundreds of thousands of capable employees have their future jeopardized by the yoke of government intervention in the market. Millions of telephone users stand to forfeit tremendous gains in services made available.

This is not the time to impede the innovative. This is not the time to implement restraints on this highly productive and beneficial industry. Perhaps we all should remember the old yet timeless advice, "if it works, don't fix it."●

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## AMERICAN SERVICE INDUSTRIES AND THE ECONOMY

● Mr. PRESSLER. Mr. President, as a cosponsor of S. 1233, the Service Industries Development Act, I was very pleased to see an article entitled "The Service Sector" in a recent issue of the Congressional Research Service Review. I shall ask that this article be included in the RECORD immediately after my remarks.

As chairman of the Senate Business, Trade and Tourism Subcommittee, I strongly support the growth and development of services industries. These businesses are diverse in nature and size, many of them small businesses run by families in rural communities. Tourism, communications, transportation, banking, insurance, and education are all included in this definition.

This same diversity may be the cause for the lack of public recognition paid to an increasingly important part of our national economy and international balance of trade. As the article notes, defining "services sector" is difficult; hence, statistics which document its economic impact are also difficult to collect and use as the basis for public policy decisions. I believe that S. 1233 is a good first step to correct this deficiency. S. 1233 directs the Commerce Department to develop a Federal service industries policy for purposes of domestic development and international trade negotiations. The Senate recently passed S. 1233 and it is my sincere hope that the House will act quickly on this measure.

Two statistics which are available should be emphasized. First of all, services surpassed goods production for the first time in 1975 and has steadily increased its percentage of the gross national product since then. Obviously, this is a significant change in the American economy which Congress and the administration should seriously consider as economic and international trade policies are developed. Second, the article notes that employment in the services sector is less susceptible to economic fluctuations. During periods of recession, businesses in the service industries are better able to maintain employment levels and, in some cases, increase these levels. For instance, in 1980, the travel and tourism industry provided nearly one-third of all new jobs. As Congress looks for ways to bolster employment, this aspect of the services industries should be kept in mind.

The U.S. economy has much to gain by a strengthened services sector. Small businesses across the country benefit from Government policy which encourages services growth. I ask the administration and Congress to continue its efforts on this issue.

The article follows:

### THE SERVICE SECTOR

(By Julius W. Allen)

One of the great myths of the structure of the American economy today is that the productive output of America is primarily one of the outpouring of steel, automobiles, oil, wheat, and all the other goods that we as a Nation produce and market each year. Ignored or forgotten is the fact that over half of the employment and income of the Nation is directly attributable to services. Services include such personal service, as beauty and barber shops, lodging and eating places, entertainment, and repair services; such business services as banking, insurance, accounting, advertising, and legal services; such distributive services as transportation, communication and wholesale and retail trade; and such social services as education, health care, welfare, and Government.

Two segments of the service sector that often escape notice are the services in international commerce and in the so-called underground economy. Few think of services in connection with international trade, but in fact they are becoming a major component of our commerce with other nations. Services that enter significantly in international trade include travel and tourism, transportation of persons and goods, insurance, banking, and other financial services, film rentals, management fees, and copyright and patent royalties. In some statistical accounts and analyses, services also include foreign investments.

The underground economy consists primarily of various services done for barter or without the reporting of income, frequently to evade payment of income taxes, as well as such illegal activities as gambling, prostitution, and trafficking in drugs. Several experts estimate the size of the underground economy at over $100 billion annually.[1]

#### THE CONCEPT OF SERVICES

Although the distinction between goods and services might at first glance appear obvious, there are definition and statistical problems that must be recognized. Some experts, for example, consider transportation, communications, and utilities as parts of the service sector, while others consider them part of the goods sector. Further, most firms in goods producing industries have some employees engaged primarily in providing services; whereas, although to a

[1] See: Barry Molesfsky. America's Underground Economy. Report no. 81-181 E. 1981, 42p.

lesser extent, service industries also often provide goods.

The automobile manufacturing industry hires salesmen, designers, advertising and accounting personnel, for example. Restaurants supply food as well as service. Most repair shops will provide both goods and services.

In view of the wide range of activities that are included in the service sector, however defined, generalized conclusions must be drawn with caution. Services include some with exceptionally high productivity and others with very low productivity or productivity which is difficult to measure. Some services, especially business services, are growing fast while others are shrinking or disappearing. A majority of service occupations are relatively poorly paid, but others are among the highest paid in the Nation.

Many individuals have a choice of whether to purchase a good or a service to meet the same, or similar, needs. One can purchase an automobile or use the services of transportation companies, from airlines to taxies. The recreation provided by a purchased television set may be equivalent to that provided by seats in a theater or sports arena. Although increasing incomes generally lead to increases in the purchase of services, in many instances the trend is in the opposite direction.

Domestic service has greatly shrunk, largely as a result of the availability of reasonably priced washing machines, refrigerators and vacuum cleaners. Safety and electric razors have made shaves by a barber a rarity. The high cost of many repair services has spawned a host of "do-it-yourself" products.

One important distinction between goods and services is worth noting in particular. That is the fact that services cannot be stockpiled for later consumption as goods can. As Stanley Hollander recently observed:

"The one thing that tends to be true of all services is their perishability. An unoccupied seat during off-peak hours in an airliner, a barber shop, a college classroom, or a service restaurant cannot be stored to help handle a subsequent peak demand. Consequently, service industry managers often must exert considerable effort to modify supply or demand patterns." [2]

Another characteristic of the service sector worth noting is that employment in the service sector is, in general, much less sensitive to business fluctuations than employment in the goods sector, notably in durable goods.[3] The current recession, for example, finds severe levels of unemployment in automobiles, steel, and construction, but relatively small increases of unemployment in almost all services.

GROWTH OF THE SERVICE SECTOR

Regardless of definition, services have clearly been growing as a factor in the American economy, as the two accompanying charts demonstrate. Chart 1 shows the shift in percentage of civilian employment in the United States among agriculture, industry (mining, construction, manufacturing, transportation, communications, and utilities), and services (wholesale and retail trade, finance, insurance, real estate, other services, and public administration) from 1870 to 1980. In 1870, agriculture was responsible for nearly half of all total employment; by 1980 its share had dwindled to 3 percent. During the same period services grew from 26 percent of all civilian employment in 1870, to 61 percent in 1980.

Chart 2 shows the trend in the contributions of the three components, services, goods, and structures to the gross national product, as measured by the U.S. Department of Commerce, from 1930 to 1980. Using the categorizations of the Department of Commerce, it can be seen that services surpassed goods as a contributor to the GNP in 1975 and have slowly been increasing the gap since that time.

There are many reasons for the growth of employment and output in the service sector. Higher incomes make possible a larger proportion of consumer expenditures on goods and services beyond the basic needs of food, clothing and shelter. Much of this income is spent on such services as medical care, travel, recreation, and education. The technological revolution in electronics and computers has given rise to a wealth of business services that did not exist a few decades ago. The growing complexity of business has also expanded the need for specialized services in such fields as accounting, advertising, marketing, and personnel management.

Increases in crime have led to greater outlays for public police protection as well as private security guards. Medical care, thanks in considerable measure to such government programs as medicare and medicaid, has been expanded to cover broader segments of the population and has increased the extent of medical treatment for many more.

There has been a broad increase in public employment, due in part to growing social insurance and welfare programs, increasing levels of educational achievement, and more emphasis on research and development. The largest increases in public expenditures have occurred at the State and local levels.

Further, at the same time that the demand for the various services just mentioned was rising, there was also a surge in employment of women. And women have tended to concentrate in the service sector. This major influx of women into the labor force was a result of the pressures for more family income as a result of inflation, and of more leisure time.

There are considerable differences of opinion as to the desirability of this shift to services over the years. Some view it as an entirely legitimate expression of changes in consumer preferences and that the acceptance of this change does not require either encouragement or concern.

Others believe that the shift is of such a beneficial nature that a shift in production towards greater reliance on services should be actively encouraged.

Still others see the trend towards more services in a negative way since the evidence suggests to them that services on the average have lower rates of productivity increase than goods industries and, in part as a corollary, they tend to rise in prices more than goods.

In any case, as stated earlier in this article, because the service sector includes such a vast spectrum of activities, conclusions about the sector as a whole may be viewed with some skepticism. Trends of some services will certainly not be applicable to others. It is also true that many, but by no means all, service sector components present serious measurement problems, notably in the areas of units of output and productivity.

PRODUCTIVITY IN THE SERVICE SECTOR

Measurement of productivity has been difficult in many industries, but particularly so in such service industries as education and medicine and some functions of Government. On the other hand in such businesses as telephone communications, measurement of productivity has been as successful as in any part of the goods industries.

Recognizing the limitations of the data, those who have studied productivity trends have found that, where it has been measured, productivity growth in services has tended in recent decades to be somewhat lower than in goods-producing industries, but that the differential has been shrinking. These students of productivity find almost universally that the shift from goods to services has had a very small if not negligible impact on the decline in productivity witnessed in the United States in the past decade.[4]

Part of the reason for lower productivity in the services has been the large movement of inexperienced women and young people into the labor market in the past two decades, the majority of whom went into service industries. As these persons become more experienced and as the number of new entrants into the labor force declines, there is every reason to expect a rise in productivity.

As in its relationship to productivity, the impact of services on inflation is somewhat uncertain, due in part to the broad scope of the service sector. Some services, conspicuously medical services, have increased in price dramatically, but others, such as some computer and communication services have shown little increase or even decreases in their charges. In the aggregate as measured by the consumer price index, retail prices of all commodities rose by 106 percent in the decade from 1970 to 1980 while those of services rose by 122 percent.

Energy costs, however, increased much more, by 237 percent in the same decade. There is reason to believe that the rate of price increase in services is likely to slacken, in part for reasons similar to the expectations that productivity in services will increase. These include new management methods, increased size of operations in many service firms making possible greater economies of scale, less government regulation, increasing availability of technology appropriate to a broad range of service industries, and, where goods are substitutable for services, the ability of consumers to shift to goods if prices of services become excessive.

There is a substantial school of thought holding that U.S. industrial policy should be geared much more toward the support of those parts of the service sector where growth is most promising, rather than on attempting to shore up those goods industries in which the United States is increasingly at a comparative economic disadvantage. The availability of a highly educated labor force, which is adept or can be trained to manipulate complex automated processes and computerized functions, can be expect-

[2] Hollander, Stanley G. Is There a Generic Demand for Services? MSU Business Topics, v. 27, Spring 1979, p. 45.

[3] See: Kevin Winch. Recession in the United States: Economic Effects and Policy Implications. Report no. 80-134 E. July 30, 1980, pp. 113-120.

[4] See in particular: Edward F. Denison. Accounting for Slower Economic Growth: the United States in the 1970s. Washington, Brookings Institution, 1979; and Victor R. Fuchs. The Service Industries and U.S. Economic Growth Since World War II. New York, National Bureau of Economic Research, 1977.

ed to lead to an expansion of output in industries with capital intensive automated processes based on emerging technologies.[5]

POLICY IMPLICATIONS

The growing size and importance of the service sector has important policy implications. A recognition of this importance is a prerequisite of intelligent planning in this area. Education, itself a major service industry, is essential for increasing the skills of individuals in an age of new computer and communications technology that has been variously called a post-industrial, information, or knowledge revolution. Research and development need to be encouraged. The demand for improved and more widespread medical services is not likely to abate, although more cost effective ways of providing medical care are sure to be sought.

Government, as just noted, has a major positive function in relation to the service sector. Its policymakers must also be cognizant of negative impacts which Government can have on the service sector in terms of overregulation, or excessively costly, or inefficient regulation, delays, red tape, and burdensome paperwork.

Some Government regulation has also served to protect certain industries from the prod of more open competition. Finally, the Government can do a great deal to improve its own productivity. Although with the use of more capital equipment and new materials and methods, Government at all levels has substantially raised its productivity, it still has tended to lag behind private enterprise. This lag can be shortened.

Policymakers concerned with the Nation's lagging rate of productivity growth might well note (1) that in the long run, productivity growth depends primarily on the scientific, technological, and managerial advances that result from skills derived from improving educational resources; and, (2) that in the shorter run, the service sector, especially business services, may well be in the forefront of productivity gains for our country.

In a more general sense, the Federal Government's monetary, fiscal, foreign trade, and regulatory policies of course directly affect the Nation's levels of employment and output. As we have seen, this employment and output are increasingly attributable to the service sector.

It is the service industries, notably in the computer and related business services, that are likely to be responsible for the major thrust of economic growth in the decades ahead. A sound public policy will need to recognize the magnitude and diversity of the service sector, if the sector which has become the dominant part of our economy, even though it remains less tangible and visible than the goods sector.

The service sector is a giant coming out of hiding.

[5] See, for example: Drucker, Peter F. The Next American Work Force: Demographics and U.S. Economic Policy. Economic Development Commentary, v. 5, Oct. 1981. p. 3-10.

## "FEEDING AT THE PUBLIC TROUGH"

● Mr. ARMSTRONG. Mr. President, I commend to the attention of my colleagues the following paper which was presented recently at the American Association of State Colleges and Universities by Dr. James L. Chapman. Dr. Chapman is president of West Liberty State College. He is a man of great insight and wisdom and his observations regarding the long range interest of higher education, in general and the unique contributions of independent colleges and universities are well worth careful study and consideration.

I ask that it be printed in the RECORD.

The article follows:

FEEDING AT THE PUBLIC TROUGH—THE AUTONOMY THAT INDEPENDENT COLLEGES ESPOUSE IS NEGATED WHEN MUCH OF THEIR SUBSISTENCE COMES FROM THE GOVERNMENT

The long-range interest of higher education, and even more the public interest, demands that the contribution of the independent colleges and universities to the development and progress of our country be recognized.

The independent system has been of significant importance in the history of higher education in America, particularly as a source of innovation. It has led the way in experimentation and curriculum development in undergraduate education. The initial impetus toward graduate education and research stemmed from independent colleges and universities. Without them, our nation would not have the diversity necessary to maintain the pluralism that contributes to a varied and healthy climate in education.

However, maintaining this traditional concept of higher education in the face of mounting financial and enrollment problems will require solutions that are not based on state or federal public support. Although ultimately manifest in the economic arena, the problems facing independent higher education today come not from competition by the public sector but from the independents' own lack of a distinctive purpose and a well-defined justification for their existence.

A close look at the national scene will reveal that the great expansion of public higher education in the past two decades has been mainly in those areas where private colleges were either reluctant or ill prepared to offer services. This is especially true in the case of the two-year programs and vocational training offered at the postsecondary level by community colleges. The purpose of both state and federal policy in this regard has been to expand the opportunities for more Americans, young and old, to participate in postsecondary education.

This has involved provision for institutions within commuting distance for students who cannot afford to live away from home, as well as opportunities for students who do not immediately qualify for admission to many four-year colleges. The community college has also provided quality education and training for those who cannot or do not choose to attend independent institutions.

Therefore, quality education and innovation of delivery systems are no longer limited to the independent sector. If this is the case, then what precisely is the purpose of independent higher education? This may be the key to the problems facing such institutions, as well as the focus for future planning and development.

