SENATE—*Wednesday, April 20, 1983*

(Legislative day of Monday, April 18, 1983)

The Senate met at 12 noon, 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, D.D., offered the following prayer:

Let us pray.

Father, we want to thank Thee for the recovery of Angie Ayers, and we commend to Thee Diane Lee and pray for a special healing for her and for her family.

Lord God of the Nation, in gratitude we celebrate this large, wonderful family, the Senate of the United States. We thank Thee for the privilege of being in this place—for the pleasure of being involved together in the significant events that happen here. We thank Thee for our leadership, Senator BAKER and Senator BYRD—for their wisdom, strength, and expertise in managing the complex business of the Senate. We thank Thee for the Senators, for their faithfulness to the mandate from and their accountability to the people.

We thank Thee for the dedicated, efficient, tireless efforts of the support staffs—for the Sergeant at Arms, the Secretary of the Senate, the secretaries of majority and minority and their associates. We thank Thee for the CONGRESSIONAL RECORD staff, the clerks, and parliamentarians, the staffs of Senators and Senate committees. We thank Thee for those who provide security in the buildings and on the grounds. We thank Thee for the pages, the maintenance people, the food service people, the elevator and subway operators. May Thy abundant blessing rest upon them and with their families. We pray in the name of Jesus, Savior and Lord. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

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

THE JOURNAL

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

Mr. BYRD. I object, on the part of other Senators.

The PRESIDENT pro tempore. Objection is heard.

CONTROL OF TIME ALLOCATED TO SENATOR BAKER

Mr. STEVENS. Mr. President, it is my understanding that there are three special orders for 15 minutes each. I ask unanimous consent that the time for Senator BAKER be under the control of Senator GOLDWATER.

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

ORDER FOR ROUTINE MORNING BUSINESS

Mr. STEVENS. Mr. President, has there been an order for morning business following the special orders?

The PRESIDENT pro tempore. There is no order.

Mr. STEVENS. I ask unanimous consent that following the special orders, there be a period for the transaction of routine morning business between the expiration of the special orders and the time set for the beginning of the quorum call on the cloture motion.

Mr. BYRD. Mr. President, reserving the right to object, the reason I do this is that the majority leader and I discussed this last night, and it was the decision at that time that such time as the acting Republican leader is now talking about would be evenly divided between Mr. BAKER and me or our designees, and we thought that time would be needed to explain the compromise to Senators.

Mr. STEVENS. Very well. I did not realize that that applied to this time. I withdraw the request.

Mr. BYRD. I thank the Senator.

RECOGNITION OF THE MINORITY LEADER

The PRESIDENT pro tempore. The Democratic leader is recognized.

Mr. BYRD. Mr. President, continuing with the subject matter of my last few words, both Mr. BAKER and I felt that there are Senators who need to know more about what the compromise entails, before the vote on cloture occurs. That is why we reached that conclusion last night.

Mr. STEVENS. I was in error. I thought it was the time under the routine morning business that was equally divided. I did not understand that it was the time following the special orders, prior to 1 p.m.

RECOGNITION OF SENATOR GOLDWATER

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

THERE IS NO VIOLATION OF THE BOLAND AMENDMENT

Mr. GOLDWATER. Mr. President, my remarks today reflect no personal feelings relative to Mr. BOLAND, of the House, nor former Senator Javits as I discuss the Boland amendment and, briefly, the War Powers Act. I speak only for myself. I do not profess to speak for the Intelligence Committee, of which I am chairman.

Mr. President, it is a very serious allegation to accuse anyone of violating the law. It is absolutely irresponsible to make that accusation without the facts to support that claim. If you do not feel our Government is entitled to basic fairness, then at least the American people should be respected and not be subject to hearing wild political statements about our Government breaking the law. They are not in a position to get the facts—as we are—and it is a disservice to our constituents to make these irresponsible accusations. Unfortunately, not all of us here take advantage of this opportunity to study the facts. Only one Senator outside the Intelligence Committee has asked to see the documents about Central America, even though Senator MOYNIHAN announced on this floor 2 weeks ago that these papers and our staff were available for briefings. Only one. Yet, Senators who do not have all the facts because they have not even bothered to read the documents or get briefed are calling for executive sessions.

Let us get straight what we are talking about. We are discussing whether our Government is breaking the law—the Boland amendment adopted last December. Keep that separate from whether you agree with these actions as policy. That is only fair to the dedicated people in our intelligence community who are carrying out this policy. You may want to change the policy—but do not play political games by saying our intelligence agencies violated the law.

Mr. President, let us look at the facts: Our committee has met for 3 years on this matter, starting back when President Carter was in office.

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

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

Since I have been chairman, we have spent 25 percent of our time on the Intelligence Committee on this—and we never said, "Close down; you are violating the law." Now, all of a sudden, statements are made to the press by a few—thank God, just a few—of my colleagues—mostly in the other body, but some of them here—and they are suggesting there is a violation of the law.

To find out whether the law was broken, we should decide what it prohibits. It probably is not the clearest law in the way it was written. It was a compromise. That was the only reason it passed, and we all know that. People accused of violating the law are entitled to clear laws so they can know what it is they violated. Maybe some of my colleagues are now taking political advantage that all the words of this law are not written as clearly as they could be.

However, Mr. President, the legislative history of this law is very clear. The other body voted down two proposals which were much more restrictive. So we get our meaning from looking at what the other body decided not to pass.

It voted down the first Harkin proposal which would have denied funds for the purpose of carrying out military activities in or against Nicaragua.

Then the other body voted down a second Harkin proposal which would have denied funds to groups or individuals known by the United States to have the intent of overthrowing the Nicaraguan Government. So a prohibition of funds based on the intent of the groups or persons receiving the funds was clearly rejected. The Senate acted along the same lines. We rejected Senator DODD's amendment which would have prohibited funds "in support of irregular military forces or paramilitary groups operating in Central America." In fact, we tabled the whole thing. After conference, we adopted the Boland compromise.

In December 1982, we gave our President a law which said our Government could not have the intent to overthrow—and now we are criticizing the President for not interpreting it in a way which both Houses had overwhelmingly rejected.

Mr. President, anyone who has bothered to learn the facts about Central America knows that the number of people there, the amount of money being spent, the geographical positioning of the people—all show clearly that there is no intent to overthrow the Government of Nicaragua.

Anyone who has bothered to learn the facts knows the Agency wrote guidelines to insure they were in compliance with the Boland amendment.

It is an insult to the dedicated members of our intelligence community to accuse them of breaking the law. It is an insult to the American people—when we have told them that we are watching the intelligence agencies through oversight—to mislead them to think the agencies are not complying with the law. And it is an insult to our Intelligence Committee members who have worked many hours keeping tabs on this operation—to imply that we are not doing our job.

Complain about the President's policy if you will. But save that complaint for Presidential political speeches.

Mr. President, I have in my hand an article from Time, April 18, which I will ask that most of it be printed in the RECORD, but I am addressing myself now to the continuing efforts of Members of Congress and the continuing encouragement by members of the press to destroy the constitutional powers of our President relative to his warmaking powers.

The war powers amendment, for example, attempts after 90 days to turn the conduct of the war over to Congress.

I have often said that I would rather trust 1 man in the opinion of war than 535 people with opinions varying all over this country and influenced by varying groups of people.

Mr. President, I ask unanimous consent to have printed in the RECORD this column entitled "A Sorry Record."

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

A SORRY RECORD

The Boland Amendment forbidding U.S. attempts to overthrow the government of Nicaragua is the latest in a long series of congressional efforts to legislate highly specific restraints on presidential conduct of foreign policy. The movement picked up most of its steam in the 1970s out of congressional revulsion from the Viet Nam War and the "imperial presidency." But the results have been mostly ineffective or worse. Notable items:

The War Powers Resolution of 1973 required the President to notify Congress within 48 hours if he sent U.S. forces into any situation in which they faced "imminent" danger of being involved in combat and to withdraw them within 60 days unless Congress approved their mission. Presidents have complied with its letter without really involving Congress in military decisions. For example, Jimmy Carter formally notified Congress of the mission to rescue the hostages in Iran after it had been launched, had failed and been scrubbed.

The Jackson Amendment of 1974 made a Soviet-American trade agreement conditional on Kremlin pledges to ease restrictions on Jews leaving the U.S.S.R. It caused Moscow to repudiate a trade agreement already in effect, thus helping to kill détente, and did nothing whatever to ameliorate the plight of Soviet Jews.

The Nelson-Bingham amendments, attached to a series of foreign assistance acts beginning in 1974, allowed Congress to veto major arms sales negotiated by the Administration. They have led to knock-down political brawls over several major deals, notably the sale of F-15 fighters and later AWACS planes to Saudi Arabia. But in the end, Congress has approved every sale that has been put to a vote.

The Turkish Arms Embargo of 1975 was aimed at punishing Turkey for its invasion of the island of Cyprus. While the embargo was being debated, Turkey expanded the area of Cyprus that it controlled from 25% to 40%.

The Clark amendment of 1976 forbade U.S. aid to "military or paramilitary operations in Angola." Proponents claim it kept the U.S. from getting bogged down in an African Viet Nam. Foes assert that it facilitated a Marxist takeover of Angola.

Despite this generally sorry record, Congress intends to keep trying. Says Republican Senator William Cohen of Maine: "We do have a heavy hand when a surgeon's hand is required. But we simply are not prepared to let the President commit the country to a policy that is not sound."

Mr. GOLDWATER. Mr. President, continuing on my subject, the current charges in the press and Congress are to me a little foolish and a little redundant. We are accomplishing nothing.

In the first place, the President has not violated either the spirit or letter of the Boland amendment.

Second, I believe, and of course I am not a lawyer nor am I a constitutional expert, but I believe the amendment itself is unconstitutional. But that is beside the point.

Now, Mr. President, I am reminded of the last moments of the Vietnam tragedy. I am reminded of the final days of that war in 1975 when President Ford requested supplemental appropriations for military aid for Saigon, and when he urged Congress to lift a 1973 law which claimed to prohibit all Presidential use of military forces in Indochina, so that he could facilitate evacuation of Americans and friendly Cambodians and Vietnamese from Danang, Saigon, and Phnom Penh.

Caught between the painful, but inescapable choice of strict adherence to the law or his duty to uphold the lives and interests of his country, when Vietnamese defense lines fell apart, President Ford took unto his own hands the protection of Americans and American freedoms regardless of the legislation. Congress, feeling that higher duties called it away, had adjourned for the Easter recess and occupied itself with such "priority" matters as farm support legislation.

Finally, after 3 weeks of debate on the matter, Congress had still not completed action on the requested funds and authority. In fact, Congress was still working on the matter when President Ford informed House Speaker Albert that the Indochina evacuation was completed. The President did say that funds were still urgently needed to pay for humanitarian assistance and transportation of refugees, but the House rejected even this request the very next day. Refugee aid was not authorized until late May. Thus did Congress demonstrate its ir-

responsible behavior, or rather I should say, inaction in time of need.

Mr. President, the Indochina prohibitions, which constituted some half a dozen laws, demonstrate the catastrophic results when Congress attempts to control foreign policy and limit military activities with narrow specificity. By using the legislative process to prohibit the President from using force, Congress signaled Hanoi that South Vietnam could be plucked with impunity. Congress also contributed to the current disaster in Cambodia. The restrictions Congress enacted saved the Khmer Rouge from defeat, prevented the success of our Nation's effort to achieve a defense against aggression by building up local forces, and doomed all possibility of attaining a neutral free Cambodia. Like the Boland amendment, the Cambodian restrictions barred the United States from giving advice and training so that local peoples could become an effective fighting force.

Mr. President, the danger in any attempt by Congress to prohibit the President from reacting to future contingencies is that in foreign relations, a degree of flexibility is often a valuable asset. No one among us can predict the future with any confidence. And, the dismal performance of Congress in failing to act on legislation supporting the evacuation of Americans during the collapse of Saigon gives convincing proof that we cannot be counted on to deal quickly with unforeseen future contingencies as the need arises. Unlike the Chief Executive, an assembly of 535 equals does not rush to decision.

What we must ask ourselves, Mr. President, is whether the United States, as the strongest free nation in the world, has a stake in preventing Soviet expansion, particularly in our own hemisphere? Does our Nation have a duty to resist challenges in the early stages, or shall we wait until the challenge is so clear that the cost of resisting is prohibitive?

A national leader must choose between total certainty, coupled with the risk of losing all control over events, and the willingness to act on possibly unprovable judgments in order to deal with challenges while they are still manageable.

Mr. President, this brings me back to the point that I mentioned before that in my opinion the Boland amendment is unconstitutional. I also believe the War Powers Act is unconstitutional and vigorously argued that point on the floor unsuccessfully when it was passed. I am not saying or implying that our Government is violating the Boland amendment. It is not.

But President Reagan himself asserted at a press conference on April 15 that the Boland amendment, or any legislation which confines itself to our relationship with a single country, is restrictive on the obligations that the Constitution imposes on the President.

Anyone who reviews history will know that the Founding Fathers left the President with primary control over the conduct of foreign relations and over the conduct of military activities.

I might say, Mr. President, that the President is the only person in this country who can send men or women to war. This Congress can declare war, which in the some 200-odd times that troops have been called out for various reasons we have only done 5 times, and 2 of those were in the Second World War. So the President is the only man who can go to war. The Constitution specifically makes the President Commander in Chief. The Constitution vests the President with all the Executive powers.

Naturally he likes the compliance and the agreement of Congress, and that is why the Constitution gave us the power to agree by declaring war. Congress can declare war. But the Constitution does not say that Congress "makes" war or that Congress "commences" military action.

Congress is given the power of the purse. That is understandable. Congress can reduce the size of the Army, Navy, Air Force, or the Marines. Congress can say there shall be no more nuclear aircraft carriers or no more M-1 tanks. But Congress was not given power by the framers to dictate how, where, or when existing U.S. military forces can be deployed or used in defense of vital American interests and freedoms.

George Washington settled this issue when, as first President, he ordered his Secretary of State, Thomas Jefferson, to threaten Spain with military action if she did not open the Mississippi River to navigation by American citizens and commerce. When he was President, Thomas Jefferson went so far as to send a squadron of armed frigates into the Mediterranean, without any declaration of war, with orders to sink, burn and destroy vessels which might threaten American commerce.

Jefferson commented in a letter he wrote on September 20, 1810, that "a strict observance of the written laws is doubtless one of the high duties of a good citizen: but it is not the highest. The laws of necessity, of self-preservation, of saving our country when in danger, are of higher obligation."

Jefferson's concise statement aptly summarizes why the framers vested the President with independent powers to act for the safety of society. The majority of framers had observed at firsthand the restrictions which the Continental Congress had imposed on then General Washington under the Articles of Confederation, restrictions which they knew had very nearly lost the War of Independence.

That was one of the big points that was used in arguing against the Articles of Confederation and arguing for a Constitution, that the Congress nearly lost the Revolution by its constant meddling, meddling by people who really did not understand what they were doing. It was in order to correct this known defect of the Articles of Confederation, that the framers of the Constitution vested the President with sole power of action as Commander in Chief and vested him with all the Executive power.

Mr. President, the Boland amendment may be in part addressed only to intelligence operations, but the text of the amendment covers the Department of Defense as well, and it includes military equipment, military training or advice, or other support for military activities.

While I will repeat once again that the President is not violating any restriction of the Boland amendment, the fact remains that the language of the amendment is broad enough to cover military defense activities which are constitutionally vested in the discretion of the President.

Under the Boland amendment, no matter what the Soviet Union, and Cuba, and Nicaragua might do, the President is technically restricted from taking any defensive action, which might arguably be construed as serving the purpose of overthrowing the Government of Nicaragua. But, Congress cannot, and should not, tie the President's hands from actions which may, in unforeseen circumstances, be needed in the national safety.

To the extent that the Boland amendment invades the President's independent powers as Commander in Chief and Chief Executive of the United States, it is unconstitutional.

So, I suggest we stop trying to take over the management of strategic or tactical operations of the military forces.