A major strength of independent colleges in American higher education is based upon the belief that they contribute to the pluralism that makes for a healthy climate in education. Given their independence from government control, such colleges are free to appeal to a particular constituency in an individual and unique manner. Whether they emphasize religious values, provide special programs, or serve a particular race or sex, they offer to their constituencies educational opportunities that public colleges do not provide. They appeal to a special clientele, and many are or have been affiliated with religious organizations. Clearly, to perform their unique functions they must be kept independent of the public sector. Their independence is a necessary condition for the preservation of their birthright, and erosion of that independence would seriously threaten their unique functions.

How is it then that the independent colleges expect to receive direct government assistance and not endanger their cherished birthright? The history of government subsidy is that it is not given without strings attached, and, indeed, it is doubtful that it ever should be. This is no mere bogy of government control. It is a real dilemma that must be faced.

The dilemma is simply this: If the independent colleges are experiencing financial difficulties due to decreasing enrollments, then it well may be they no longer appeal to the particular constituencies for whom they were originally founded. If this is the case, then the very uniqueness that justifies their existence turns out to be unworthy of preservation through either private or public means. Many of out independent colleges should undertake critical self-study to determine if this is not, in fact, their situation.

On the other hand, if there are independent colleges that have not become superfluous anachronisms in our changing society, and they are still performing a desired educational function, then they should very much fear the loss of their independence as they become more nearly semipublic institutions. People in the independent sector, however, state they have few fears in this area since they feel it is a "straw man" argument perpetuated by people in the public sector.

I agree that independent institutions of higher education serve a public purpose. This is a mission, however, that such institutions have chosen for themselves, and is not one that has been forced upon them by state or federal legislatures. The argument is often given by people in the independent sector that the public demands that they perform certain educational functions. This appears to be nothing more than "old whine in new bottles."

There is a significant legal difference between the establishment and support of public and independent institutions of higher education in our country.

Public colleges and universities are established either by means of specific institutions' being called for as constitutional bodies or as a creation of the legislature under a given state code. The end result is that public colleges and universities are legal creations and possessions of particular state government and their missions and operations are controlled by representatives of the public. Most of the funds in support of such institutions are allocated to them by a state legislature as a result of their being a legal entity of the state government.

The parallel situation in the private sector is that independent colleges and universities are established by a body external to the state governance structure. They are chartered as nonprofit, nonstock corporations to provide certain educational services by an appropriate state agency or official, which

gives them legal consent and permission to operate. The possession as well as the mission and control of independent institutions resides with an independent governing body of private citizens.

Irrespective of how the argument is stated or attempts made to disguise it, the end result is that the independent sector wants to feed at the public trough for financial support. It is stated, however, there is a vast difference between public accountability, as a result of public financing, and public control. The receipt of some public funds by independent colleges and universities does not contaminate their independent governance or institutional autonomy. In support of this point, a president of an Ivy League university stated, "We do not want the entire overcoat of public financial support, only the buttons for the coat."

The answer to such an analogy is a simple one. A person who is freezing to death, whether gradually or suddenly, does not desire only buttons, but as much clothing as possible to prevent death from occurring.

In the report "Public Policy in Private Education," edited by David W. Breneman and Chester E. Finn, Jr., The Brookings Institution, Washington, D.C., 1978, it is estimated that "public implicit and explicit support of private higher education in 1973-74 was worth at least $3.4-billion a year. This is equivalent to 45 per cent of all the educational general operating revenues for private colleges and universities in 1973-74." It is apparent that we are no longer talking about some support, but a significant amount of public money going to the private sector. The recent trend is in the direction of greater government subsidy of independent higher education.

Let's return to the coat analogy for a moment. It seems to some observers that people in independent higher education have abandoned the request for buttons and now "buttonhole" state and federal legislators, demanding that a portion of the public funds appropriated to higher education be placed at their disposal.

People in the independent sector of higher education make a legitimate point, since there are those who want colleges with a tradition of serving a particular constituency. They add that one primary reason for interest in independent higher education is that public higher education could not meet the demand without expansion or radical change.

While such a claim for independent higher education is a valid one if we are to maintain a pluralistic system of higher education in our country, unfortunately the homogenization of higher education continues to the extent that there appears to be little difference between the curricular offerings and campus atmosphere of public and private institutions. The very diversity and autonomy that independent colleges espouse as their points of strength are negated when they obtain their subsistence from the public trough. When this occurs, it appears only logical that the outcome of education at the two sectors will be the same. All of higher education will be the lesser for not having maintained the pluralism that has been a point of strength for American higher education.●

## NEW YORK TIMES REJECTS B-1B AS TOO COSTLY AND MILITARY UNNECESSARY; URGES STEALTH ACCELERATION

● Mr. LEVIN. Mr. President, last week, I inserted into the RECORD a statement about the great differences between the administration's advertised price tag of $20.5 billion in fiscal 1981 dollars for the B-1B bomber program and more independent Pentagon estimates that this unneeded aircraft could cost a great deal more.

These estimates show that the true cost of the B-1B program should be between $22.5 billion and $26.7 billion in fiscal 1981 dollars. These much higher costs are further demonstration that the B-1B should be canceled in favor of the much more capable Stealth bomber.

The New York Times of June 22, 1982, contains a persuasive editorial presenting this position, Mr. President, and I want to take this opportunity to draw the attention of the Senate to it.

I ask that the editorial be placed in the RECORD at this point:

The editorial follows:

[From the New York Times, June 22, 1982]

SUBSTITUTING STEALTH FOR "STEALTH"

The oldest military game in Washington is pushing the cheap weapons system that proves expensive later—too late to save much by abandoning it. It's rarely admitted but budget "overruns" often stem from initial understatements. Something that looks, smells and sounds like an admission of such stealth has just been extracted from the Pentagon on the B-1 strategic bomber.

After President Reagan announced plans last October to build 100 modified B-1's Defense Secretary Weinberger said the cost would be $20.5 billion. But several members of Congress learned that this estimate, based on Air Force figures, had been challenged as too low by an independent study in the Secretary's own office of Program Analysis and Evaluation.

Yet Mr. Weinberger refuse to let Congress see the study. Only after controversy and subpoena threats was it turned over to the General Accounting Office, which has now briefed Congressional aides.

The study estimated the cost of 100 B-1 bombers at $26.7 billion, 30 percent more than the figure given to Congress. But Mr. Weinberger and his deputy, Frank Carlucci, insisted the bomber fleet could be built for $20.5 billion. A Carlucci memorandum proposed to "save" some $4 billion by short cuts that the study team described as risky, like reducing flight tests from 1,300 to 1,000 hours. An optimistic $800 million was to be saved by contracting for several years out. Some projected modifications were simply not counted; other costs were shifted to different budget lines.

All that is only half the story. These estimates were in fiscal 1981 dollars. At today's prices, the cost in constant dollars is closer to $30 billion and by 1988, adding inflation, it figures to be about $40 billion. And the first squadron of 15 B-1s will not be operational until September, 1986 at best.

Meanwhile, the next generation of strategic bomber, the radar-evading Stealth plane, is progressing faster than previously disclosed. Officials of Northrop, the aircraft's builder, have told Congressmen that a speedup in appropriations would let the Stealth go into operation well before the 1991 target date set by the Air Force. Some predictions see it as early as 1987.

The Air Force contends that the Stealth is untried and may be delayed by foreseen difficulties. But this belt-and-suspenders approach to defense planning, building two new bombers to be secure about having one, can hardly be justified when the cost is so high and money so scarce.

The aging B-52, if necessary, can fill the gap, whether it is one year or five. The late-model B-52H may be able to penetrate Soviet air defenses in most areas until the end of the decade. The older B-52G, now to be equipped with 3,000 cruise missiles, will be effective in a standoff role unitl the end of the century at least. Calculations by Professor William Kaufmann of M.I.T. show that eliminating the B-1 would decrease by only 4 to 8 percent the number of warheads America could deliver on Soviet targets in a retaliatory strike.

What economy, sense and security require is less stealth in defending the costly B-1 and more speed in producing the Stealth bomber.●

## ISRAELI ACTION IN LEBANON

● Mr. LEVIN. Mr. President, I recently saw a column by Conor Cruise O'Brien which appeared in the Boston Globe of June 22, 1982. Mr. O'Brien, former editor of the London Observer and for 5 years Ireland's representative to the Special Political Committee of the United Nations, writes with both passion and perceptiveness about the recent Israeli action in Lebanon. He begins by emphasizing a very simple fact of life in the Middle East. This simple fact of life is one we often tend to ignore, perhaps because if we focused on it the depression which results might push us over some psychic ledge—but it is a fact which is at the very root of the recent tragic events in Lebanon and ought to be at the very core of American policy in the region. That simple fact is that Israel's neighbors are her enemies; and Israel's enemies are not content to defeat her, their interest—their avowed interest—is to destroy her.

Wars are, by their very nature, not humane events. But this war in the Middle East—a war which has been raging since Israel's birth in 1948—goes beyond the normal bounds of inhumanity. Other wars are fought for victory; this war is fought for annihilation. And anyone who seeks to understand Israeli action and Middle East politics has to keep that simple stark fact firmly before them as they try to chart a path through the minefields which literally and figuratively dot the landscape of the Middle East.

Mr. President, I commend Mr. O'Brien's analysis to my colleagues and ask that it appear in the RECORD at this point.

The article follows:

[From the Boston Globe, June 22, 1982]

THE ISRAELIS MUST FIGHT—THE ALTERNATIVE IS THE PEACE OF DEATH

(By Conor Cruise O'Brien)

Mr. Begin made the point that Lebanon is nearer to Israel than the Falkland Islands are to Britain. Another point is that the stakes, in the two conflicts, are of a different order. In the Falkland Islands, what is at stake, on both sides, is national pride. In the Mideast what is at stake, on Israel's side, is survival. If Israel loses, just once, it is gone.

The fearsome efficiency of the Israeli defense forces makes people forget how heavy the odds are, in some vital ways, against the survival of Israel. It is alone, and heavily and increasingly outnumbered, in a bitterly hostile environment.

But in these conditions, you may say, Israel should seek peace, not war. So it should; and so it does. You could have fooled me, I can hear some of you say, with images of recent events before your eyes. It remains true that Israel wants peace, more consciously and needfully than any other nation does. But Israel's neighbors have made it plain to it, from the moment of its birth, that if it wants peace, it has to fight to get it. The only peace it can get, under any other terms, is the peace of death.

Tyre was one of the first places reported fallen. It was the southernmost stronghold of the Palestinian Liberation Army. I was there last September, and I had a conversation there which I shall never forget. I have written about it before; I write about it again now because recent events make it peculiarly apposite.

The man I talked with was a captain in that army. "It's not true," said the captain, "that we want to throw the Jews into the sea." He went on to explain that he had nothing against Jews in Palestine; the sort of Jews that were there in the nineteenth century, before Zionism: quiet, pious Jews, and very few of them. The other Jews, which was most of them, would have to go, but they could go in stages. They could begin by getting out of the West Bank, Gaza and East Jerusalem. After that, they could get out altogether.

That was what the captain meant by not throwing the Jews into the sea.

I find it hard to convey the impact which the captain's words made on me. It wasn't that I hadn't often heard from Palestinians before. I represented Ireland for five years, on the special Political Committee of the United Nations. In those years that was the "Palestine" Committee because "the question of the Palestine refugees" was permanently on its agenda.

So I listened to Palestinians (forming part of various Arab delegations) over many, many hours, both in the committee and in the General Assembly.

I listened to Ahmed Shukairy among others, Yasser Arafat's predecessor, the first chairman of the Palestine Liberation Organization. Shukairy always began his annual address to the plenary session of the Assembly with the words: "I am honored to address the United Nations: all (blank) of them." The number he would give was always "X minus one. "X" being the actual membership of the United Nations on the date in question, and Israel being the minus one.

The United Nations is a theatrical sort of place and Shukairy was a theatrical sort of chap. It was only too easy to fail to take him altogether seriously. With the captain, it was different. There was nothing theatrical about him, and nothing fanatical either. He wasn't talking about Palestine, at a distance of thousands of miles. He was an armed man, in command of other armed men, a few miles from the border of a state which he and his friends were bent on destroying.

And it was only too clear both that he meant every word he said, and that it was generally received doctrine among the people for whom he spoke. Seven or eight of his comrades were with us, in that barrack-room in Tyre, stolidly sipping mint tea.

Everything that the captain said I had heard before, hundreds of times. But it was only when he said these things, in that context, and in that company that their reality came home to me. It was not just what was said that was important; it was the feel of it. The feel of it was simply death to Israel: the recovery of the West Bank and Gaza being a step in the direction of that death.

That is not, of course, how Yasser Arafat has represented matters in conversations with Europeans, Americans and Japanese. But Mr. Arafat is not in control of the PLO even now, and he would not be likely to be in control of any PLO state for very long, if he really means his private and semiprivate intimations of peace with Israel.

That captain of mine is a moderate, after all, as Palestinian exiles go. He is a member of—and spokesman for, in Tyre, until recently—Mr. Arafat's own Fatah, that part of the PLO with which Israel is advised, by so many well-wishers, to reach a compromise. That is a compromise which Israel can move towards only by beginning to die.

The Times of London recently compared the Falklands and the Mideast. Britain's cause is just, the paper suggested, because it is defending the right to self-determination, in the Falklands; Israel's cause is unjust, because it is denying the right of self-determination on the West Bank. There are some defects in that comparison. Self-determination on the Falklands does not threaten the existence of Argentina.

Neither Argentina nor Britain challenges the right of the other to exist. But almost the whole Arab world—including the Palestinians—challenges Israel's right to exist. As long as these conditions prevail, self-determination on the West Bank is seen as increasing the threat to Israel's existence.

When all of Israel's neighbors follow Egypt's example, in accepting Israel's right to existence, and when none of these states any longer harbors armed terrorists pledged to Israel's destruction, then the idea of a Palestinian state will begin to become compatible with Israel's right to existence. It may be that recent events will have the effect of bringing Israel and its neighbors nearer to that point.

Regular readers may notice an unaccustomed element of emotion in the present column. It happens that the denial of Israel's right to exist came fairly close to the writer recently, through the denial of a particular Israeli's right to exist. I was getting ready to leave my home in Dublin, on Friday, June 4, for luncheon engagement in London when I learned from the radio that my journey was no longer necessary. The man I was going to meet, Ambassador Shlomo Argov, had been gunned down in Park Lane.

## THE HINCKLEY VERDICT—APPALLING

● Mr. HELMS. Mr. President, like most Americans, I found the Hinckley verdict appalling. It offends the most elementary sense of justice. Clearly, it is indicative of the chaotic state which exists in the administration of criminal justice in the United States today.

Everyone accused of a crime has a right to a fair trial. But the public has a right to be free from the violence of evil men. Protecting the public from such violence is the first duty of any government that claims to be just. We have failed in this regard not only in the Hinckley case but in the countless cases of criminals who are not caught, not prosecuted, not convicted, or not adequately punished for their acts. We must take concrete steps to eliminate the many loopholes in our law through which the guilty now parade.

Mr. President, the modern social engineers who populate the fields of psychiatry and psychology, sociology and the law, seem to have trouble admitting the existence of evil and its role in human affairs. In this they make a critical mistake which is contrary to all the promptings of the human heart and thousands of years of human history. No matter what advances are made in the practice of psychiatry and related fields, there is no escaping the fact that human beings are tempted to do, and in fact commit, evil acts. Evil is not simply insanity or mental illness—although it is certainly involved in both.

In the overwhelming majority of cases, crime results from the free choice of an individual to commit an evil act. The individual is therefore responsible for his conduct, and society has just cause for punishing him. Indeed we do the criminal himself a disservice when we tell him through legally sanctioned psychiatric hocus-pocus that he is not responsible for the harm he had done to others. He is responsible, and the law should make that known to him so that he may realize rehabilitation is within his own control.

I am committed to making all necessary changes in Federal criminal law in order to prevent future miscarriages of justice similar to that in the Hinckley case. I am confident that my colleagues in the Senate will do likewise in light of the present tragedy.

Mr. President, George F. Will has written a perceptive column on this matter, and I commend it to the attention of my colleagues as well as the public. Therefore, Mr. President, I ask that "Insanity . . ." by Mr. Will, published in the June 23 edition of the Washington Post, be printed in the RECORD.

The article follows:

[From the Washington Post, Wednesday, June 23, 1982]

INSANITY . . .

(By George F. Will)

The Hinckley verdict illustrates three perversities: the most morally indefensible

crimes are becoming the most legally defendable. The idea of the individual is being obliterated in order to maximize the rights of the individual. And the quest for the chimera of perfect justice is subordinating the social good, including the rule of law, to the quicksilver axioms of a "science" that is long on pretenses and short on testable assertions.

Seated atop a ramshackle scaffolding of superstitions, merrily minting nouns that denote nothing, many psychiatrists are today condescending to the American people, chiding them for not comprehending the intellectual marvelousness of the Hinckley verdict. But the verdict will serve the social good only if it generates disgust with the incompatible marriage of psychiatry and law. To that end, Americans should read "The Killing of Bonnie Garland," Willard Gaylin's mediation on another trial featuring an insanity defense.

Gaylin, a practicing psychiatrist, argues that the premises and purposes of law and psychiatry are in tension. The premise of the law is that the self is autonomous. The premise of phsychiatry is that the self is a cauldron of impulses that determine behavior. The purposes of the law include protecting the social order and expressing its moral sentiments. The purpose of psychology is to explain an individual's behavior. An explanation may facilitate a "cure," but any explanation can be made to seem exculpatory, by diluting to the point of disappearance the idea of responsibility.

The insanity defense is many centuries old, and is indispensable to justice. What is incompatible with justice is the proliferation of categories and gradations of diminished capacity. The old, workable questions were: did the accused know the nature of his act (that he was, for example, shooting a person, not a poltergeist) and did he know it was wrong? Those questions, which do invite psychiatrists' baroque speculations, lead to this conclusion; Hinckley is a very strange, very guilty individual.

Law must assign responsibility. All of psychiatry's permutations of determinism locate "responsibility" somewhere other than with an autonomous "self"—whatever "self" can mean after enough acts and attributes are explained in terms of a yeasty subconscious.

The rule of law requires predictability and regularity treating like cases alike. But a judicial system that is deferential to psychiatric storytellers invites extreme individuation; no two cases can be alike because each defendant is determined by—or perhaps just is—his idiosyncratic jumble of impulses.

Did a killer act in a rage? If so, "he"—whatever pudding of neuroses that pronoun denotes—was sick, did he kill without passion? Even sicker. He shows no remorse? That clinches it: he is no more "guilty" of his behavior than he would be of appendicitis.

It is an old joke: a person kills his parents and demands mercy because he is an orphan. The joke is now the jurisprudence of "compassion." A crime becomes the ground for evading punishment for the crime. The more odious the crime—premeditated ("How inhuman!") or spontaneous ("An irresistible impulse!")—the more "reasonable doubt" there is about the person's sanity at the time.

Today Americans have an admirable but unconsummated desire to see the law express, through commensurate punishment, the doctrine of individual responsibility and the wickedness of political assassination. The law performs an expressive function. It teaches—ineluctably, for good or ill. The Hinckley verdict does not teach the idea of responsibility on which habits of restraint and moderation depend.

Now the absurdity will be compounded. The trial allowed—indeed, required—a jury to pick between numerous flatly incompatible theories spun by credentialed "experts," theories purporting to divine Hinckley's mental state on one day 15 months ago. Now the same wonderful psychiatric "profession" (the word is barely applicable) that produced a cacophony of loopiness in court, and cannot even define its perishable terms, will dazzle the world by predicting Hinckley's future behavior.

Is he dangerous? The trial verdict means the jury thought it had a reasonable doubt about Hinckley's sanity last year. Surely there can be as much uncertainty about his dangerousness. So let him loose—that is the logic of the process.

Some alarmed lawyers propose restricting psychiatric testimony to statements of "fact"—what psychiatrists see or hear. But psychiatrists often are hired to put an acre of embroidery around a pinhead of "fact." So they bandy diagnostic categories that are as evanescent as snowflakes, swapping bald assertions with the serenity of philistines operating far from serious intellectual criteria.

Psychiatric "defense" of the individual often obliterates the individual. The "compassionate" treatment of Hinckley causes him to disappear, leaving only a residue of traits that may or may not be symptoms of this or that "disturbance." Psychiatry as practiced by some of today's itinerant experts-for-hire is this century's alchemy. No, that is unfair to alchemists, who were confused but honest. Some of today's rent-a-psychiatry is charlatanism laced with cynicism.

Much psychiatry is ideology masquerading as medicine. In Aldous Huxley's nightmare of determinism, "Brave New World," when someone commits a crime, the response is: "I did not know he was ill." We are not yet in that mental world, but you can see its suburbs from here.●

## SPECIAL MASS FOR U.N.

● Mr. MOYNIHAN. Mr. President, on June 6, 1982, I had the honor of attending the special mass for the U.N. General Assembly's Second Special Session on Disarmament. At the mass, the Reverend Joseph L. Bernardin delivered a most compelling and moving homily on the relationship between papal teaching and the purpose and work of the disarmament conference. In specific, Reverend Bernardin discussed, with great insight, three themes that are of tremendous concern to us all: The challenge posed by the arms race, the necessity of having an international legal and political structure to play the role played by the state in a nation, and the need for an informed, active public opinion both nationally and internationally if the goal of disarmament is to be achieved. I ask that Reverend Bernardin's homily be printed at this point in the RECORD.

The homily follows:

HOMILY FOR THE SPECIAL MASS TO INVOKE GOD'S BLESSING ON THE U.N. GENERAL ASSEMBLY'S SECOND SPECIAL SESSION ON DISARMAMENT

(By Most Reverend Joseph L. Bernardin, D.D.)

Glory to the Father, the Son and the Holy Spirit: to God who is, who was, and who is to come!

Today is Trinity Sunday. Each year on this feast we celebrate and prayerfully reflect on the full revelation of God's life which has been made known to us through the life and ministry of His Son, Jesus Christ. It is Jesus who taught us to call God our Father and who sent the Holy Spirit into the world as the source of God's presence in history. The scripture readings just proclaimed remind us to be confident of God's continuing presence among us and they call us to shape our lives, personally and as nations, according to His design for the world:

This is why you must now know, and fix in your heart, that the Lord is God in the heavens above and on the earth below, and that there is no other. You must keep his statutes and commandments which I enjoin on you today, that you and your children after you may prosper, and that you may have long life on the land which the Lord, you God, is giving you forever. (Dt. 4:39-40)

In our age, marked as it is by amazing advances in knowledge and technology but also threatened by a nuclear war which could destroy civilization as we know it, it is imperative that men and women of all faiths, cultures and nations pursue the works of peace. It is God's will that we do so. It is for this reason that His Eminence, Cardinal Cooke, has invited us to gather here in prayer to mark the opening of the U.N. General Assembly's Second Special Session on Disarmament (SSOD II). In the context of this Eucharist dedicated to the success of the Special Session on Disarmament, I would like to highlight three themes of papal teaching which are directly related to its purpose and work.

The first is the frightening but awesome challenge that the arms race poses for the human community—particularly the nuclear arms race. Every Pope of the nuclear age, from Pius XII through John Paul II, has unequivocally condemned the arms race and urged a redirection of the resources required to support it to the positive task of human development. In spite of the enormous technical complexity of the problems involved in the arms race, the Popes have never doubted that our moral and religious tradition can offer crucial insights and much needed encouragement to those who yearn and work for a world without war. In our age, when the destructive capacity of weaponry has surpassed our ability to imagine the destruction a war would bring, the moral dimension of the nuclear question has taken on a new and profoundly important significance. Pope John Paul II described the situation we face in his moving address at Hiroshima:

"In the past, it was possible to destroy a village, a town, a region, even a country. Now it is the whole planet that has come under threat. This fact should finally compel everyone to face a basic moral consideration: From now on, it is only through a conscious choice and through a deliberate policy that humanity can survive." (Address at Hiroshima, 1981)

This solemn warning and call to develop a deliberate policy of peace was built upon

the foundation established by John Paul II's predecessors. Pope John XXIII's encyclical "Peace on Earth" (1963) was the best known and most often quoted document of his papacy. It made clear that nuclear weapons cannot be treated like other instruments of war because they constitute an entirely new political and moral problem for the human family. John XXIII placed the Catholic Church solidly behind all reasonable efforts to reduce the nuclear stockpiles equally and simultaneously, and to move toward the banning of all nuclear weapons.

Pope Paul VI chose to come directly to the United Nations to plead for peace. In a pontificate marked by hundreds of speeches and thousands of words, the single most remembered sentence was surely his cry at the General Assembly in 1965: "No more war, war never again!"

In different but complementary ways, therefore, John XXIII, Paul VI and John Paul II have called states and nations to reverse the arms race, to promote the works of peace rather than plan for the destruction of the universe. Their plea echoes for the people of our day Jesus' command that we teach the whole world the need to embrace the values He taught us. We must proclaim to all that our human relations must be marked by justice, love and mutual trust if we are to enjoy God's blessing and live in harmony and peace. "Teach them to carry out everything I have commanded you," Jesus told His disciples in today's gospel. "And know that I am with you always, until the end of the world." (Matt. 28:20)

The Popes, however, have not limited themselves merely to warnings against the dangers of war. A second theme that emerges strongly from papal teaching is the consistent call for a legal and political structure for the international community which can play the role the state plays within a nation and which can help cope with the multitude of problems which characterize the interdependence of nations of the world. Pius XII outlined the need for such an authority; John XXIII specified its role in "Peace on Earth."

"Today the universal common good poses problems of worldwide dimensions which cannot be adequately tackled or solved except by the efforts of public authority endowed with a wideness of powers, structure and means of the same proportions: that is, of public authority which is in a position to operate in an effective manner on a worldwide basis. The moral order itself, therefore, demands that such a form of public authority be established." (par. 137)

While not trying to offer a specific design for such an authority, the Popes have clearly sought to encourage the efforts of the United Nations in all its activities. The personal visits of Paul VI and John Paul II, the official messages the Holy See regularly sends to major U.N. Conferences and the presence of the Permanent Observer of the Holy See in New York testify to the particular confidence and hope which the Church places in the work of the United Nations. Pope Paul VI specified this theme in his address to the General Assembly in 1965:

"We might call our message a ratification, a solemn moral ratification of this lofty institution. This message comes from our historical experience. As an 'expert in humanity', we bring to this organization the suffrage of our recent predecessors, that of the entire Catholic episcopate and our own, convinced as we are that this organization represents the obligatory path of modern civilization and of world peace." (Address to the U.N., 1965)

We are all acutely aware, as the Popes have been, of the difficult and dangerous journey between the moral insight that an international authority is needed in the world, and the practical steps necessary to bring it into existence and to make it effective. It is particularly in the field of security policy and arms control or disarmament that severe resistance is encountered. Precisely because such resistance exists, the calling of the two Special Sessions on Disarmament must be regarded as vitally important initiatives by the United Nations. These sessions highlight a point too often denied or disregarded: namely, that the control of the arms race and the prevention of war are a concern of the entire community of states, not just the powerful.

This meeting of the Second Special Session on Disarmament, therefore, is both a sign of hope and a substantial challenge. It is hopeful because it symbolizes the universal concern and desire for peace. It is challenging because the delegates must review and debate all the complex and conflicting questions of disarmament.

Still a third theme of papal teaching will be relevant as the Second Session goes about its work. It is the need for an informed, active public opinion at the international and national levels if the goal of disarmament is ever to be realized. Pope John Paul II has been particularly emphatic about the indispensable role of public opinion as a force for peace in the world. In his 1982 World Day of Peace Message, the Holy Father made explicit the problem which you who are in government service know from experience: namely, that creative policy initiatives for peace require a visible public constituency. The Holy Father called upon all citizens to recognize their responsibility to support courageous initiatives aimed at promoting world peace and to criticize actions which are detrimental to this cause.

The Church at both the international and national levels is particularly well equipped to help a strong consitutency for peace. Here in the United States, the Catholic bishops are presently preparing a pastoral letter on the moral and religious dimensions of the search for peace. We will offer this letter, which will be completed in November, as a contribution toward the formation of the kind of public opinion which is needed if bold steps toward arms control, disarmament and peace are to be taken by our government and others.

In today's second reading, Paul counseled the Christians of Rome to cry out, "Abba!" (that is, Father). They could presume to do so, he said, because now that Christ had redeemed them, they were God's adopted children and heirs of His bountiful spiritual riches and blessings. The invitation to call God "Abba" continues to be extended to you and me and to all the people of our day. We can turn to God as our loving Father with the sure knowledge that, through the Holy Spirit, He will give us the wisdom, strength and courage needed to shape the world community according to His vision of peace—a peace which is rooted in justice, love, and mutual trust.

This morning, in the name of the Church, I call upon God our Father to bless your deliberations as you begin the Second Special Session on Disarmament. Be assured that the momentous issues you will be discussing will be remembered in our daily prayers and will be remembered in our effort to form a public opinion sensitive to the moral dimension of your important task.●

## SENATOR THURMOND ADDRESSES NORTH CAROLINA BAR ASSOCIATION

● Mr. HELMS. Mr. President, I have had a dozen or more calls this week from attorneys in North Carolina who were privileged to hear an address this past Saturday by the distinguished President pro tempore of the U.S. Senate, our able colleague STROM THURMOND.

Senator THURMOND on June 19 was the highlight of the North Carolina Bar Association's meeting at Myrtle Beach. In his remarks Senator THURMOND addressed a number of vital matters, and I believe the text of his address will be of great interest to all Senators and others who read the CONGRESSIONAL RECORD.

Needless to say, I am indebted to Senator THURMOND for his kind and generous comment about my able colleague from North Carolina (Mr. EAST) and me. I can assure him that it has been a privilege to serve in the Senate with him for nearly a decade.