Mr. President, I hope and I pray the press and the media of our country will quit trying to run the foreign policy of our country, other than keeping their recognized right to criticize or even suggest. I hope we will see an end to the continuing efforts to restrict and limit the powers of our President. This is not a way to conduct our Government; it is not a way to conduct ourselves as one of the world's leading powers.

Mr. President, so that my colleagues might understand the reference to the Commander in Chief as being the President, I ask unanimous consent that section 2, clause 1 of the Constitution be printed in the RECORD.

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

EXCERPT

SEC. 2. Clause 1. The President shall be Commander in Chief of the Army and Navy of the United States, and of the Militia of the several States, when called into the actual Service of the United States; he may require the Opinion, in writing, of the principal Officer in each of the executive Departments, upon any Subject relating to the Duties of their respective Office, and he shall have Power to grant Reprieves and Pardons for Offences against the United States, except in Cases of Impeachment.

(Source: Constitution annotated (1972) Senate Document No. 92-82.)

COMMANDER IN CHIEF

Development of the concept

Surprisingly little discussion of the Commander-in-Chief clause is found in the convention or in the ratifying debates. From the evidence available, it appears that the Framers vested the duty in the President because experience in the Continental Congress had disclosed the inexpediency of vesting command in a group and because the lesson in English history was that danger lurked in vesting command in a person separate from the responsible political leaders.[1] But the principal concern here is the nature of the power granted by the clause.

The Limited View.—The purely military aspects of the Commander-in-Chiefship were those which were originally stressed. Hamilton said the office "would amount to nothing more than the supreme command and direction of the Military and Naval forces, as first general and admiral of the confederacy."[2] Story wrote in his Commentaries: "The propriety of admitting the president to be commander in chief, so far as to give orders, and have a general superintendency, was admitted. But it was urged, that it would be dangerous to let him command in person, without any restraint, as he might make a bad use of it. The consent of both houses of Congress ought, therefore, to be required, before he should take the actual command. The answer then given was, that though the president might, there was no necessity that he should, take the command in person; and there was no probability that he would do so, except in extraordinary emergencies, and when he was possessed of superior military talents."[3] In 1850, Chief Justice Taney, for the Court, said: "His duty and his power are purely military. As commander-in-chief, he is authorized to direct the movements of the naval and military forces placed by law at his command, and to employ them in the manner he may deem most effectual to harass and conquer and subdue the enemy. He may invade the hostile country, and subject it to the sovereignty and authority of the United States. But his conquests do not enlarge the boundaries of this Union, nor extend the operation of our institutions and laws beyond the limits before assigned to them by the legislative power.

". . . But in the distribution of political power between the great departments of government, there is such a wide difference between the power conferred on the President of the United States, and the authority and sovereignty which belong to the English crown, that it would be altogether unsafe to reason from any supposed resemblance between them, either as regards conquest in war, or any other subject where the rights and powers of the executive arm of the government are brought into question."[4] Even after the Civil War a powerful minority of the Court described the role of President as Commander-in-Chief simply as "the command of the forces and the conduct of campaigns."[5]

The Prize Cases.—The basis for a broader conception was laid in certain early acts of Congress authorizing the President to employ military force in the execution of the laws.[6] In his famous message to Congress of July 4, 1861,[7] Lincoln advanced the claim that the "war power" was his for the purpose of suppressing rebellion, and in the Prize Cases[8] of 1863 a divided Court sustained this theory. The immediate issue was the validity of the blockade which the President, following the attack on Fort Sumter, had proclaimed of the Southern ports.[9] The argument was advanced that a blockade to be valid must be an incident of a "public war" validly declared, and than only Congress could, by virtue of its power "to declare war," constitutionally impart to a military situation this character and scope. Speaking for the majority of the Court, Justice Grier answered: "If a war be made by invasion of a foreign nation, the President is not only authorized but bound to resist force by force. He does not initiate the war, but is bound to accept the challenge without waiting for any special legislative authority. And whether the hostile party be a foreign invader, or States organized in rebellion, it is none the less a war, although the declaration of it be 'unilateral.' Lord Stowell (1 Dodson, 247) observes, 'It is not the less a war on that account, for war may exist without a declaration on either side. It is so laid down by the best writers of the law of nations. A declaration of war by one country only is not a mere challenge to be accepted or refused at pleasure by the other.'

"The battles of Palo Alto and Resaca de la Palma had been fought before the passage of the act of Congress of May 13, 1846, which recognized 'a state of war as existing by the act of the Republic of Mexico.' This act not only provided for the future prosecution of the war, but was itself a vindication and ratification of the Act of the President in accepting the challenge without a previous formal declaration of war by Congress.

"This greatest of civil wars was not gradually developed by popular commotion, tumultuous assemblies, or local unorganized insurrections. However long may have been it previous conception, it nevertheless sprung forth suddenly from the parent brain, a Minerva in the full panoply of war. The President was bound to meet it in the shape it presented itself, without waiting for Congress to baptize it with a name; and no name given to it by him or them could change the fact.

". . . Whether the President in fulfilling his duties, as Commander-in-Chief, in suppressing an insurrection, has met with such armed hostile resistance, and a civil war of such alarming proportions as will compel him to accord to them the character of belligerents, is a question to be decided by him, and this Court must be governed by the decisions and acts of the political department of the Government to which this power was entrusted. 'He must determine what degree of force the crisis demands.' The proclamation of blockade is itself official and conclusive evidence to the Court that a state of war existed which demanded and authorized a recourse to such a measure, under the circumstances peculiar to the case."[10]

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THE COLD WAR AND AFTER: PRESIDENTIAL POWER TO USE TROOPS OVERSEAS WITHOUT CONGRESSIONAL AUTHORIZATION

* * * The necessities, real and only perceived as such, of the United States role as world power and chief guarantor of the peace operated to expand the powers of the President and to diminish congressional powers in the foreign relations arena. President Truman did not seek congressional authorization before sending troops to Korea and subsequent Presidents similarly acted on their own in putting troops into Lebanon and the Dominican Republic as well as most notably into Indochina.[1] Eventually, public opposition precipitated another constitutional debate whether the President had the authority to commit troops to foreign combat without the approval of Congress, a debate which went on inconclusively between Congress and Executive[2] and one which the courts were content generally to consign to the inclusive consideration of those two bodies.[3] The substance of the debate concerns many facets of the President's powers and responsibilities—from his obligation to protect the lives and property of United States citizens abroad, to execute the treaty obligations of the Nation, to further the national security interests of the Nation, and to deal with aggression and threats of aggression as they confront him. Defying neat summarization, the considerations nevertheless merit at least an historical survey and an attempted categorization of the arguments.

The Historic Use of Force Abroad.—In 1912, the Department of State published a memorandum prepared by its Solicitor which set out to justify the "Right to Pro-

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[1] May, "The President Shall Be Commander in Chief," in E. May (ed.), *The Ultimate Decision—The President as Commander in Chief* (New York: 1960), 1. In the Virginia ratifying convention, Madison, replying to Patrick Henry's objection that danger lurked in giving the President control of the military, said: "Would the honorable member say that the sword ought to be put in the hands of the representative of the people, or in other hands independent of the government altogether?" 3 J. Elliot, *The Debates in the Several State Conventions on the Adoption of the Federal Constitution* (Washington: 1836), 393. In the North Carolina convention, Iredell said: "From the nature of the thing, the command of armies ought to be delegated to one person only. The secrecy, dispatch, and decision, which are necessary in military operations can only be expected from one person." 4 id., 107.

[2] *The Federalist* No. 69 (Modern Library ed. 1937), 448.

[3] 3 J. Story, *Commentaries on the Constitution of the United States (Boston: 1833), § 1486.*

[4] *Fleming* v. *Page*, 9 How. (50 U.S.) 603, 615, 618 (1850).

[5] *Ex parte Milligan*, 4 Wall. (71 U.S.) 2, 139 (1866).

[6] 1 Stat. 424 (1795): 2 Stat. 443 (1807), now 10 U.S.C. §§ 331-334. *See also Martin* v. *Mott*, 12 Wheat. (25 U.S.) 19, 32-33 (1827), asserting the finality of the President's judgment of the existence of a state of facts requiring his exercise of the powers conferred by the act of 1795.