Mr. President, I ask that the text of Senator THURMOND's address at Myrtle Beach be printed in the RECORD at the conclusion of my remarks.

The text follows:

### REMARKS BY SENATOR STROM THURMOND

Immediate Past President Wells, President Walker, President-Elect Baker, Mr. Head, Distinguished Guests, and Ladies, Judges and Fellow Lawyers:

It is a pleasure to be here today in my home State of South Carolina to address this 84th annual meeting of the North Carolina Bar Association. I hope you have all enjoyed our South Carolina hospitality these past few days.

I want to let you know that it is my privilege to serve in the U.S. Senator with two of the most able Senators in that body—Senator Jesse Helms and Senator John East. Senator Helms has proved himself on many occasions as not only a voice in the Senate for many Americans, but more importantly, willing to stand up for the interests of North Carolina.

Senator East, who serves with me on the Senate Committee on the Judiciary, has also proved himself to be an able lawyer, especially on constitutional issues and Federal/State relationships.

As a Member of the Senate for twenty-eight years, I am frequently characterized as a "conservative" and at odds with liberals in Congress. I am not sure that is always true, but I am reminded of what Will Rogers once said, "I can remember way back when a liberal was one who was generous with his own money.

Today I would like to talk briefly about three subjects that I believe should be of interest to all lawyers—the role of the lawyer in society, proposed reforms in our Federal criminal justice system, and pending legislation affecting our Nation's laws.

### ROLE OF LAWYERS IN OUR SOCIETY

As all of you are keenly aware, the legal profession has historically played a major role in this Nation of laws. Attorneys were among the Founding Fathers who framed the Declaration of Independence and the Constitution. Lawyers have a rich tradition

of service at all levels of Government, including interpreting our laws as members of the Federal judiciary.

As Chairman of the Senate Committee on the Judiciary, I have the opportunity to review the records and meet those members of the bar who are chosen by the President to serve on our Federal courts. For the most part, these are extremely competent and able attorneys with excellent credentials. They do a great service to our country by giving up, in many cases, a successful practice to join the Federal bench.

But the legal profession is not without criticism and skepticism among our citizens. Watergate, as much as I believe that should be put behind us, revealed activities by lawyers which in some cases transcended the legal canon of ethics, and in a few cases, the law itself.

Public opinion polls frequently list lawyers way down the line when people are asked the question "which are the most respected professions?" One reason, besides occasional scandals in the newspapers involving members of the legal profession, is the perception that not all segments of our society benefit equally from the services lawyers provide. In other words, the perception is that only the wealthy can afford the high legal fees lawyers charge.

That reminds me of the story of the lawyer who had to have some plumbing work done in his home. After the plumber had finished his work, he presented the lawyer with the bill.

"My goodness," exclaimed the lawyer, "you charge more per hour than I do."

"You know," replied the plumber, "that is what I used to think when I practiced law."

Perhaps legal fees are not the sole reason for many people to hold lawyers in less than high esteem but that is the principal reason. Some time back the American Bar Association published a report of a national survey by the Special Committee to Survey Legal Needs. Some of the findings are interesting. Of the group surveyed: 57 percent to 39 percent agreed that the rich are favored over everyone else by the legal profession; 62 percent to 30 percent agreed that fees charged by lawyers were more than the services are worth; and 56 percent to 38 percent disagreed that lawyers worked as hard for the poor as for the rich.

The study also showed that the profession was generally uninterested in doing anything about the "bad apples" in its ranks. The argument has always been that other lawyers are reluctant to discipline their fellow attorneys.

I believe that these charges are being met in a responsible manner by many State and local bar associations. The bar here in the State of South Carolina has pursued a vigorous program of hearing complaints against members of the bar and taking the the appropriate steps to act on them. Disbarments have risen sharply in the last few years and I think the impact of those proceedings and actions have not been lost on the public.

Another area of criticism of the legal profession has come from no less than the Chief Justice of the Supreme Court of the United States. Chief Justice Burger has stated on several occasions that in his opinion the competency of lawyers now in practice and coming out of the law schools is not up to the standards the American public deserves. I do not need to detail his views here because I know most of you are well aware of them.

Again, State and local bar associations have taken steps to respond to this criticism. Continuing legal education programs have sprouted up throughout the Nation. South Carolina now requires at least 12 hours of continuing legal education a year for members of the State Bar. Other States have adopted similar requirements in an effort to ensure a competent level of attorneys. These efforts are sure to improve the quality of the legal profession in America.

Lawyers are officers of the court, and in that capacity we must not forget our responsibility not only to our clients but also the legal system itself. Each of us swears to uphold the law and conduct ourselves according to the Canon of Professional Responsibility. We must rededicate ourselves to those commitments every day. I am confident that if that is done many of the perceptions held by the public about lawyers will be dispelled.

REFORMS IN CRIMINAL JUSTICE SYSTEM

One of my major efforts as Chairman of the Committee on the Judiciary in the Senate is to make reforms in our criminal justice system. Why is that a priority for me and many others in the United States Senate? Let me tell you why. Reports from the Department of Justice indicate that last year almost one-third of all households in the United States were victimized by crime. There was a crime committed every 2.4 seconds. Violent crimes have the most frightening report with one aggravated assault every 48 seconds, 1 robbery every 56 seconds, 1 forcible rape every 6 minutes, and 1 murder committed every 24 minutes.

Pollster George Gallup and others have found that people today favor stricter and harsher punishments to control the flourishing crime rate. Mr. Gallup suggests that these public feelings "coincide with a sharply rising fear of crime on the part of the American people."

A Newsweek magazine article some months ago reported a survey which the respondents were asked: "How much confidence do you have in the police to protect you from crime?" Forty-two percent of these responding said, "not very much." The question, "How much confidence do you have in the courts to sentence and convict criminals?" was also asked, and fifty-nine percent answered, "not very much." Persons responding to a Gallup poll listed lenient court systems, second only to economic problems, as the major cause of the growing crime rate.

Of course, State and local lawmakers must accept their responsibility to maintain law and order within their jurisdictions. They must take an active role in motivating the members of their communities to become involved in crime prevention. Strong community spirit has proved to be a major deterrent to crime in several areas of the nation.

Two weeks ago, I introduced in the Senate, along with 43 cosponsors, legislation entitled the "Violent Crime and Drug Enforcement Improvements Act of 1982." This bill is a comprehensive approach to this problem and is made up mostly of measures that have already been approved by the Senate Committee on the Judiciary or have been the subject of hearings in the Judiciary Committee. Several of these measures are pending on the Calendar of the Senate. The legislation has the support of the Reagan Administration and is cosponsored by Republicans and Democrats alike.

It is time to stop talking about the crime problem. It is time to address the issue with changes reflecting the best thinking in the criminal justice field. The package is directed primarily at violent crime and drug trafficking which, in many parts of the country, have increased to the point of being beyond the present control of law enforcement. Let me briefly describe some of the major provisions in the bill.

Title I of the bill contains provisions which amend the Bail Reform Act of 1966 to, among other things, (1) permit danger to the community to be considered in determining whether to release a defendant pending trial, or, if release is appropriate, in determining conditions for release; (2) tighten significantly the criteria for post-conviction release pending sentencing and appeal; (3) provide procedure for revocation of release and contempt of court prosecution for committing a crime while on release; (4) provide consecutive sentences for crimes committed on pretrial release; and (5) increase the penalties for bail jumping. It also includes a presumption that a particular individual is a danger to the community if he committed a serious drug trafficking offense or used a firearm in a violent crime.

There are safeguards to ensure that due process rights of individuals are protected. A hearing before a judicial officer is required. The defendant has a right to counsel, to present information and witnesses, to be given written findings or statement of conditions, and to testify in his own behalf.

Title II would require a presentence report to include a "victim impact statement" to advise the judge on this important factor in sentencing the defendant. It would make it a crime, punishable by imprisonment for 6 years or $25,000, or both, to hinder, harm, annoy, or injure any victim or witness who is involved in the criminal justice process. It also makes it a crime to retaliate against a witness or victim after the completion of the criminal justice process.

Title IV amends section 351 and 1751 of title 18, United States Code, to make it a Federal crime to kill, kidnap, or assault certain senior White House officials, a member of the cabinet and his next in command, and a Justice of the Supreme Court.

Title V makes fundamental changes in the sentencing system of current law. The major features include for the first time setting forth the purposes of sentencing and changing the sentencing system to a determinate system, with no parole and limited good time credits. A seven-member sentencing commission would be responsible, subject to review by Congress, for promulgating sentencing guidelines for the courts to use in determining an appropriate sentence. The court must explain the basis for sentences outside the guidelines. The government may appeal a sentence more lenient than the applicable guideline. So-called "safety net" provisions are included to provide, after service of a specified portion of the sentence, an opportunity for review and modification of a long sentence in unusual circumstances.

Title VII contains procedural changes in the law impacting on mentally ill persons in the Federal criminal justice system. One feature of this part of the title closes a loophole in current law by providing a Federal commitment procedure for a dangerous Federal defendant found not guilty by reason of insanity if no State will commit him on other grounds.

Another aspect of this title would replace the current Federal insanity defense with a narrower defense applicable only to those individuals who were so mentally ill that they could not form the mental state required for the crime.

In addition to these provisions, the legislation makes a number of changes in current title 18 provisions such as:

Permit emergency electronic surveillance in life endangering situations;

Strengthen federal juvenile justice provisions;

Extend kidnapping jurisdiction to protect federal officials listed in 18 U.S.C. 1114 if connected with performance of official duties;

Protect the immediate families of certain federal officials from acts of violence perpetrated to coerce action by or retaliate against such official;

Expand the offenses relating to destruction of interstate motor vehicles to include cargo carrying vehicles;

Make it a crime to solicit the commission of a federal crime of violence;

Expand the list of dangerous crimes applicable to felony-murder to include escape, murder, kidnapping, treason, espionage, and sabotage; and

Increase the penalties for distributing controlled substances in or on, or within 1,000 feet of, an elementary or secondary school.

It is my hope this package of tough, anticrime measures can be enacted this year. Behind the economy, crime is the number one social problem in America. Crime is essentially a State and local problem, but passage of this legislation at the Federal level can send a signal to State and local governments and encourage them to enact similar laws where appropriate.

In addition to this comprehensive anticrime package, legislation to reinstate capital punishment for certain serious and heinous crimes should be acted on by the Congress. I personally believe capital punishment can be a deterrent to violent crime. There are those who do not share that view, and I respect their opinion and beliefs on the death penalty.

The penalty of death is the only punishment, in my opinion, that even comes close to compensating for trampling on the sanctity of innocent life. As violent crimes grows, the public sentiment increases in favor of the death penalty as a deterrent to crime. Approximately two-thirds of the American people now favor the death penalty for persons convicted of murder.

There is now on the Senate Calendar a bill to impose the death penalty for certain Federal crimes, murder, treason and espionage. This measure should also be considered by the Senate this year.

The entire judicial process must be speeded up. At some point, a decision and judgment must become final. Continued appeals as a means of delaying punishment have clogged the entire court system. By designating a point at which all appeals must end, the judicial system will become more effective. Just recently, Chief Justice Burger in his Year-End Report on the Judiciary, expressed the need for changes in Federal court jurisdiction over collateral review of state court convictions. He said, "The administration of justice in this country is plagued and bogged down with a lack of reasonable finality of judgements in criminal cases." I have already introduced legislation in the Senate to respond to this problem and it is pending before the Senate Committee on the Judiciary.

The so-called exclusionary rule, under which highly relevant evidence is excluded from consideration in a criminal trial because it was obtained through an illegal search and seizure, should also be abolished or modified. It makes little sense to turn the criminal loose as a method of punishment of a police officer for failure to comply with the often technical requirements of the Fourth Amendment laws on search and seizure. We should punish the criminal and at the same time provide a civil and administrative remedy to deal effectively with the erring police officer.

VOTING RIGHTS LEGISLATION

Yesterday the Senate completed action on the Voting Rights extension legislation. Foremost in my mind during consideration of that measure was the need to assure all Americans that the right to register and to vote will continue to be protected against discrimination of any kind.

Throughout consideration of the Legislation I expressed concern over three important aspects of the bill. First, I sought assurance that the proposed changes in Section 2 of the Act would not result in court-ordered establishment of systems of proportional representation by race. Second, I sought the inclusion of a reasonable bailout provision so that jurisdictions subject to the preclearance requirements of Section 5 would have a genuine incentive to rid themselves of any lingering discrimination. Third, I sought a period of extension that is responsive to present conditions.

With respect to the proportional representation issue, I am hopeful that the legislative history will provide some protection against the establishment of electoral systems that will result in proportional representation by race.

OTHER PENDING LEGISLATION

In addition to consideration of Voting Rights legislation, the Congress faces the prospect of action on several of the socalled social issues—abortion, busing, and voluntary prayer in schools. Let my discuss each briefly.

There are two approaches being taken to reverse the 1973 decision of the Supreme Court in the case of *Roe* v. *Wade*, which permits abortion the first 3 months on demand and during the next 3 months when the life of the mother is in danger. One is to pass a bill defining "person" in the Constitution to include an unborn person. The other is to pursue a Constitutional amendment that would permit each State to pass legislation on the question of abortion so long as it were not less restrictive than the Federal law. The Committee has reported S. J. Res. 110, which adopts the latter approach.

With regard to limitations on court-ordered busing, there are again several bills before the Congress. In practice, being only slightly different, they have the objective of either limiting severely, or prohibiting altogether, the use of busing as a means to achieve racial integration. The objective is one that I support. This social experiment has not worked, and in fact, has become a hardship on the families and children of both black and whites. The failure of busing is not a partisan issue. Senators Johnston (D-La) and Biden (D-Del) and Senator Helms (R-N.C.) and many others are outspoken critics of forced busing as a means to achieve racial integration.

Quality education for all our children should be the goal of our government policy. The use of busing ignores that objective and places great emotional and financial strains on the families and communities where it is practiced. I hope the Congress will act favorably on this legislation during the present session.

Finally, in the area of social issues, the Committee may also act on legislation to allow voluntary prayer in schools. We must always recognize the Constitutional requirement to keep Church and State separate, where there is any hint of compulsory action by the Government. The Supreme Court has wrestled with this question only recently. Voluntary prayer in schools does not, in my opinion, violate the principle of separation of Church and State and should be permitted. I have introduced a constitutional amendment to restore voluntary prayer in the schools, which was endorsed by President Reagan last month. Hearings and Senate action may be expected this year.

In addition to these issues, reform of the immigration and refugee laws is a major priority for the Committee and the Senate this year. S. 2222, the Immigration Reform and Control Act, was approved by the Committee last month by a vote of 16 to 1, and will be considered shortly on the Senate floor.

The problems of immigration in general, and refugees coming to America in large numbers in particular have gone on too long without a coherent and clear response. The sudden arrival of more than 125,000 Cubans in April of 1980 only brought national attention to a problem that has plagued south Florida for several years—that of the influx of refugees from Haiti and other Caribbean basin countries which has overwhelmed local jurisdictions in south Florida.

The immigration laws of this Nation need to be changed to respond to the economic pressures in other countries that are pushing increased numbers of foreign nationals to our shores. But we cannot continue to allow refugees and foreign nationals to come to the United States solely for economic reasons. The law is clear—there must be a showing of a fear of persecution because of religious or political beliefs. We can and will do our share, but we cannot possibly take all those who wish to come.

Now, these are just a few of the major issues that the Congress should take action on this year. Adoption of a responsible budget will, of course, be a priority item over the next few weeks.

We in the Congress must act on the budget. Federal spending must be brought under control. President Reagan has made every effort to present a budget that is fair, that preserves the strength of our military, and will start us on the road to a balanced budget. This issue is so important to the future of our country that partisanship must be set aside and every effort applied to achieving agreement on a budget as soon as possible.

In conclusion, I challenge you as members of the bar to take a stand in improving the role of the legal profession in society, to support laws that will lead to the reduction of crimes, and to express yourselves to the Congress on matters that vitally concern you and the Nation.

Let me express my appreciation to President Walker for inviting me to be with you today.●

## U.N. HYPOCRISY ON DISARMAMENT

● Mr. QUAYLE. Mr. President, on several occasions I have taken the floor to speak out against the Soviet Union's continuing violations of solemn international treaties covering the use of chemical and biological weapons. This is a subject that should

be widely reported and discussed at all levels of government, not only because of the heinous acts themselves, but because of the significance of Soviet attitudes toward treaty compliance.

It is surprising, therefore, that during these weeks when the United Nations Special Session on Disarmament is in progress, that the Wall Street Journal alone among the press has seen fit to continue to bring this subject before the public eye. On June 7 they published lengthy excerpts from the U.N.'s own report on the matter, and accompanied that with a lead editorial which was highly critical of the U.N. itself for burying the problem. On June 11 the Journal published a third major commentary on the subject. Because of the importance of this matter, and in recognition of the Wall Street Journal's continuing editorial emphasis on this subject, I request that their articles be printed in the RECORD.

The articles follow:

U.N. HYPOCRISY ON DISARMAMENT

The United Nations' Special Session on Disarmament, which opens in New York today, is shaping up as a hypocrisy monumental even by UN standards. The UN has been conducting an official investigation of violations of the most prominent disarmament treaty negotiated under its auspices—the Biological Weapons Convention of 1972. Despite considerable effort to look the other way, the investigators did accumulate an impressive amount of testimony. Now their latest report is being suppressed while delegates give lofty speeches about disarmament.

Elsewhere on this page we reprint extracts from the suppressed report. On its trip to Afghan refugee camps in Pakistan last February, the UN team gathered eyewitness testimony, medical findings and physical evidence pointing directly to Soviet use of chemical weapons, itself a prima facie violation of the Geneva agreements. Many of the symptoms reported correspond to those of "yellow rain" in Laos and Cambodia, which has been identified as a biological toxin violating the 1972 convention.

The General Assembly voted in 1980 to investigate the "yellow rain" reports. After months of foot-dragging, a team was dispatched to Thailand last year to interview refugees from Laos and Cambodia. The team was told of the murderous attacks by "yellow rain," and was given samples—a vial of powder, a contaminated leaf and twig and blood from a victim. Predictably, the UN team's report last November said it could not draw any "final conclusion as to whether or not chemical warfare agents had been used."

Despite a Soviet effort to kill the investigation, the General Assembly voted last December to continue its study for another year, and the team set off in February to interview Afghan refugees in Pakistan. According to the 36-page verbatim transcript of the UN interviews, much of the Afghan testimony mirrors reports about "yellow rain" from the Hmong tribe of Laos. Airplanes, helicopters and artillery shells are used to spray the yellowish or orange powder. The symptoms of victims in Afghanistan and Southeast Asia also match—skin blistering, dizziness, convulsions, bloody vomiting and bloody diarrhea.

These symptoms, especially the profuse bleeding, are distinct signs of poisoning by trichothecene mycotoxins, which are produced by fungus on moldy grains. U.S. government and independent U.S. scientists have identified these mycotixins in "yellow rain" samples from Southeast Asia. Another sample is now being tested by the British.

From the Afghan testimony to the UN, it's also apparent that more than just "yellow rain" is being used by the Soviet Union. Afghan freedom fighters tell of poisoned "dumdum" bullets and flechettes, or steel darts which cause blistering of the skin, swelling of bodies and sometimes death from relatively minor wounds. They speak of "black smoke," which causes incapacitation and often unconsciousness; the victims found by Soviet troops are summarily shot. The Soviets also use gases to kill or drive out people hiding in caves or the underground canal systems, known as the "karez."

The Afghans gave the UN team some samples, including contaminated wheat grains, poisoned bullets and an a Flechette, a fuse from a chemical hand bomb, a gas mask and filter canister and part of a bomb parachute. Afghan leaders said they have more evidence but couldn't retrieve it because of the snow in the mountains in February.

In spite of the risks of gathering such evidence, the UN team doesn't seem to treat it very seriously. For instance, and addendum to the latest report mentions part of the parachute "was applied by means of adhesive tape to the skin at the inside of the upper left arm of a volunteer. The skin was examined after 24 hours. No skin reaction was observed."

Of more consequence is the handling of the "yellow rain" samples from Southeast Asia. Under the supervision of Under Secretary General Viacheslav A. Ustinov of the Soviet Union, the samples sat for months in an unguarded UN freezer. Due to the unnecessary delay, the results of the scientific analysis probably won't be ready before the disarmament session ends next month. Moreover, there is no guarantee that the samples were not tampered with while at the UN.

While the biological weapons investigation is bottled up in the UN bureaucracy, its disarmament conference is shaping up as a circus. Outside the halls there will be a mass demonstration, a concert by rock stars, a civil disobedience campaign and truckloads of petitions dropped at the UN gates. Inside the UN, there will be the usual festivities with anti-Western rhetoric about the "arms race" and "capitalist imperialism."

If the UN were serious about disarmament, and if it had any desire to regain some of its lost integrity, it ought to start by paying some attention to its own investigation—getting the whole report out on the floor, getting the laboratory work done and securing any future evidence. If a "peacekeeping body" can't do this much, there is reason to wonder if serious nations should continue to participate.

CHEMICAL-BIOLOGICAL WARFARE IN AFGHANISTAN

(The UN General Assembly voted last December to extend its investigation, begun in 1980, of allegations about the use of chemical and biological warfare agents by the Soviet Union and its allies in Southeast Asia and Afghanistan. Three members of the UN's expert team, headed by Maj. Gen. Dr. Esmat Ezz of Egypt, along with other UN officials, visited Afghan refugee camps at Peshawar and Quetta in Pakistan from Feb. 8 to Feb. 22 this year. The following are excerpts from the group's 36-page verbatim record of the interviews, which has been obtained by The Wall Street Journal. The interviews were conducted with victims and eyewitnesses of Soviet biochemical warfare attacks in Afghanistan. The UN team does not plan to make its report public until the fall. An editorial on the report also appears.)

Chairman of UN group: We are here representing the United Nations and we are interested in meeting people who were exposed to chemical attack, eyewitnesses and those who might have brought fragments of the ammunitions along with them, and also to speak with medical doctors who might have attended patients exposed to chemical attack.

Gul Badin, leader of Hezb-e-Islami: I welcome you here. You are familiar with the conditions in Afghanistan and with the chemical warfare. We shall provide you with the evidence we have. There are two parties involved in Afghanistan—the Soviet Union and the freedom fighters.

In each division there is one unit which is involved in the chemical warfare. They have used chemical weapons in a number of places where napalm, other weapons and helicopters have not been effective. Initially, they were using dumdum bullets and they have destroyed villages, crops and forests. When the local population feared death from the dumdum bullets, they tried to get protection in the Karez. [A "karez" is an underground water channel by means of which the land to be irrigated can be connected to the base of the source of water. At more or less regular intervals, there are vertical air shafts leading down to the "karez." These underground channels are sometimes used both by Mujahideens and the local population as shelters when the area is under attack.] The Soviets tried to kill them by using chemical weapons in these areas. There have been many people affected by chemical weapons who were treated in Peshawar and they are present now.

Name: Dagarwal Bismilla, brigadier chief commander of Wardak Front

Q. Can you tell us what happened?

A. In late July 1981 at 10 a.m. fierce fighting started. They fired chemical weapons upon us. Many people were injured; the entire body was swollen, there was sneezing and coughing and after the attack people became unconscious and had headaches. We wet a handkerchief and put on our faces to revive ourselves. . . .

Q. Did the diarrhea come straight away?

A. During the retreat about one hour. During the retreat from the first line to the second defense line (4 km) 65 people died from bullet wounds. Their bodies were swollen and had boils on them. When ordered to go to the second line they started vomiting and sneezing and after one hour some died. Those who died were the ones that were not able to retreat. The back line was about 4 km. Many developed diarrhea several hours later, at night. Those who escaped and were fighting, during the night were shot with chemical bullets and their bodies swelled and had boils which developed overnight. . . .

Q. Is there anybody here with you who was affected?

A. Many were affected but they are still fighting in Afghanistan. The Soviet soldiers put on gas masks before the attack. Two masks were captured and are to be sent to the United Nations within one month.

Interview with doctors at Hezb-e-Islami Hospital

Chairman: We are particularly interested in the use of chemical weapons in Afghanistan. If in your dealings with the refugees you have come across any refugees who have been victims of chemical attack, we would like to know.

A. Chemical gas delivered from an airplane produced some black smoke which turned yellow. When inhaled caused asphyxia, laryngeal spasm and unconsciousness. Some died after 24 hours, bodies decomposed and limbs separated from each other when touched. Skin rash, necrotic ulcerations. Americans took pictures of this. Some of the individuals who survived showed necrotic points below the skin, pyogenic fistulae and ulcerations which took months to heal. Perhaps some chemical or biological weapon was responsible for this. . . .

Name: Shah Jahan. (Saw a gas attack but was not personally affected.)

Q. Can you describe the gas attack?

A. It was a helicopter attack—dropped bombs—some burst in the air before reaching the ground like a bag. When it burst there were red and green colors. All the trees, rocks and bushes took that color.

Q. Could you tell the size of the bag?

A. Whosoever was close by would become unconscious. The degree was reduced as the distance progressed. Depending upon the distance, the period of unconsciousness was between four-five hours to 24 hours. They were given i.v. drips right away. If blood pressure was normal, saline was given; if low, glucose was given.

Name: Alif Khan

Q. Have you seen a chemical attack?

A. Saw one in the Spinghar (white) mountain area.

Q. What did you see?

A. There was a gas attack. People wet their turbans and put them to their faces. Some families hid in the cave in the mountain. Attack was by MIG fighters followed by helicopters. An hour later by infantry. Two days later they found everybody in the cave dead. Two men, three women and five children 15 meters inside the cave, dead, swollen but no injuries on their bodies. Some were in a state of stupor. The victims lay in differents positions Many goats were outside and they were all killed. I did not actually see the animals but heard so.

Q. How long have you been working in the hospital?

A. One year and six months.

Q. Have you ever treated cases which were exposed to chemical attack?

A. About 250 patients suffered from neurosis because of the gas attacks. Physical effects lasted a couple of days. Also had mental effects.

Name: Mohammed Sharif

Q. Have you been in any way exposed to chemical attack, eyewitness or just heard about it?

A. Saw and treated patients who suffered from chemical attack. I have never been in a chemical attack—was one or two kilometers away and saw it with binoculars. On one occasion was 250 meters from the place where the bomb burst. I was aware how to deal with it, so I wet my handkerchief and put it to my mouth and then went forward to treat the patients.

Q. Where did the attack occur?

A. A place called Kassimpool in Kandahar. Signal plane attack. Father and son wounded. Son competely burned. Father had a big wound on his thigh, bleeding very profusely. Assumed it was a chemical attack, did not see a wound large enough to cause such bleeding.

Q. Can you remember the date when the attack occurred?

A. April 1981.

Second attack:

Places Arghandab, Nagahar; Munara in Kandahar. In February 1981 something resembling a balloon, 700 mm. diameter was dropped from a helicopter or MIG which burst before it reached the ground. It scattered yellow and pink powder. Received patients who had rashes on the body difficulty in breathing, watery eyes, sneezing and dyspnea. The parts of the body which were exposed were brown. Skin was also itching, heavy vomiting, light diarrhea. Was given hydrocortisone. Could not get them out in the open air because of the bombardment. About 35 people were affected; 17 died—those who were closer to the explosion.

Q. How soon after the attack did they die?

A. Some after six hours, some after eight hours, some next day. Some that developed apistaxis died. Four died on the spot. The flesh came apart like it was burned and smelled like burned flesh.

Q. Was there any evidence of hemorrhaging?

A. One had nose bleeds; most of the trouble was vomiting.

Name: Nur Mohammed

Q. Were you a victim, eyewitness or heard stories about a chemical attack?

A. I have not suffered myself but treated two patients.

Q. Where did you treat these patients?

A. Horban. About three hours after the attack in June 1981.

Q. What was wrong with them?

A. Dyspnea, vomiting, dizziness.

Q. How long have you been a freedom fighter?

A. Two and a half years.

Q. Can you explain what you saw?

A. Something resembling a bag was dropped by a helicopter. Before it reached the ground it burst in the air—it was yellow.

Q. How many bags did it drop?

A. Three.

Q. Did the yellow powder harm the vegetation?

A. The bushes were not burned, but the color was changed. They looked half-dead.

Q. Was the color of the bodies affected?

A. The parts of the body which were exposed were burned. The clothes were not burned.

Q. Was there any secretion from the nose?

A. Nose was running. Eyes were running too. Blisters developed on the exposed skin in seven hours.

Q. Did you notice any smell?

A. Yes, from the clothes—smelled like burning charcoal.

Name: Sultan Jan

The village was surrounded in the night by tanks and troops. In the morning when I awoke I found Russians all around the village. Twelve companions escaped but they did not get very far. I took shelter in the karez; saw liquid poured from a bottle. The gas was green in color. When they poured the liquid and dropped the bottle into the water, the water started bubbling up and making a noise. The water became offensive and I wet a cloth and put to my face. Those not protected vomited. Three people died. The skin got irritated—felt as though needles were going through my body. My feet were in the water and when I took them out there were scratches on them. The water had chemicals. Sometimes I get hot flashes. I started receiving injections and tablets here—still have a bitter taste in my mouth.

Q. When did the attack take place?

A. December 1981 in Qaray.

Q. How soon after the green liquid was poured into the water did your friends die?

A. The ones who were close to the place where they poured the green liquid died.

Name: Khwaja Muhammed.

Helicopters came and dropped a case of gas. Before it reached the ground it exploded (no parachute) at about 1 meter above ground. Gray smoke came out, people were suffocated as if their throats were being caught. Water came from their eyes and head was turning around. They started to vomit ordinarily but then blood came from their mouths and they had diarrhea with bleeding. After five or 10 hours when I awoke I had vomiting, headache and diarrhea. After the bomb exploded when they were exposed to the smoke, my head felt as though it was turning around and my throat felt as though it was being pressed. I do not remember any thing else as I became unconscious. Shortly after evening, I came to and felt like taking a walk but I started vomiting at that time. There was no food in the vomit—blue liquid—and later bleeding.