[7] J. Richardson (comp.), *Messages and Papers of the Presidents* (Washington: 1900), 3221, 3232.

[8] 2 Bl. (67 U.S.) 635 (1863).

[9] 7 J. Richardson (comp.) *Messages and Papers of the Presidents* (Washington: 1900), 3215, 3216, 3481.

[10] 2 Bl. (67 U.S.), 668-670.

[1] *See* the discussion in the Senate Foreign Relations Committee, *Report on the National Commitments Resolution*, S. Rept. No. 91-129, 91st Congress, 1st sess. (1969); *U.S. Commitments to Foreign Powers*, Hearings before the Senate Committee on Foreign Relations 90th Congress, 1st sess. (1967), 16-19 (Professor Bartlett).

[2] *Supra*, pp. 328-329.

[3] Ibid.

tect Citizens in Foreign Countries by Landing Forces."[4] In addition to the justification, the memorandum summarized 47 instances in which force had been used, in most of them without any congressional authorization. Twice revised and reissued, the memorandum was joined by a 1928 independent study and a 1945 work by a former government official in supporting conclusions which drifted away from the original justification of the use of United States forces abroad to the use of such forces at the discretion of the President and free from control by Congress.[5]

New lists and revised arguments were published to support the actions of President Truman in sending troops to Korea and Presidents Kennedy and Johnson in sending troops first to Vietnam and then to Indochina generally [6] and new lists have been propounded.[7] The great majority of the instances cited involved fights with pirates, landings of small naval contingents on barbarous or semibarbarous coasts to protect commerce, the dispatch of small bodies of troops to chase bandits across the Mexican border, and the like, and some incidents supposedly without authorization from Congress did in fact have underlying statutory or other legislation authorization. Some instances, President Polk's use of troops to precipitate war with Mexico in 1846, President Grant's attempt to annex the Dominican Republic, President McKinley's dispatch of troops into China during the Boxer Rebellion, involved considerable exercises of presidential power, but in general purposes were limited and congressional authority was sought for the use of troops against a sovereign state or in such a way as to constitute war. The early years of this century saw the expansion in the Caribbean and Latin America both of the use of troops for the furthering of what was perceived to be our national interests and of the power of the President to deploy the military force of the United States without congressional authorization.[8]

The pre-war actions of Presidents Wilson and Franklin Roosevelt advanced in substantial degrees the fact of presidential initiative, although the theory did not begin to catch up with the fact until the "Great Debate" over the commitment of troops by the United States to Europe under the Atlantic Pact. While congressional authorization was obtained, that debate, the debate over the United Nations charter, and the debate over Article 5 of the North Atlantic Treaty of 1949, providing that "armed attack" against one signatory was to be considered as "an attack" against all signatories, provided for the occasion of the formulation of a theory of independent presidential power to use the armed forces in the national interest at his discretion.[9] Thus, Secretary of State Acheson told Congress: "Not only has the President the authority to use the armed forces in carrying out the broad foreign policy of the United States implementing treaties, but it is equally clear that this authority may not be interfered with by the Congress in the exercise of powers which it has under the Constitution." [10]

The Theory of Presidential Power.—The fullest expression of the presidential power proponents has been in defense of the course followed in Indochina. Thus, the Legal Adviser of the State Department, in a widely circulated document, contended: "Under the Constitution, the President, in addition to being Chief Executive, is Commander in Chief of the Army and Navy. He holds the prime responsibility for the conduct of United States foreign relations. These duties carry very broad powers, including the power to deploy American forces abroad and commit them to military operations when the President deems such action necessary to maintain the security and defense of the United States. . . .

"In 1787 the world was a far larger place, and the framers probably had in mind attacks upon the United States. In the 20th century, the world has grown much smaller. An attack on a country far from our shores can impinge directly on the nation's security. In the SEATO treaty, for example, it is formally declared that an armed attack against Viet Nam would endanger the peace and security of the United States.

"Under our Constitution it is the President who must decide when an armed attack has occurred. He has also the constitutional responsibility for determining what measures of defense are required when the peace and safety of the United States are endangered. If he considers that deployment of U.S. forces to South Viet Nam is required, and that military measures against the source of Communist aggression in North Viet Nam are necessary, he is constitutionally empowered to take those measures." [11]

Opponents of such expanded presidential powers have contended, however, that the authority to initiate war was not divided between the Executive and Congress but was vested exclusively in Congress. The President had the duty and the power to repel sudden attacks and act in other emergencies, and in his role as Commander-in-Chief he was empowered to direct the armed forces for any purpose specified by Congress.[12] Though Congress asserted itself in some respects, it never really managed to confront the President's power with any sort of effective limitation.[13]

The Power of Congress to Control the President's Discretion.—The most far-reaching proposal considered in Congress was a bill which purported to reestablish congressional control over the war power by providing that the President could not use the armed forces of the United States in hostilities abroad in the absence of a declaration of war, except to repel an attack or an imminent threat of attack on the United States or on the armed forces of the United States outside the United States, to protect the evacuation of United States citizens from areas in which hostilities have commenced, or pursuant to some specific statutory authority, and even the exceptions could not be sustained beyond thirty days in the absence of appropriate congressional action.[14]

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[4] J. Clark, Memorandum by the Solicitor for the Department of State, *Right to Protect Citizens in Foreign Countries by Landing Forces* (Washington: 1912).

[5] Ibid., (Washington: 1929; 1934); M. Offutt, *The Protection of Citizens Abroad by the Armed Forces of the United States* (Baltimore: 1928); J. Rogers, *World Policing and the Constitution* (Boston: 1945). The burden of the last cited volume was to establish that the President was empowered to participate in United Nations peacekeeping actions without having to seek congressional authorization on each occasion; it may be said to be one of the earliest, if not the earliest, propoundings of the doctrine of inherent presidential powers to use troops abroad outside the narrow compass traditionally accorded those powers.

[6] E.g., H. Rept. No. 127, 82d Congress, 1st sess. (1951), 55-62; Corwin, "Who Has the Power to Make War?" *New York Times Magazine* (July 31, 1949), 11; "Authority of the President to Repel the Attack in Korea," 23 *Dept. State Bull.* 173 (1950); Department of State, Historical Studies Division, *Armed Actions Taken by the United States Without a Declaration of War*, 1789-1967 (Res. Proj. No. 806A (Washington: 1967)). That the compilation of such lists was more than a defense against public criticism can be gleaned from a revealing discussion in Secretary of State Acheson's memoirs detailing why the President did not seek congressional sanction for sending troops to Korea. "There has never, I believe, been any serious doubt—in the sense of non-politically inspired doubt-of the President's constitutional authority to do what he did. The basis for this conclusion in legal theory and historical precedent was fully set out in the State Department's memorandum of July 3, 1950, extensively published. But the wisdom of the decision not to ask for congressional approval has been doubted. . . ."

After discussing several reasons establishing the wisdom of the decision, the Secretary continued: "The President agreed, moved also, I think, by another passionately held conviction. His great office was to him a sacred and temporary trust, which he was determined to pass on unimpaired by the slightest loss of power or prestige. This attitude would incline him strongly against any attempt to divert criticism from himself by action that might establish a precedent in derogation of presidential power to send our forces into battle. The memorandum that we prepared listed eighty-seven instances in the past century in which his predecessors had done this. And thus yet another decision was made." D. Acheson, *Present at the Creation* (New York: 1969), 414,415.

[7] *War Powers Legislation*, Hearings before the Senate Foreign Relations Committee, 92d Congress, 1st sess. (1971), 347, 354-355, 359-379 (Senator Goldwater); Emerson, "War Powers Legislation," 74 W. Va. L. Rev. 53 (1972).

[8] *U.S. Commitments to Foreign Powers*, Hearings before the Senate Foreign Relations Committee, 90th Congress, 1st sess. (1967), 9, 10-11 (Professor Bartlett).