Q. How many times did you vomit?

A. 20 times.

Q. At what intervals?

A. Between two and five minutes.

Second instance:

In summer 1981—on the border with USSR—one group went into the cave. Russians brought tanks but they were not able to enter the cave so they started drilling. Twenty-five friends were inside the cave. The Russians made a hole and put a pipe into it and pumped something into the cave and then went away from the site. When we went to the cave the pipes were undug and we found the bodies were as if cooked, flesh was very soft and came apart.

Name: Khazak

On Dec. 5, 1981 two forces came to our area in Wardak Province, Tangi region from Logan and Main. When we observed that the forces were too much, we thought we should draw back from our positions just to gain time and to prevent losses. We drew back from the highway to a safe position which was located in the hillsides. They started bombing our fronts. We thought it was just regular bombs and bullets but we felt something extraordinary—jet fighters, helicopter artillery and tanks. There were some bombs which set the hillside on fire. Some of these bombs created smoke—blackish gray or gray and red.

The effect was not sudden, it took a little time but it was hard for me to look at my watch. My head started turning around, eyes and nose running. I went inside and after I woke up I vomited and diarrhea started. Diarrhea was first green liquid then bleeding started. The effects varied from person to person. The smell was like burning rubber; my eyes were irritated also. For 24 hours I was out of order. Three people died, two of whom were my cousins. Their

arms were contracted close to their chest, even when they died liquid was coming out of their noses and blood out of their mouths. Their legs were also in contraction, the bodies were gathered after two days. In the village there were 50 to 60 more bodies, in contracture like my cousins.

Name: Doulat Khan

The second battle happened in an area called Behrana Mukhor, Gazni in January 1982. At that time after heavy resistance by Mujaideen, Russians started shooting automatic cannons. Smoke rose up, Mujahideens vomiteed and had burning in the eyes with tears. Some of them also vomited blood.

In the morning about 10:30 the shooting started and went on until the evening, almost sunset. When the Russians drew back we were able to go and see our friends. The bullets hit the ground and exploded and gas came out. Black smoke rose up and spread fast and covered a vast area. The smell was very bad. Five people died because of the gas; they vomited and lost a lot of blood. The bodies of the ones who died were black. Sixty to 70 other people were affected. Before the battle started, I was watching and I saw all the weapons being put in one place and the positions of the cannons. When the Russians approached our village women and children in the farm went to the tunnels. When the battle was finished we found bodies. The Russians had sprayed chemicals in the karez.

Q. Did you notice any effect on the animals and vegetation?

A. The area where the chemicals were sprayed vegetables turned yellow and dried. Shortly after the chemicals are used the wheat turns black and it becomes yellow and then turns yellow ash.

Q. Was the gas used for a specific area or indiscriminately?

A. It depended on the resistance. If the resistance is hard and it is a key area they use chemical weapons to paralyze the Mujahideens.

Name: Gholan Mohammed

Q. Have you heard anything about chemical weapons or poisonous gases?

A. In December 1980 in Zarkashan in Mogkur, Gazni Province, a very large force of Soviets came to our area. We encircled them at 4 a.m. There were 17 gun ships and three jet fighters bombing us. . . . Twenty-four persons were killed by the bullets, about 40 persons died of gas, 60 persons affected by gas and after two days three died. The doctor in the group helped the Mujahideens. A helicopter was shot down which burst into flames and fell in a valley below.

Q. Did the bomb have a smell?

A. It smelled like the rotten body of some animal. I lost consciousness. I also saw the Russians wearing masks on two occasions.

Q. Did you see the bodies of the dead persons?

A. No I was unconscious.

Q. Did you have any problems with breathing?

A. Yes, I felt like I was being choked.

Name: Moulvi Arsala Rahmani, general commander of Paktika.

We were attacked by tanks and they put small bombs in the karez. In June 1981, 11 Mujahideens took cover in the karez. Everybody was killed. I did not actually see the attack but saw the dead bodies; the flesh on the bodies was very soft. . . . Mujahideens shot down a plane and then a large number of planes came and dropped something which caused severe headache and vomiting among the people. It was a rain of white particles or powder which the planes sprayed from about 500 meters.

Second instance:

Two people were hit by bombs and died. Their clothes were burned; their flesh was soft and rotted. A yellow and bloody discharge came out of the burns. Faces were blackened. An Afghan spy was caught and confessed that the water was being contaminated. When the bombs burst they broke into four clouds and came down slowly. The noise was like a rifle shot; it hit the ground and bounced and caught fire.

Third instance:

In May 1981 a large force of Mujahideens were fighting with the Russians. The Mujahideens were winning and then the Russians launched a gas attack. Many Russians and Mujahideens were killed. The Russians wore masks. A Russian was captured, converted to Islam and told us of the poisons being used and showed us how to use the masks. . . . The Russians are using a rifle which has 40 rounds; the bullets make the victims shout and scream.

Name: Saifullah

I was an eyewitness and was also affected in April 1981 in Mangari. In the morning about 10 o'clock the village was surrounded by the infantry, tanks and helicopters. Bags were dropped from the airplane which burst in the air or ground. It was a dust-colored smoke, my eyes were affected and I could not see.

Q. Did you manage to capture any fragments?

A. It was not possible to start picking up pieces of those things; we are too busy looking after our dead.

Q. Apart from the eyes was any other part of your body affected?

A. Only my eyes. In another instance my heart and body were affected. Those who were close to the attack suffered for one month; those not too close recovered quickly and only had watering eyes.

Second instance:

In October 1981 in a place called Ashaqual, Takm South of Gazni, 30 men were attacked by the Russians. We fought for a while and after running out of ammunition we went into our shelters. The Russians came after us with a pipe 30-40 meters long. They touched a button and a sound like a pistol shot was heard (they carried the pipe coiled up). There are four kinds of gases: (1) causes ashphyxiation (2) pressure on the heart; (3) skin irritation; (4) burning of the skin. When we tried to get out of the wells the Russians shot us. The gas that poisons does not have much of a smell. The one that ashyxiates has a very offensive smell . . . .

The irritation does not last for more than 24 hours. The intention of the enemy is to flush us out so that they can shoot us. The Russians got wise to the Mujahideens using their handkerchiefs so they put something in the water and when we drink the water we become sick. It is offensive, asphyxiates and smells like high explosive.

Name: Mohammed Akram

In June 1980 I was in the karez for two hours. There was a gas attack. The Russians brought a tank to the hole, lowered a pipe into the hole and poured gas. Ten people who where close to the gas died and their bodies were swollen and had nose bleeds. Others had diarrhea, dizziness and nausea. After having yogurt and buttermilk we felt better. Those who were close died within five minutes.

Mrs. Culpepper, from U.S. Consulate:

I interviewed refugees in Thailand during 1976-79 and 1980. The hill tribe refugees were attacked by aircraft dropping powder. No one called it yellow rain; it left a residue on the leaves. In an area called Phubia people experienced nausesa, dizziness, hemorhaging from the mouth and very often death. In 1978 we began hearing stories so we started looking for those which were similar. The best accounts came from women and children. We heard accounts of entire villages being wiped out. We constantly questioned refugees to find out true accounts. Small aircraft dropping some kind of powder mist.

For four months I have been here in Pakistan and have heard similar accounts coming from Afghanis. Aircraft dropping some sort of powder, explosion, black, white and yellow. People experience nausea and dizziness. Some similarity between these and the accounts in Southeast Asia. Attacks in Laos were against entire villages but in Afghanistan strategic places are attacked.

Would the UN test soil from Afghanistan? Perhaps some collection kits could be given to the freedom fighters so that they could obtain some samples.

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TIME TO BACK AWAY

Further evidence that the Soviet Union has brazenly violated arms control treaties on chemical and biological warfare now comes from the United Nations. Extracts of unreleased UN interviews with Afghan refugees in Pakistan were printed on these pages Monday. The number and consistency of the reports are deeply impressive, and in Afghanistan no one can doubt that Soviet troops are directly involved.

The Afghan accounts, though, introduce a new puzzle. The reports include clouds of yellow smoke, and symptoms that match those reported in Laos and Cambodia, where biological trichothecene toxins have been identified in samples from attack sites. But in Afghanistan, "yellow rain" is not the persistent theme. Instead, the reports return again and again to rotting flesh.

"Bodies decomposed and limbs separated from each other when touched," one doctor reported. "The flesh came apart like it was burned and smelled like burned flesh," refugees report. "We found the bodies were as if cooked, flesh was very soft and came apart." And, "their flesh was soft and rotted."

What kind of weapon could conceivably cause such dramatic results?

After death bodies normally decompse through autolysis. Each tissue cell contains proteolytic enzymes, which break down proteins to provide energy for the cell. After death the enzymes attack and dissolve the cell wall. Apparently whatever the Soviets are using in Afghanistan vastly speeds this process.

Proteolytic enzymes come in many varieties, each with highly specific effects. The digestive tract relies on several, pepsin being the most important. Another, papain, is extracted from plants and used as meat tenderizer. Some are synthesized and used in detergents. A proteolytic enzyme is produced by the striptococcus bacteria, helping

it to invade cell walls. Others are components of snake venom, where they break down capillary walls and cause internal bleeding.

At this point, one can only speculate about what causes the decomposed bodies reported by the Afghans; no tissues have been collected or analyzed. But both the rapid decomposition of the bodies and the sudden and profuse bleeding reported by the Hmong in Laos could plausibly be explained by a combination of the trichothecene poisons and a proteolytic enzyme to shoot them through the body.

This is close to a standard science-fiction horror. To "StarWars," where weapons burn away flesh and leave bleached bones. To "Raiders of the Lost Ark," which shows faces dissolving into death heads. The cocktail of tricothecenes and proteolytic enzymes is, of course, only a speculation. But at the very least, it raises the question of what else the Russians have cooked up in the laboratories they pledged to dismantle when they signed the Biological Weapons Convention of 1972.

What manner of men rule the Soviet Union? The geriatric generation at the top of the Soviet elite found its formative experience in the great purge trials of the 1930s. Those stamped by Stalin's paranoia are now passing from the scene, but no comforting technocrat is emerging as Brezhnev's putative heir. Instead, the next head of the Soviet Union may well be Uri Andropov, who made his mark suppressing the 1956 Hungarian revolution and served until just the other day as head of the KGB.

Should we be surprised that such men would view the Biological Weapons Convention with utter contempt? Can we suppose they would treat any other arms agreement differently? Can we expect them to negotiate on the basis of mutual interest, or solely to seek opportunities for advantage through evasion and cheating? With Soviet forces dumping chemical weapons on the Afghan resistance, could we justify even coming to a table where the head of the KBG will mock us with homilies of peace?

Under what rationale do we pursue arms talks with the Soviets? What do we hope to achieve? There are essentially three answers: The first and narrowest is that despite Soviet duplicity some useful agreements may be possible where verification permits. The second and broadest is that at some point the character of the Soviet leadership may change, and we should not miss this historic opportunity. The third and, in practice, most powerful is purely political—that we must constantly negotiate to prove our moral purity to ourselves.

The case for a verifiable agreement, never capable of withstanding much scrutiny, lies in tatters after "yellow rain." The notion has been that the Soviets would have an interest in abiding by arms treaties from fear that we would rearm and raise sanctions if they were caught cheating. Yet the Soviets have in fact been caught cheating on the Biological Weapons Convention, and no sanctions have been imposed. The Reagan administration has acknowledged the Soviet violations, but has not even filed a formal protest under procedures established by the 1972 convention and now opens new arms talks. The lack of a U.S. response is an open invitation to similarly blatant violations of other arms control treaties.

In any event, there is no way to achieve verification of the coming generations of weapons. A strategic cruise missile, for example, is 20 feet long. How could we count the Soviet inventory? Even with on-site inspection, how could we know what the Soviets could hide if they behaved the way they have with biological weapons? We may as well face the reality that to ask for adequate verification is to ask that the Soviet Union cease to be a totalitarian society.

The case for a possible change in the Soviet leadership is more important. Soviet economic problems are growing, and there is always some slim possibility of a Deng Xiaoping decision to come to terms with the West. At the moment, though, the more likely reaction to economic crisis would seem to be using the only asset the Soviet Union has, naked military power. With a change in Soviet leadership and growing economic problems, we must focus on the possiblity it may undertake further foreign adventures to divert attention from problems at home.

In any event, we could always start serious negotiations once there was some evidence of a change in the Soviet Union. We thought we saw this in the Khrushchev era, with the de-Stalinization campaign. Indeed, this provided much of the initial impetus for detente and the current round of strategic arms negotiations. But we now know that at the height of detente the Soviets signed the Biological Weapons Convention, and proceeded to produce the very weapons they had promised to forgo. Surely the next time we are entitled to wait for a little evidence of good faith.

That brings us to the political imperatives, which have dominated President Reagan's trip to Europe. He has offered new arms proposals—the "zero option" on European missiles, deep reductions in strategic weapons and now a pullback of ground troops in Europe—and he has expressed his agreement with the "goals" of antinuclear demonstrators. By offering these tokens of good faith, he hopes to mollify the demmonstrators, and no doubt eventually to show that it is the Soviets who block arms agreements.

The cost, though, is yielding the moral high ground. Why should the American President have to prove he has stopped beating his wife? American nuclear forces have been reduced in sheer explosive power, have broken no treaties and have killed no one since the end of World War II. The deaths in Asia from biological weapons are not some best-selling nightmare; they are real, with actual people choking to death in their own blood, with actual bodies rotting overnight.

Rather than plunging deeper into arms talks to mollify protesters, Mr. Reagan should be laying the political groundwork for drawing back from negotiations pending some change in Soviet behavior. His proposals are on the table, and would represent real disarmament. Precisely for that reason no one thinks the Soviets will be truly interested, and the pressures are already building for Mr. Reagan to negotiate with himself.

The central task is to deflate rather than feed the expectation that arms agreements will solve our problems. Why can't simple truths be uttered? The prospect for meaningful agreement with the Soviets is slim to negligible. It's time for our attention to shift from how to achieve an arms agreement to how to build a viable military deterrent. The true outrage to morality is not inanimate lumps of steel and plutonium buried in Montana, but the sordid deaths of Hmong tribesmen and Afghan freedom fighters in Asia.

Our politicians, including Mr. Reagan, shrink from these truths because they fear the public does not want to hear them. They should stop underestimating democracy. Surely electorates at home and abroad can understand this position: When the Soviets are breaking old arms agreements, it's no time to get excited about negotiating new ones.

A PATHOLOGIST'S ANALYSIS OF YELLOW RAIN

(By Bernard M. Wagner, M.D.)

As a result of reports received since 1975, the State Department has concluded that "lethal chemical agents" have been used by Communist forces in Afghanistan and Laos. Further, the State Department notes that the Russians possess such agents and were responsible for their use in Vietnam as well as using them themselves in Afghanistan. The central question concerns the nature of the evidence.