[9] Id., 11-19. For some popular defenses of presidential power during the "Great Debate," see Corwin, "Who Has the Power to Make War?" *New York Times Magazine* (July 31, 1949), 11; Commager, "Presidential Power: The Issue Analyzed," *New York Times Magazine* (January 14, 1951), 11. *Cf.* Douglas, "The Constitutional and Legal Basis for the President's Act in Using Armed Forces to Repel the Invasion of South Korea," 96 *Cong. Rec.* 9647 (1950).

[10] *Assignment of Ground Forces of the United States to Duty in the European Area*, Hearings before the Senate Foreign Relations and Armed Services Committees, 82d Congress, 1st sess. (1951), 92.

[11] Meeker, "The Legality of United States Participation in the Defense of Viet Nam," 54 *Dept. State Bull.* 474, 484-485 (1966). *See also* Moore, "The National Executive and the Use of the Armed Forces Abroad," 21 Naval War College Rev. 28 (1969); Wright, "The Power of the Executive to Use Military Forces Abroad," 10 Va. J. Int. L. 43 (1969); *Documents Relating to the War Powers of Congress, The President's Authority as Commander-in-Chief and the War in Indochina*, Senate Foreign Relations Committee, 91st Congress, 2d sess. (Comm. Print) (1970), 1 (Under Secretary of State Katzenbach), 90 (J. Stevenson, Legal Adviser, Department of State), 120 (Professor Moore), 175 (Assistant Attorney General Rehnquist).

[12] E.g., F. Wormuth, *The Vietnam War: The President Versus the Constitution* (Santa Barbara: 1968); *U.S. Commitments to Foreign Powers*, Hearings before the Senate Foreign Relations Committee, 90th Congress, 1st sess. (1967), 9 (Professor Barlett); *War Powers Legislation*, Hearings before the Senate Foreign Relations Committee, 92d Cong., 1st sess. (1971), 7 (Professor Commager), 75 (Professor Morris), 251 (Professor Mason).

[13] *Supra*, pp. 328-329.

[14] S. 731, 92d Congress, 1st sess. (1971), reintroduced as S. 2956, 92d Congress, 1st sess. (1971). This bill was reported, S. Rept. No. 92-606, 92d Congress, 2d sess. (1972), and passed by the Senate March 13, 1972. A weaker version was approved by the House and no further action was taken. *See War Powers Legislation*, Hearings before the Senate Foreign Relations Committee, 92d Congress, 1st sess. (1971); *Congress, the President, and the War Powers*, Hearings before the House Subcommittee on National

Proponents argued that Congress had the power to limit the President's discretion as a "necessary and proper" adjunct of its powers to declare war and to provide for and regulate the armed forces and because under Article I, § 8, cl. 18, Congress also has power to make all "necessary and proper" laws to carry into effect the "powers vested by this Constitution in the Government of the United States, or in any department or officer thereof." [15] Opponents have asserted that as Commander-in-Chief the President has independent powers to utilize military forces not only to protect the Nation from attack but to further the Nation's interests and that this power is not subject to significant congressional limitation. Moreover, Congress' power to declare war, in this view, says little about the other myriad resorts to force short of all-out war, so that Congress does not actually have the degree of "necessary and proper" power which others have deemed to find in the power to effectuate the authority to declare war.[16] This dispute may well die with the issue which brought it to the fore, Indochina, or it may linger on in affecting the ways Congress and Executive deal with each other. But whether one or the other, the dispute has established precedents of practice and policy rather than constitutional rules.

Mr. GOLDWATER. That concludes the remarks I had to make on that subject.

CONDOLENCES TO THE VICTIMS OF THE U.S. EMBASSY BOMBING IN BEIRUT

Mr. GOLDWATER. Mr. President, I send to the desk a Senate resolution. The purpose of this resolution is to deplore the recent bombing of the U.S. Embassy in Beirut, and to express the sorrow and condolences of the Senate on the death and wounding of Americans caught in this bombing.

Mr. President, I am sure that most of my colleagues are aware that on April 18, 1983, the U.S. Embassy in Beirut, Lebanon, was the target of a car-bomb attack. While we do not yet have all the facts on the matter, it is clear that a great many people were killed and wounded in this brutal and cowardly act. Among the dead were many Americans, most of them assigned to the U.S. Embassy on official business. Many local Lebanese employees of the Embassy were also killed and wounded.

Mr. President, every year the United States of America dispatches loyal and patriotic citizens abroad to serve on what are often difficult and dangerous missions for our Government. These people would include diplomatic, military, intelligence, and other personnel. The President of the United States provides these people their missions, and the Congress funds their activities.

How often we forget that simply being an American official abroad is a dangerous undertaking. How often we forget the routine stresses and strains to which these people are subjected. The attack on the U.S. Embassy in Beirut is but the most recent graphic reminder to all of us of the sacrifice these patriotic Americans are daily prepared to make to their country in the cause of peace and freedom.

Mr. President, my resolution is a simple testament by the U.S. Senate to the memory of these Americans who have sacrificed their lives for the cause of peace in the Middle East. It expresses profound sorrow at the death and wounding of these people, and extends condolences to the families of the deceased.

I urge all my colleagues to support this resolution and to work for its speedy passage by the U.S. Senate.

Mr. President, I ask unanimous consent that the text of the resolution may be printed in the RECORD.

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

S. RES. 116

Whereas on April 18, 1983, the United States Embassy in Beirut, Lebanon, was the target of a brutal and cowardly terrorist attack, which resulted in scores of dead and wounded, including the death of many Americans, most of whom were employed by the United States Government;

Whereas the members of the American Foreign Service, including people assigned from the diplomatic, military, intelligence, and other communities, are often exposed to extremely hazardous conditions in the performance of their duties;

Whereas the members of such communities assigned to Lebanon were dedicated to and worked for the pursuit of peace in the Middle East;

Whereas the American people have been extraordinarily patient in supporting their Government's peace initiatives in Lebanon; and

Whereas this is one of those critical moments in the history of the United States when the American people are united in their grief and must be united in their resolve: Now, therefore, be it

Resolved, That the Senate—

(1) deplores the brutal and cowardly bombing of the United States Embassy in Beirut, Lebanon, on April 18, 1983, which resulted in scores of dead and wounded, including the death of many Americans, most of whom were employed by the United States Government;

(2) expresses its profound sorrow at the death and wounding of these people and extends its deepest sympathy to the families of the deceased;

(3) urges the Secretary of State, the Secretary of Defense, the Director of Central Intelligence, and all other Cabinet Members whose people were among the dead and wounded to schedule and hold memorial or other commemorative ceremonies as appropriate to honor the victims; and

(4) accords its respect and gratitude, on behalf of the American people, to the memory of the Americans who sacrificed their lives for the noble cause of peace in the Middle East.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to the families of the deceased Americans and to the wounded Americans.

Mr. GOLDWATER. Mr. President, I thank both leaders very much for having allowed me this time, and I yield the floor.

RECOGNITION OF SENATOR MELCHER

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

ADDITIONAL FUNDS TO EL SALVADOR

Mr. MELCHER. Pope John Paul II recently carried a message of peace to Central America. The papal call for a genuine discussion among all political groups in El Salvador offers a much needed statement of hope to the Salvadorans that the protracted civil strife and struggle is capable of a rational, peaceful solution for the common good of the people of El Salvador.

Yet even while the Pope was embarked on his mission of good will, the Reagan administration announced its plans to seek additional funds this year and next to buy more weapons, ammunition, and training for the Salvadoran Army. In addition to the $26.3 million in military aid already approved for the current year, administration officials requested $110 million in supplemental military aid.

These figures added together would translate into $29.18 in military aid for every man, woman, and child in El Salvador.

It appears that there is no end in sight to the foreseeable escalation of violence that the new weapons will buy. The commitment to a military solution in El Salvador fuels more and more spending for guns and ammunition, although there is no indication that these materials will, in fact, purchase peace for the Salvadoran Government.

Short of an even larger, completely unacceptable commitment of U.S. resources to the war, military victory in El Salvador can only be secured at the cost of the lives of many more innocent civilians, destruction of the country's economy and infrastructure, and perhaps irreparable harm to the national unity of that nation. Nothing will have been gained for the people of El Salvador if peace is obtained at such costs.