In clinical medicine, decision making frequently depends on "soft" evidence. Population studies, anecdotal reports, deviations from normal, morbidity and mortality statistics and careful evaluation of clinical data all play a role in defining the presence of disease in a community. We teach medical students and resident physicians that the correct diagnosis of a viral infection is either isolation of the virus or demonstrating the host response to the virus. Yet, in practical terms, the diagnosis and treatment of most viral infections proceed without this kind of information.

USED AGAINST PRO-U.S. TRIBES

Population field studies began with the reports by the Hmong tribes of Laos. The tribesmen participated in support of the U.S. against Communist forces in the mountains of central and northern Laos. Hmong refugees streaming into Thailand told of "poison rains" usually yellow but also red, green and blue. The clinical symptoms usually included skin irritation, dizziness, nausea, hematemesis (bloody vomiting) and melena (bloody stools). Individual cases reported a variety of other symptoms, some quite bizarre. However, the Hmong people have multiple dietary and nutritional deficiencies which may modify their response to external poisons. Also, the toxic materials could have been variable in their composition.

The U.S. government in mid-1981 began to test samples from Southeast Asia for the presence of toxins. In August 1981, high levels and combinations of tricothecene toxins were detected in samples of foliage from a village in Cambodia. The sample was from a village that had been attacked by aircraft exploding containers of the brightly colored toxins in the air. Exposed natives developed toxic symptoms and many reportedly died. Samples obtained in the following months from other villages under attack both in Cambodia and in Laos yielded simi-

lar results. Finally, blood samples from victims of a chemical attack revealed tricothecene toxins.

On March 22, 1982, Special Report No. 82, titled "Chemical Warfare in Southeast Asia and Afghanistan," was delivered to Congress by Secretary of State Alexander Haig Jr. This detailed document provided the evidence to establish the fact that chemical toxims, derived from fungi, were used as a form of biological warfare. Tricothecenes are potent, lethal toxins produced by molds growing on a variety of grains. Known as mycotoxins, they have been a health problem for humans and animals in many parts of the world.

The accumulated data, after careful review and scientific scrutiny, lead to one conclusion: Chemical and biological warfare is being conducted by the Soviet Union in Southeast Asia and Afghanistan. What does the civilized world do next?

We need an intensive research effort on the mechanisms of toxicity produced by tricothecenes. This effort must be guided by the assumption: "What if American troops and civilians were exposed to these toxins?" One could take the position that this is a problem for the United Nations or NATO or some other multinational organization. After all, it's not happening to us. This may not be true.

Since February 1981, the U.S. Department of Health and Human Services' Center for Disease Control has been notified of 38 cases of sudden death among Southeast Asian refugees in various parts of the U.S. The highest number of cases was in California. All these sudden deaths were investigated by medical examiners or coroners. Certain common features emerged from the clinical and postmortem studies.

All except one of these refugees were men and all apparently died during sleep. The majority of the deaths, 87%, occurred in Hmong natives from Laos. Available information indicated that they had been in the U.S. from five days to 52 months (average six months) before death. The families of 34 refugees who died were interviewed and this information added to the medical reports.

In this group, 29 deaths were witnessed and occurred between 9:30 p.m. and 7:00 a.m.; 28 persons appeared to be asleep and one was just falling asleep. All were apparently in good health and none had complained of symptoms before going to bed. Witnesses were alerted by unusual respiratory sounds or by a brief groan. All victims were unresponsive when discovered. Paramedical personnel documented ventricular fibrillation in two cases but were unable to resuscitate them.

To date, the results of autopsies and routine toxicology studies have not identified a cause of death in 30 of the 36 cases reviewed by pathologists. A review of nocturnal deaths in young males (20-39 years of age) in an age-matched American population and a statistical analysis of death rates in Laos was done. The estimated rate of sudden, unexpected, nocturnal death among Laotian men ages 25-44 is equal to the sum of the rates of the four major causes of death among U.S. males of the same ages.

Detailed study of all data available suggests that the refugee deaths in the U.S. constitute a distinct syndrome. The syndrome may be defined as follows: Sudden, unexpected deaths without antecedent symptoms occuring during sleep at night in Laotian males who were either from areas where toxin attacks had taken place or who could reasonably be assumed to have passed through such areas in their flight from Southeast Asia.

Given our limited knowledge concerning the effects of tricothecenes in humans, we cannot exclude the possibility that the deaths were indeed related to toxin exposure. Those natives caught in the yellow-rain attacks inhaled the toxins, absorbed them through the skin and probably ingested them as contaminants.

There is serious scientific speculation concerning the potential cardiac toxicity of tricothecene when ingested in small amounts over long periods. The direct effect of those toxins and certain of their metabolities directly on heart muscle is already established. It may be necessary to revise some of our current thinking in cardiology as it concerns primary heart muscle disease. Known as cardiomyopathy, there is one type referred to as "beer-drinkers' cardomyopathy" and thought to be associated with cobalt toxicity. As the toxic actions of mycotoxins become better understood, it now seems possible that "beer-drinkers' cardiomyopathy" may have resulted from contamination with tricothecene toxins.

Mycotoxins are soluble in fats and may be released slowly in the body from "fat depots." There are highly sensitive analytical methods available for the detection of these toxins in body fluids and extracts of tissues. We need to apply sophisticated techniques to microscopic tissue sections in attempting to elucidate the puzzling syndrome of sudden death experienced by the Hmong refugees in the U.S.

ACHIEVING GOAL WITHOUT NUKES

It is clear that the world-wide scientific community must intensify its research efforts concerning the enormous hazard to mankind posed by these lethal toxins.

The threat of limited, controlled, biological warfare is, at least for me, on a scale with nuclear war. With toxins having both acute and delayed effects, an aggressor can achieve his ends without the problems posed by nuclear blasts. Besides, toxins can be delivered in an insidious, almost undetectable manner defying even late recognition of the act. I am convinced that, until proven otherwise, the syndrome described is related to biological warfare.

The current outcry by civilized peoples against nuclear weapons with a demand that they be outlawed must also extend to chemical/biological warfare. Our government, along with all other nations, must find a way to pressure the Soviet Union and its clients into halting this activity. Until then, prudence dictates that we formulate policies to safeguard populations at risk.

A C-B WEAPONS SEARCH IN THE KOREAN WAR

The issue of biological or chemical warfare isn't new. American troops in Korea encountered a new disease during the winter of 1950-51. It was called epidemic hemorrhagic fever, or EHF, and because of significant morbidity and mortality an intensive effort was undertaken to identify an infectious agent.

There was a nagging suspicion that the North Koreans, perhaps the Russians, might be engaged in biological warfare. The suspicion was reinforced because the South Koreans and captured North Koreans were not affected. Reportedly, specially trained troops were even sent behind enemy lines to capture a field hospital and bring back all vaccines in hopes that clues might be found to the mysterious EHF.

But no virus or other microorganism was ever isolated. Only through careful epidemiologic studies was it shown that troops moving through the lowlands and swamps were clearly at greater risk than those on the mountain roads and higher elevations. It was theorized that perhaps EHF was spread by fleas from rats that infested the swamps.

A rat eradication program was undertaken and whenever possible the troops were diverted to higher ground. Although the exact cause of EHF was never established, there was a marked drop of EHF cases. The Korean case demonstrates the difficulty of proving—or disproving—biological warfare even when you have some control over the areas where it might be used. But it also shows that even where the cause of infection can't be positively identified, effective measures can be taken as a result of epidemiologic and other studies to reduce casualties. That lesson needs to be carefully considered in light of the current controversy about "yellow rain."—BMW.●

## COMMENTS ON "PEOPLE LIKE US"

● Mr. HELMS. Mr. President, the masthead on the editorial page of the St. Louis Globe Democrat proclaims it "an independent newspaper . . . supporting what it believes to be right and opposing what it believes to be wrong without regards to party politics." It is a pity that some others in the national media do not aspire to the same standard.

Take, for example, the recent CBS News documentary "People Like Us." Mr. President, there is widespread belief that if ever there was a deliberate, biased hatchet job on the Reagan administration, this was it.

A couple from Hendersonville, N.C., Mr. and Mrs. Robert J. Schlag, sent me a copy of an editorial that appeared in the St. Louis Globe-Democrat, regarding this television program. The editorial provides relevant information that was conspicuously missing from the CBS program.

Mr. President, I ask that it be printed in the RECORD at the conclusion of my remarks.

The editorial follows:

CBS REPORT: A STUDY IN ARROGANCE

CBS News which offers a nightly vendetta against the Reagan administration under the heading of "news," has been accused by the White House of slanting a so-called documentary in order to put the president in a bad light.

In the program narrated by Bill Moyers, former press secretary to President Lyndon B. Johnson, three families were portrayed as victims of Reagan administration budget cutbacks. But, according to David R. Gergen, assistant to the president for communications, CBS hit "below the belt" as it misrepresented the facts in all three cases.

CBS showed its arrogance, as well as its bias, when it refused a White House request to buy a half hour of prime time to rebut the alleged twisting of the facts on the

Moyers program, an hour-long special called "People Like Us." CBS deliberately did not include an administration spokesman in the anti-Reagan documentary.

In turning down the White House request, CBS may have been motivated by the fact that President Reagan could have ripped Moyers' charges to shreds.

The CBS propaganda show indicated the administration's budget cuts had:

(1) Caused a cerebral palsy victim's disability payments to be cut off,

(2) Forced a woman to quit her job and return to welfare in order to finance her son's operation;

(3) Caused parents of a comatose girl to commit her to a hospital because they feared a rule change threatened to end any more home visits by a nurse.

Viewers of the show were led to believe that the Reagan administration is a refuge for heartless scoundrels who specialize in making life miserable for the poor and downtrodden.

What actually happened to these three families? Robert Rubin of the Department of Health and Human Services said it was quite different from what was portrayed by Moyers, Rubin said that:

In the first case, it was Congress, not the White House, which ordered stepped up eligibility investigations, and the man who lost his disability benefits in December had failed to go through the entire appeals process.

In the second case, the New Jersey woman was ineligible for Medicaid benefits while she worked—not because of any changes in the federal law, but because she made too much money under New Jersey rules.

In the third case, the mother of an ailing daughter was simply wrong in concluding that revisions in Medicaid rules would force her and her husband to pick up more of the cost of caring for their daughter at home. Rubin said the administration has not cut the home nursing service and is in fact developing a plan to encourage more home health care services.

By giving the unctuous former press secretary of President Johnson free rein on its network to smile like a Cheshire cat while his rattlesnake tongue spews venom at the Reagan administration, and by denying President Reagan's request to buy time to reply to this latest attack, CBS has dropped all pretense of fairness and objectivity. It is good that the White House fired back. Perhaps this will at least alert millions of viewers to the kind of slanted claptrap CBS is offering.●

## THE OUTLOOK FOR TEXTILES AND THE ECONOMY: A SPEECH BY JOHN G. MEDLIN, JR.

● Mr. HELMS. Mr. President, the North Carolina Textile Manufacturers Association and the North Carolina Department of Commerce recently sponsored "Textiles 2000," a symposium on the future of the North Carolina textile and apparel industries. John G. Medlin, Jr., president of Wachovia Bank and Trust Co., was a featured speaker at the opening session of the symposium.

Mr. Medlin has unique intellectual and analytical ability to assess vital matters. His address, entitled "Textiles and the Economy," is a superb analysis of the state of the textile and apparel industries today, and assessment of what is to come. It should be read by everyone interested in how the economy is affecting the free enterprise system, how cheap imports are contributing to our unemployment problems, and what the textile and apparel industries will be like in the year 2000.

I strongly urge my colleagues to study Mr. Medlin's speech.

Mr. President, I ask that it be printed in the RECORD at the conclusion of my remarks.

The speech follows:

### TEXTILES AND THE ECONOMY

The Planning Committee for the Textiles 2000 Symposium has given me the difficult assignment of providing a general outlook for textiles and the economy. They have asked that I comment particularly on prospects for the industry's future impact on the economy of North Carolina, on capital formation potentials for modernization of production facilities, and on the possibilities of financing for textiles in world markets. For several reasons, this is a rough and possibly hazardous task.

First, I am in the unenviable position of being on the program in the slot after our distinguished Governor Hunt who has the unique ability to cover such complex subjects in an articulate and inspiring manner. Secondly, I am not sure it is safe in these days of high interest rates for a banker to stand unprotected before so many borrowers. Finally, it is with some trepidation that I attempt to forecast developments over the rest of this century when it is not possible to foresee what might happen in the economy over the next year, the next quarter, or even the next month.

Under current uncertain circumstances, about all one can do is review basic forces and trends affecting the textile industry and try to provide an impressionistic picture of future possibilities. Even this is difficult at a time when the nation is in the midst of a fundamental change in direction. That new direction will be in question until the Congress and the Administration agree to a realistic and credible federal budget which results in declining deficits and less borrowing without a big increase in taxes.

To begin, it might be well to briefly review the past and present importance of the textile industry to North Carolina. Prior to the late nineteenth century, the state had an almost entirely agricultural economy. This gradually changed after the Civil War and through the first half of the twentieth century as the textile industry became more concentrated in the region of the nation where most of the cotton fiber was grown and where there was more plentiful production labor. By 1950, the textile industry was by far the largest employer in North Carolina with 231,000 workers which represented 25 percent of total non-agricultural employment and more than half of the 418,000 manufacturing jobs in the state.

Thus, it can be said that the textile industry was largely responsible for the industrialization of our state. It also inspired the creation of at least an equal number of jobs in other sectors such as services, trades, and professions. Textiles provided a large portion of the employment to accommodate the movement from farm to factory as the population grew and mechanization reduced the need for agricultural labor. For several generations, the industry has made it possible for many Tarheels, who otherwise might not have been able to find a job, to have their first opportunity for gainful and meaningful work experience.

Textile industry employment in North Carolina reached a high of 290,000 in December of 1973 around the peak of that expansion cycle. The number fell back to 240,000 by March of 1975 at the trough of the deep recession that followed. This represented a drop of 50,000 jobs, or 17 percent from the peak level. Textile employment has not since recovered to the 1973 record but did gradually rise back to as high as 255,000 in 1979 before the economic malaise of the last three years began to affect the industry.

In April of this year textile employment in North Carolina stood at a recession depressed level of 228,000, or about 10.5 percent under the 1979 figure. The drop thus far in the current cycle indicates more stability for textiles than during the experience of the mid-seventies. This can probably be heavily attributed to better inventory control and increased automation. Despite the improved performance, unemployment in textiles has been running around three to four percentage points above the national jobless rate.

Nevertheless, the textile industry remains the largest and most important in North Carolina. It currently provides nearly 10 percent of the state's non-agricultural jobs and almost 30 percent of manufacturing employment. These figures are made even more impressive when adding the 84,000 people employed in the state by the closely related apparel industry. The importance of North Carolina's employment in textiles and apparel is illustrated by the fact that it exceeds by a good margin the total of all employment in the Raleigh-Durham-Chapel Hill Standard Metropolitan Statistical Area.

Prospects for the future impact of textiles on North Carolina must be viewed in the overall context of the performance and outlook for the industry and the economy nationwide. It should be recalled that business activity in the nation from the mid-sixties through the late seventies received a boost from favorable demographic factors and from strong fiscal and monetary stimulation. The textile and apparel industries in particular benefited from the post-World War II baby boom entering the workforce and becoming full-fledged consumers. This development provided a rapidly growing source of workers and customers to make and buy the industry's products. In addition, large federal budget deficits and strong money supply growth made the overall economy better than underlying fundamentals. Some sales were borrowed from the future.

Consumer market trends in the sixties and seventies were dominated by a flood of change-oriented young people moving into the teenage, college, and early working years. This oversized generation of youthful new consumers was a product of relatively easy times, better educated, and less willing to accept the status quo. They were generally more liberal in political philosophy and more carefree in spending habits and life-

style. Marriage, childbearing, and workforce entry tended to be delayed somewhat. Key words in their vocabularies were "new," "improved," "bold," and "different." Their uniforms were blue jeans and casual attire.

Because of further progression of the post-World War II population bulge, trends during the eighties and nineties in the consumer marketplace will be heavily influenced by a large increase in the number of people who are middle-aged, more mature, less change-oriented, and more traditional in their behavior. They will probably be more conventional in their dress and more conservative in their political philosophies and financial practices. Their vocabularies are likely to emphasize words like "price," "quality," "durability," and "practicality." It might be wise for your product design, production, and marketing strategies to take these important shifts into consideration.

Demographic changes for this decade should, on balance, be quite favorable for textiles although there are some negative factors. A declining birth rate beginning in the early sixties means a gradual reduction in the number of people entering the workforce and becoming wage-earning consumers during the eighties. Annual growth in the labor pool will phase down from about 1.4 percent currently to just under one percent by 1990. This will intensify the competition for workers. Textile and apparel consumption might get a little boost from a slight rise in the birth rate, but total population is expected to grow only at an average rate of slightly under one percent during this decade, down from as high as 1¾ percent during the 1950's.

There is, however, better demographic news for textiles from some other points of view. Of the estimated 21 million population increase projected for the eighties, about 17 million, or 80 percent, will be in the 25-44 age group. This further aging of the post-World War baby boom should mean higher experience and skills levels in the workforce and higher productivity. It should also mean higher income to meet both basic needs and discretionary desires. All segments of textiles and apparel should benefit from the major source of population growth during this decade being in the more prosperous and expansive years of family and consumer life. The above average growth expected in household formations should especially stimulate the demand for home furnishings.

There is also a mixed but hopeful outlook on the national economic scene. The nation is in a transitional period when an attempt is being made to contain excessive growth in federal spending, taxes, and money supply in order to bring inflation and interest rates down and to restore real growth. The turbulence in the economy and financial markets since the late seventies is a result of both the excesses of the past and the effort to gain better control for the future. In the process, the nation's economy, its financial system, and some of its major industries, including housing, automobiles, and to a lesser degree textiles, are undergoing a painful restructuring.

Such historical turning points are usually characterized by the kind of financial instability and economic adversity which have been present since the late seventies. Inflation adjusted gross national product and industrial production are below the levels of late 1979. Relatively high and volatile interest rates as well as a sluggish and erratic economy are likely to exist for some additional time. No one really knows how long these conditions will last or where they will lead. The possibility of a depression is not out of the question. However, it seems more likely that some improvement in fiscal policy is under way, that sustainable progress is being made on inflation, that interest rates will eventually bend downward, and that moderate real economic growth will ultimately emerge.

It is also my feeling that textiles will weather this transitional period and continue to be one of the nation's major industries, although growth may not be as robust as during the better parts of the sixties and seventies. The economy is not likely to have the fiscal and monetary stimulation that made business appear better than it really was at times during the past fifteen years. This should help reduce the amplitude of future business cycles and enable better business planning.

Textile products largely represent basic human needs which tend to increase at least as fast as the rate of population growth. Other factors, such as demographic age structure described earlier, fashion changes, product innovations, and rises in discretionary income and workforce participation rates, especially among women, can cause the rate of growth in textile consumption to increase faster than population. The combination of such fundamental factors should provide a healthy rate of growth for textiles over the foreseeable future, assuming progress is made on national economic problems.

It is estimated that the number of yards of textile products consumed in the U.S. will continue to increase at a rate of at least 1.5 percent during this decade. Add to this unit increase an assumed inflation rate in the area of 6 percent, and you get growth in current dollar terms which could average in the neighborhood of 7 percent to 8 percent during the eighties. Barring economic disaster, the basic demand for textile products should be reasonably good once the current slowdown runs its course.

It is not so much a question of whether there will be a growing market for textile products but whether U.S. producers can maintain a reasonable share of that market. This requires meeting some important challenges. One is to deal politically with the issue of unfair foreign competition. Another is to further improve automation and efficiency to contain costs and better compete with cheap foreign labor. These are two of the greatest obstacles to the future prosperity of North Carolina's textile industry.

The U.S. textile industry sells a major portion of its output to the domestic apparel industry. Apparel imports now hold a 20 percent share of the domestic market. As indicated earlier, the consumption of textile products in the U.S. is growing at a unit rate of about 1.5 percent annually. However, textile and apparel imports have been growing at a rate of about 8 percent per year. Should these uneven rates of growth continue through 1990, the share of our market captured by imports would rise to 40 percent.

This could mean that by the end of this decade U.S. textile production would be 32 percent below its potential level if the domestic and foreign shares of our apparel market remained constant. The overall result could be the loss of over a half million textile and apparel jobs in the U.S. and at least that many more through ripple effects in other areas of employment. North Carolina would stand to lose an many as 75,000 textile and apparel jobs by 1990 and at least an equal number in other sectors.

This is not a forecast but a valid estimate of what could happen if imports are not controlled under reasonable multi-fiber and bilateral trade agreements which provide for an equitable sharing of U.S. textile and apparel market growth between domestic and foreign producers. What is often promoted in the name of free trade is not fair trade. Many subtle and convert tactics such as dumping, manipulating the foreign exchange value of currencies, and subsidizing textile producers are employed by other nations to increase exports, especially to the U.S.

One way to help solve the U.S. import problem is for domestic producers to do a better job in penetrating foreign markets. Many of the textile and apparel products manufactured here offer quality, price, technical, fashion, and other advantages over those made by foreign producers. Stronger efforts should be made to overcome some of the obstacles to supplying the textile needs of other countries, especially those where population and demand is growing faster than ours.

The current strength of the dollar and weakness of other currencies makes our exports more expensive and imports cheaper. Also, economic and political instability around the world make for volatile foreign exchange markets and risky foreign trade. Export opportunities could become more favorable and the threat of foreign imports could be lessened by lower U.S. interest rates and a more moderately valued dollar. Export financing can be expected to be available for creditworthy transactions.

There is every reason to believe that exports can be expanded through more imaginative marketing, harder selling, and simply going to the extra trouble that is often required to successfully deal in foreign markets. It should be noted that there is an estimated $1 trillion floating around the world in the hands of foreigners. The only place these dollars can be spent is in the United States. This enormous foreign purchasing power represents a real opportunity for the textile and apparel industries to minimize the threat of overseas competition.

Also, the textile industry must continue to modernize and take advantage of labor-saving equipment if it is to provide goods which will be cost competitive in domestic and world markets. In recent years the industry has been investing over $1.5 billion annually in capital improvements with nearly one-third of that amount being spent on North Carolina facilities. Capital expenditures of this magnitude or more will need to continue into the future as far as the eye can see. About 20 percent of the investment is to meet government safety and environmental regulations and represents only additional expense with no increase in production capacity of efficiency.

Where will the money come from to meet the continuing need for modernization? The primary source is profits, and it is estimated that the textile industry is reinvesting more than 80 percent of its cash flow in new plant and equipment compared with about 50 percent for all manufacturing. Another source is the attraction of additional equity capital

investment. For most textile companies, this is not a particularly good source since the industry earned only about 10 percent on invested capital last year compared with a 14 percent overall average for manufacturing.

The remaining alternative is to borrow, which is not an attractive option now with the U.S. Treasury preempting nearly half of the funds available in the credit markets and keeping interest rates high. There is not much long-term fixed rate money available at any price due to savers' and investors' uncertainty about the future in general and inflation in particular. Money seems reasonably plentiful, but it tends to be piling up in short-term media which provide yields just as attractive as long-term bonds. It is not possible to finance economic recovery or the reindustrialization of America out of the $200 billion currently in money market funds subject to overnight withdrawal. In more normal times these funds would be deposited in local financial institutions for lending to consumers and businesses in the community or invested in the stock and bond markets.

As a result, many capital projects which require borrowing are simply being deferred because it would not be sound to pay for them with money obtained on a short-term basis. Also, the high cost of money available at fixed interest rates and unpredictable variable rates often causes profitability and return on investment projections to indicate that the project will not pay out within a reasonable time. Until the financial markets improve and interest rates decline, modernization in the textile industry will progress slowly except to the extent that it can be funded out of internal cash flow. For the longer term, however, adequate financing is likely to be available at more tolerable interest rates to those companies which can demonstrate an ability to generate sufficient cash flow to repay it.

Automation and expansion of productive capacity in the textile industry will require more sewer, water, and electrical energy infrastructure. There is reason to question whether the expansion of electrical generation capacity currently on the drawing boards and committed for construction in North Carolina during this decade will be adequate to meet the combined demands of more mechanized textile plants and other increases expected. Also, sewer and water facilities are already strained to the limit in some parts of our state. Care must be taken to avoid such constraints to growth and progress.

While troublesome, there seems to be a reasonable possibility of overcoming the obstacles posed by foreign competition, facilities modernization, and infrastructure limitations if they are attacked in visionary and vigorous ways. If so, I believe the textile industry can be a major source of strength and stability in the North Carolina economy for the remainder of this decade and century. However, foreign competition and additional automation of production are likely to prevent the industry's employment level in the state from again rising above the 225,000 to 250,000 range. During the 1980's it is possible that textile capacity and production in the state could be expanded by as much as one-third while textile employment remains relatively flat or decline slightly.

On the other hand, textile jobs of the future will gradually require higher skills and command higher pay. The proportion of lower skilled workers in textile plants will decline while the need for people with training in mechanics, engineering, electronics, computers, and other technical fields will continue to increase. As the industry becomes less labor-intensive, it should contribute to a rise in per capita income and experience shorter swings between the peaks and troughs of business cycles. These would be healthy developments for the overall North Carolina economy.

This relatively optimistic outlook is by no means assured, and it can come about only through skillful management by textile executives as well as cooperative support from political leaders, the business community, and the general public. There will be enough obstacles for the textile industry to overcome on the national and international scene without any unnecessary ones in North Carolina. It is critical that there be a more visionary and understanding attitude in the state on such matters as the manufacturers inventory tax which makes it more difficult for all of our industry to compete and to preserve jobs, much less increase them.

Educational policy and the allocation of scarce tax dollars in North Carolina must better take into account the skills training needed by our people for meaningful employment by modern industry in general and by more mechanized textile companies in particular. Business management must demonstrate proper human sensitivity and civic responsibility by providing safe working conditions and taking care to preserve our precious environment. However, this can be better accomplished without unnecessarily onerous and expensive government controls and regulations.

In general, there must be a better understanding that political democracy, economic prosperity, personal liberty, and free enterprise are inseparable partners. No one of these desirable goals can be achieved without the other three. In particular, there must be a better appreciation that the well-being of North Carolina over the years ahead depends critically on the success of our textile industry. Anyone who cares about our state's future will pitch in to help its largest employer meet the challenges I have described rather than using it as a whipping boy as some are inclined to do.

If not, textile and apparel employment in North Carolina is likely to drift steadily downward. The risk of losing 50,000 to 75,000 of our textile and apparel jobs to foreign competition during this decade is a very real one. Such a decline along with at least that many more from ripple effects in other sectors could add eight to ten percentage points to the state's unemployment rate. The loss of as many as 150,000 jobs would be unfortunate indeed in a decade when the state already needs to create 500,000 to 600,000 additional jobs to keep unemployment from running at distressing levels.

Even the most successful effort to attract new industry cannot overcome the challenges that would be presented by such a reduction in textile employment. It is so important for us all to work together to avoid in North Carolina the serious problems caused in Michigan by the substantial decline in employment of the automobile industry. The impact on society, business, and government would be devastating. The loss of tax revenue would make the amount collected through the manufacturers inventory tax pale into insignificance. The issues are clear and the priority is urgent if this state's citizens and leaders want to prevent these unpleasant possibilities from developing.●

## ORDERS FOR THURSDAY

### 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 FOR RECOGNITION OF CERTAIN SENATORS TOMORROW

Mr. BAKER. Mr. President, I ask unanimous consent that after the two leaders have been recognized under the standing order, the following Senators be recognized under special order for not to exceed 15 minutes each in this order: Senators COHEN, LEVIN, BUMPERS, and CHILES.

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

### ORDER OF PROCEDURE TOMORROW

Mr. BAKER. Mr. President, it is anticipated that tomorrow we shall have to deal with a supplemental appropriations bill. I expect we will complete that tomorrow. It is my hope we can complete action for this week tomorrow.

## ORDER FOR CERTAIN ACTION DURING RECESS

Mr. BAKER. Mr. President, I understand this has been cleared. I ask unanimous consent that, during the recess of the Senate over until Thursday, June 24, 1982, the Secretary of the Senate be authorized to receive messages from the House, and that the Vice President or the President pro tempore be authorized to sign all duly enrolled bills and joint resolutions.

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. 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.

## RECESS UNTIL 11 A.M. TOMORROW

Mr. BAKER. Mr. President, I know of no further business to be transacted tonight. I inquire of the minority leader if he has any other matters to come before the Senate tonight.

Mr. ROBERT C. BYRD. No, Mr. President.

Mr. BAKER. Mr. President, knowning that and seeing no other Senator seeking recognition, I now move, in accordance with the previous order, that the Senate stand in recess until 11 a.m. tomorrow.

The motion was agreed to and, at 7:59 p.m., the Senate recessed until tomorrow, June 24, 1982, at 11 a.m.

## NOMINATIONS

Executive nominations received by the Senate June 23, 1982:

### DEPARTMENT OF COMMERCE

Robert G. Dederick, of Illinois, to be Under Secretary of Commerce for Economic Affairs, new position.

### NATIONAL CORPORATION FOR HOUSING PARTNERSHIPS

Edward Sulzberger, of New York, to be a Member of the Board of Directors of the National Corporation for Housing Partnerships for the term expiring October 27, 1983, vice Patricia K. Ritter, term expired.

### SECURITIES AND EXCHANGE COMMISSION

Bevis Longstreth, of New York, to be a Member of the Securities and Exchange Commission for the remainder of the term expiring June 5, 1984, vice Philip A. Loomis, Jr., retired.

## WITHDRAWALS

Executive nominations withdrawn from the Senate June 23, 1982:

Kenneth E. Moffett, of Maryland, to be Federal Mediation and Conciliation Director, vice Wayne L. Horvitz, resigned, which was sent to the Senate on December 14, 1981.

Kenneth E. Moffett, of Maryland, to be Federal Mediation and Conciliation Director, vice Wayne L. Horvitz, resigned, to which position he was appointed during the last recess of the Senate, which was sent to the Senate on March 8, 1982.