President Reagan stated several days ago that: "We will not Americanize this conflict." We welcome the assurances that U.S. military personnel will not be used in a combat capacity. I

Security Policy and Scientific Developments of the Committee on Foreign Affairs, 91st Congress, 2d sess. (1970).

[15] *War Powers Legislation*, Hearings before the Senate Foreign Relations Committee, 92d Congress, 1st sess. (1971), 126 (Senator Javits), 549 (Professor Bickel), 642 (Mr. Rogers), 657 (Senator Spong).

[16] Id., 347 (Senator Goldwater), 460 (Professor Moore), 485 (Secretary of State Rogers).

would welcome even more the assurance of prompt decreases in military aid for this tiny country quagmired in a civil strife. Yet the United States is already deeply involved in providing financial backing for the continuation of the war and in training Salvadoran soldiers for battle. El Salvador has become the unwitting battlefield for the success of the administration's foreign policies, rather than a skirmish in the East-West struggle as the administration would characterize it.

Aside from being concerned over the ramifications of entanglement in the war, many Americans are outraged over the large increase in military aid to El Salvador at a time when spending in a number of critical domestic programs is being cut dramatically. Since 1980, foreign aid, defense, and interest payments on the national debt have been the only areas of the budget which have experienced a real increase in the rate of their growth. As the deficit steadily grows, this trend cannot be permitted to continue, let alone to accelerate. Built into the course the United States is now running are increasing Federal deficits—this year is by far the largest in our history.

In spite of the substantial influence that the United States could exert on the Salvadoran Government to bring about an end to the war and national reconciliation, the administration has attached few conditions to the receipt of U.S. aid by the Salvadoran Government. Unfortunately, not only those conditions but also the congressionally imposed requirements for social reforms and protection of human rights have realized little improvement in the lives of the average citizens of El Salvador. Granted that during a time of sputtering civil war, the difficult task of rational adjustments to help the economic plight of the average Salvadoran family is delayed and thwarted. The same difficulty can be granted for the legal judicial system of El Salvador, but the fact of delay in prosecuting those apprehended and held for trial on the charge of murder is attested to this week by Attorney General Smith. As it becomes increasingly apparent that there is only minimal review of the Salvadoran Government's compliance with United States conditions, we are troubled that the Salvadoran Government is not meeting the letter, much less the spirit of the law.

Negotiation is the course which the administration is pursuing in the Middle East. Surely a sincere attempt at negotiation is an acceptable goal in El Salvador as the stalemate persists. The President says that his administration supports negotiations aimed at expanding political participation in the Salvadoran elections to be held at the end of the year, but then adds stipulations which would severely limit the usefulness of the negotiating process. In fact, negotiation must be agreed to by both the Government and the Salvadoran rebels and the President's stipulations are not acceptable to the latter. It points out that an illogical set mind of a Yankee President is not likely to reflect the beliefs of a large part of the impoverished underdog workers and peasants of El Salvador. Peace will, at this time, not be bought with U.S. military dollars but will assure the continued warfare of the Government against those rebelling against the Government's oppression.

The time has come to put the considerable authority and enlightened diplomatic skills of the U.S. Government behind an international effort to encourage efforts to resolve the conflict in El Salvador. The pontiff's Central American message of hope makes a fitting starting point for this endeavor.

The religious community in the United States has become very concerned over the growing involvement of the United States in Central America, and has issued impassioned calls for the termination of military aid coupled with the commencement of comprehensive political negotiations.

Recently the views of the U.S. Catholic Conference were eloquently represented by the Most Reverend James A. Hickey appearing on March 7 before the Subcommittee of the Western Hemisphere and the Subcommittee on Human Rights and International Organizations, of the House Foreign Affairs Committee.

I ask unanimous consent that portions of the statement be included in the RECORD at the conclusion of my statement.

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

[See exhibit 1.]

Mr. MELCHER. Mr. President, I further ask unanimous consent that portions of statements and declarations by other religious organizations also be printed at the conclusion of my statement.

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

[See exhibit 2.]

Mr. MELCHER. Mr. President, the situation in El Salvador is not going to be resolved to the benefit of the Salvadoran people or the U.S. taxpayers by the provision of military aid. The only real solution for the Salvadorans is negotiation between the various political factions, while the best path for the American people is to withhold military aid to the Salvadoran Government, supply only humanitarian aid as necessary, and promote peace rather than furthering embittered warfare.

Meanwhile, we should use these funds to reduce the huge Federal deficit. These findings lead us to the same conclusion: That Congress ought to reject the request for military aid for El Salvador and promote the assumption that our Government's role, along with other American countries, is to induce fair and meaningful negotiations.

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

EXHIBIT 1

Portion of the statement of Most Reverend James A. Hickey of the U.S. Catholic Conference, before the Subcommittee of the Western Hemisphere and the Subcommittee on Human Rights and international organizations of the House Foreign Affairs Committee (April 7, 1983).

II. U.S. POLICY ON EL SALVADOR

When I appeared before the Subcommittee on Inter-American Affairs in 1981, I began my analysis of the situation in El Salvador by emphasizing the value of an historical perspective on the conflict. Since I believe this today just as strongly as I did then, and since I think the point I tried to make still is not sufficiently evident in U.S. policy toward El Salvador, I repeat it again:

"My point is that long before there were charges of outside intervention there was a struggle on behalf of large numbers in El Salvador for social, political and economic change. The conflict has been over land, wages, the right to organize and the issue of political participation.

"To ignore this long struggle of a people for justice, dignity and freedom is to misunderstand the nature of the conflict today in El Salvador."

I repeat this point not only for continuity and emphasis, but because it is the basic message the Church has to carry into the public discussion on El Salvador. The message is to highlight the need for greater social justice and equity in the internal life of the country. This requires change that is directed to justice, to participation by the people in the life of their nation and to protection of fundamental freedoms. These elements are a moral requirement and a precondition for stable peace in El Salvador. This was the message of John Paul II in his letter to the Salvadoran bishops in August of last year:

"I am perfectly aware that the discords and divisions that still disturb your country and cause new conflicts and violence have their true and deep root in situations of social injustice: a problem that has erupted with force at the political level, but is above all ethical in nature."

Because we have been convinced that the war in El Salvador is fundamentally rooted in questions of social injustice and the persistent denial of fundamental human rights for large sectors of the population, the USCC have always opposed interpretations of the Salvadoran and Central American conflict which places primary emphasis on the superpower or East-West rivalry. Unfortunately this geopolitical conception of the conflict has reappeared with new emphasis in recent days. We believed such an interpretation was mistaken two years ago and we believe it is mistaken today. We do not deny the existence of an international dimension to the conflict, but we do reject the idea that it is the fundamental issue at stake.

In the two years since I testified there have been many changes in El Salvador politically, economically, even legally. One purpose of our recent visit there was to speak with a broad spectrum of people,

inside the Church and in the society as a whole, to assess the present situation. The dominant note of the country is the desire of the great majority of the people for peace; one way of understanding the truly significant outpouring of people voting in the election last Spring is to see it as a cry for peace and a vote for an end to the war. Yet the war continues: it even has increased in intensity in certain regions. The human rights of the population, especially the poor who are caught and cannot move, are still brutally violated by security forces not under secure governmental control. In addition, the extreme left continues its campaign to damage fundamental services in the country with enormous cost. Long before any outside intervention made the situation worse, the vast majority of Salvadorans found their human dignity, human rights and life itself assaulted by an unjust system of exploitation and deliberate violence. This tragic failure to control human rights abuses continues. On our trip we heard repeatedly from Church leaders of more killings, disappearances and other brutal violations of human rights.

Every human rights violation, of right or left, is significant because every person has unique dignity and worth. But the never ending argument and public debate in the United States about comparisons of human rights abuses seems an insufficient response in light of the brutal and tragic violence which still pervades El Salvador. The principal need of the moment is for fundamental moves in the political order to stop the war and secure social justice.

The three archbishops in our delegation returned from El Salvador convinced that the dominant message we heard can be summarized in three words: dialogue, ceasefire, and negotiations to end the war. Each step is necessary to reverse the pattern of violence in El Salvador. The need for dialogue and reconciliation has been the principal call of the Church in El Salvador. On July 15, 1982, all the bishops of El Salvador directed a pastoral message to the country in which they said:

"For this very reason we exhort all the parties involved in the conflict to abandon every obstinate attitude and be open to a dialogue that is sincere, open and true, animated by good will and a spirt of authentic patriotism, placing the unity of the Salvadoran family above individual or group interests. For its part, the Church maintains its readiness to work tirelessly, within its own proper sphere, for peace and for reconciliation among Salvadorans who have been constrained to become enemies to one another."

Only a month later Pope John Paul II's letter to the Salvadoran bishops reiterated the same theme of reconciliation and the cessation of violence:

"Such reconciliation must therefore be able to be realized at all levels, above all among brothers bearing arms, motivated by contrary interests and guided by ideologies that sacrifice the fundamental aspirations of the human person. For the one and for the other, an indispensable condition for reconciliation is the cessation of all hostilities and the renunciation of the use of arms, with the sure guarantee that no one will be the object of reprisals or vengeance after having given his or her own adherence to the noble aim of joining efforts and initiatives that may assure the nation renewed vitality and an ordered progress."

Both political dialogue and ceasefire are indispensable steps to the third requirement: serious negotiations among the parties to the conflict, building on the elections of last year, but going beyond them to ending the state of war and beginning the political and economic reconstruction of the country.

None of these three objectives will be easily achieved. All of them depend primarily on the willingness of Salvadorans to "place the unity of the Salvadoran family above individual or group interest." (Salvadoran Bishops Conference, July 15, 1982). After acknowledging both of these points it is still crucial to recognize that movement toward any of these goals will require commitment to them on behalf of U.S. policy. Both the Salvadoran government and the opposition forces recognize the significance of U.S. policy. Without encouragement from the United States, no dialogue or lasting ceasefire will occur.

Precisely because the influence of U.S. policy is so important, I am profoundly disappointed in the direction I see us taking. Just as the Holy Father was about to embark on a pilgrimage of peace to Central America, raising hopes that he could initiate a break in the cycle of violence, the United States call was for an increase in military means and perhaps deeper direct involvement by us in the conflict.

Our delegation returned from El Salvador convinced of the need for a new, substantial and vigorous commitment by the United States to begin the process of political dialogue rather than rely on the relentless military struggle which consumes thousands of Salvadoran lives each year with no end in sight.

The American bishops have consistently called for a nonmilitary approach to the conflict. For two years we have opposed all military assistance from all sources to any party in El Salvador. We have not been successful: the aid continues from the United States to the Salvadoran government and from other sources to the opposition forces. We believe that U.S. policy faces a crucial choice in El Salvador over the next few weeks, a choice which the Congress can and should influence. On the basis of both previous USCC policy and our recent visit, I submit that the primary imperative of the moment is to stress the political course in El Salvador, not the military option. The United States should exercise the considerable diplomatic influence it has to help terminate the war. The American bishops have entered the public debate on El Salvador numerous times to stress what the U.S. should not do—send military aid. Today we come before the Congress to recommend a course of action: promote dialogue, insist on a ceasefire and support a negotiated end to the conflict.

We have never believed that a military solution in El Salvador—victory by either side, which could only mean abject surrender and bitter defeat for a large number of Salvadorans on one side or the other—was in the interest of either El Salvador or the United States. A society divided into victors and vanquished is unlikely to result in either stable peace or justice. We have from the very beginning of the policy debate argued for a creative diplomatic role for the United States. The present direction of our policy, however, is neither creative nor diplomatic.

The United States has two years of extensive investment in a policy of military support for the government of El Salvador; it is not our position that the United States forsake that government. However, we are convinced that other choices exist for the United States than the ones being promoted by the Administration at present. These other choices mean that the United States should talk more about ending the violence and less about prosecuting the war with large increases in military assistance and more American advisors.

These other choices are in the political order; they are based on the conviction that the primary issue in El Salvador is the domestic political and economic structure of the country, not the role of the Soviet Union or Cuba in Central America. The other choices must be understood and implemented in concert with key nations like Venezuela, Mexico or our European allies. The diplomatic option means that the United States should not go it alone in Central America. If the diplomatic option were truly pursued, we recognize some military component may be required. We acknowledge this with regret but we do not deny it. However, we strongly recommend that any military assistance provided be conditioned on stringent requirements linking it to a pursuit of dialogue and ceasefire.

We hope the Congress will very carefully examine the purposes and evidence supporting any proposal to increase arms to El Salvador. We are deeply concerned that recent U.S. proposals to escalate American military involvement by major increases in military aid and additional advisors will lead us further in the direction of a military rather than diplomatic solution. In fact, such proposals may block creative diplomatic and political measures. Talk of impending "crisis" should not push the Congress into ignoring the longer term consequences of increased reliance on military rather than diplomatic options. We believe any proposal should be measured by whether it moves the parties toward ceasefire and responsible dialogue called for by the Salvadoran bishops or whether it strengthens the extremists on both the right and left who wish to continue the conflict on the battlefield with enormous human and economic costs. U.S. policy ought to support the forces of moderation in El Salvador in their search for justice, reconciliation and peace. The United States must use its leadership to enhance the prospects for dialogue, rather than adding more and more weapons to the spiral of violence.

In summary, the USCC believes a major policy review and a significant policy shift is called for on the part of the United States. We should more clearly see the problem in political, not military terms. We should use our acknowledged influence with the Salvadoran government to define their efforts in primarily political terms. We should signal friendly allies with access to the opposition forces in El Salvador to exert the leverage necessary to bring about a ceasefire and the opening of political dialogue. We should stop the fantasy of believing that one more year of military struggle in an already devastated nation will be in our interest or that of the Salvadorans.

EXHIBIT 2

We call upon the U.S. government to use its influence with the Salvadoran Government to bring an end to the killing, to move toward a negotiated political solution rather than a military solution to the present conflict, to urge the Salvadoran junta to control the death squads now operating freely and to take steps to relieve the tremendous suffering among the peasants.—American Baptist Churches in the U.S.A., Biennial Meeting, June 24-28, 1981.

In our view, the vital interest of the United States is in a Central America and Caribbean region of peaceful, stable, nonaligned countries whose governments are responsive to the needs of their people and open to equitable trade and normal diplomatic relations with our country. Military aid and threats of military intervention in the region run counter to that vital interest by not addressing the fundamental problems of social injustice and economic development. Emphasis on military power undermines real security and distorts the economics of the region, as well as our own.—American Friends Service Committee, Letter to President Reagan in the name of the Board of Directors, November 10, 1981.

Therefore be it resolved: That the General Minister and President of the Christian Church (Disciples of Christ) be instructed to communicate with the President of the United States and the Secretary of State to protest the sending of arms and supplies which increase and perpetuate the power of the military in El Salvador.—Christian Church (Disciples of Christ), Resolution adopted at General Assembly, July 31-August 5, 1981.

Whereas many nations, including our neighbors in the Western Hemisphere and our NATO allies, are calling for a ban on all foreign military aid to El Salvador, and for implementation of constructive steps towards a nonviolent, political resolution of the conflict—Church of the Brethen, Resolution adopted by the Annual Conference, June 23-28, 1981.

* * * Historically the Salvadorean conflict is best described as that of oppressed against oppressor. We therefore call upon all outside parties, including the United States, to end immediately all forms of military aid, assistance or credits to El Salvador.—Episcopal Church, Statement on El Salvador issued April 17, 1981, by 76 Episcopal Bishops.

Ignoring the long history of oppression of the El Salvadoran people and their basic right to self-determination, the United States has internationalized the struggle and made it a battle ground for its own political interests, in contrast to the future and welfare of the Salvadoran people. In so doing the United States has embarked on a course which diverts attention from problems which have their roots in centuries old economic exploitation and political repression. We emphasize that our opposition to the delivery of lethal war materiel and the emplacement of military advisors does not imply that we support those who oppose the Junta, but rather that these actions deter the pursuit of a political solution and increase the risk of even wider military intervention. These activities can also be interpreted to signal support for repressive measures carried out by the security forces in complicity with the so-called "death squads."—Lutheran Council in the U.S.A., Adopted by the Church Council of the American Lutheran Church, June 25, 1981.

We do not believe that the United States will add to the settlement of the unrest and fighting that is going on in El Salvador by giving military aid and sending military advisors to work with the government of President Duarte. We feel that this kind of assistance will only encourage the right wing militants to continue with repressive tactics, tactics that will not help the common people who desire to improve their living conditions and gain some of the rights and freedoms that we enjoy in the United States. Moreover, the military involvement of the United States in the problems in El Salvador may involve us in a way that will increase the tensions, encourage more unrest in Central America, and place us on the side of the oppressors.—Moravian Church in America, Resolution adopted by the Joint (Northern and Southern) Provincial Elders' Conference, April 6-7, 1981.

We urge the government of the United States to seek a negotiated solution, rather than a military solution, to the conflict between the contending parties in El Salvador which might in time provide the just conditions necessary for fair and representative elections in that country . . . We urge the government of the United States to take diplomatic initiatives to effect the termination of military assistance to all groups in El Salvador. In particular, we urge our government to terminate its present policy of providing military and economic assistance to the governing Junta of El Salvador.—National Council of the Churches of Christ in the U.S.A., Actions of the Governing Board on El Salvador adopted on November 5, 1981.

We remain convinced . . . that the provision of military assistance by the United States to the Junta has three negative consequences: it identifies the U.S., at least symbolically, with the repressive role of the security forces whose actions have been consistently criticized by the Church in El Salvador; it increases the risk of wider military intervention; and it jeopardizes a constructive role the U.S. might play in the conflict.—Maryknoll Fathers, Brothers, and Sisters, December 1980; followed by U.S. Catholic Conference, Conference of Major Superiors of Men, Leadership Conference of Women Religious, Joint statement, March 2, 1981.

Therefore be it resolved, that the General Program Council of the Reformed Church in America hereby: . . . Urges the President of the United States, the Secretary of State, and the Congress: to suspend additional military assistance to El Salvador; to employ every peaceful means to halt the flow of arms and military aid from all sources, including the countries of the Soviet bloc, to all factions within El Salvador; to actively seek a negotiated political settlement in El Salvador which would result in representative civilian government, civilian control of military forces, and just reform of human rights violations and economic inequities.—Reformed Church in America, Resolution approved during the regular session of the General Program Council, April 3, 1981.

Be it resolved that the UAHG urge the United States government and all others to: 1) Call on all parties in the El Salvadoran conflict to cease all acts of violence. 2) Terminate all United States military training and material to El Salvador and withdraw all American military personnel. 3) Encourage as political solution through international mediation of the conflict.—Union of American Hebrew Congregations, Resolution adopted by the Biennial Meetings, December 3-8, 1981.

Whereas the General Assembly in 1980 passed "Human Rights and War" which called on Unitarian Universalists to work to end United States and Canadian military aid to governments that violate human rights, such as the government in El Salvador; and whereas the situation in El Salvador in 1980 and early in 1981 has deteriorated into brutal civil disorders, killings, and general instability; and whereas the Unitarian Universalist Service Committee has long been working for human rights in El Salvador; be it resolved: That the 1981 General Assembly of the Unitarian Universalist Association publicly express its grave concern over arms sales, arms transfers, grants or military credits to El Salvador from any country * * *—Unitarian Universalist Association, Resolution adopted by the 20th General Assembly, June 13-18, 1981.

Whereas the West German, Swedish, French, Dutch, Spanish Canadian, Mexico and Venezuelan governments have all called for dialogue and negotiations between the government of El Salvador and all of the groups united in opposition to it . . . Therefore, the Thirteen General Synod of the United Church of Christ endorses the call of the U.S. Catholic Conference and the Catholic Church of El Salvador for an end to all U.S. military aid to the Government of El Salvador, and urges members of the United Church of Christ to support legislation in the United States Congress to prohibit further military aid to the Government of El Salvador.—United Church of Christ, Resolution adopted by the 13th General Synod, June 10, 1981.

Therefore, the 193rd General Assembly of the United Presbyterian Church in the United States of America * * * (1) Affirms support for a peaceful political, rather than military, solution to the problem in El Salvador. (2) Urges the United States government to cease further military aid and withdraw all military advisers from El Salvador, and urges that all governments around the world cease supplying any military or police equipment to that country until stability is restored by the Salvadoran people themselves. (3) Urges the United States government to seek and support peaceful solutions in El Salvador through international channels.—United Presbyterian Church in the U.S.A., Resolution adopted by the 193rd General Assembly, May 20-28, 1981.

CLOTURE QUORUM TO BEGIN AT 2 P.M.

Mr. STEVENS. Mr. President, I ask unanimous consent that the time for the commencement of the rollcall and live quorum on the cloture motion that is pending commence at 2 p.m. today.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. Mr. President, reserving the right to object, and I will not object, I think that time is needed for Senators to understand just what this compromise is. I have not seen it. I read about it in the papers and I have listened to the explanation last night. Based on that explanation, I thought it might be a pretty fair compromise, but I have not seen it and there are other Senators on this side who have not even had the benefit of listening to the explanation last night. So I think it is well that we have that hour and, therefore, I do not object.

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

Mr. STEVENS. Mr. President, we are happy to have the concurrence of my good friend from West Virginia, the distinguished Democratic leader.

ROUTINE MORNING BUSINESS

Mr. STEVENS. Mr. President, I ask unanimous consent that the time between now and 1 p.m. be devoted to routine morning business, during which time Senators may speak therein for not to exceed 5 minutes each.

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

ORDER OF PROCEDURE

Mr. STEVENS. Mr. President, I ask unanimous consent that the time between 1 and 2 p.m. be equally controlled, as previously provided by the order last evening, between the majority and minority leaders or their designees.

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

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

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

THE KASTEN-DOLE COMPROMISE ON THE WITHHOLDING TAX ON INTEREST AND DIVIDENDS

Mr. MELCHER. Mr. President, we will be discussing between 1 and 2 o'clock this afternoon the question of the Kasten-Dole compromise regarding delaying the implementation of the withholding tax on savings and dividends. It is not a new subject to the Senate. The discussion and arguments pro and con have been made on this floor several times during the past several weeks.

One point which must be clearly understood by those of us who would seek either delay or repeal of the implementation of the withholding requirement is we must understand that if we are truly going to implement such a provision changing the law prior to July 1, it has always been apparent, and it should be obvious to the public also, that we would have to pass an amendment or a bill to that effect and have it be signed into law prior to July 1.

What the Senate is now engaged in is a debate on the proposal that is on a bill that is not likely to be considered and acted upon by the House of Representatives prior to July 1.

I believe it is apparent that some 55 to 65 or 70 Senators believe the law ought to be modified and prevent the withholding provision from going into effect on July 1. Most of us feel quite strongly on that point, representing the interest of constituents in our State who are violently opposed to it.

It is our intention that we have a definitive vote not only in the Senate on the matter but also, under such terms or conditions as the House sets, that the House of Representatives be given the opportunity to vote on it prior to July 1.

When we attach this provision to a bill that the House of Representatives feels constitutionally—and I think they are probably correct—should have arisen in the House of Representatives, we set the stage for the House, protecting their prerogatives under the Constitution, to reject any argument that they must act on what the Senate has added to it.

We may be playing a charade here, and I rather suspect we are, by having a full-blown debate on the proposal in the Senate with the understanding in the minds of many Senators that this will lead to the opportunity for the House to act by agreement and for a vote to be undertaken there.

It is my feeling that in order to accomplish our purpose, it is necessary to understand under what conditions the House of Representatives would accept the leadership of the Senate on the issue and agree to action on the proposal prior to July 1.

I do not think we have that agreement in this bill. In fact, I think in all likelihood we created some animosity by acting on this bill which the House feels should have originated in the House prior to the Senate acting upon it.

Nevertheless, the Senate should be aware that what is being done today and tomorrow in connection with this provision on delay or repeal of the withholding tax on interest and dividends may again be repeated in the Senate on another bill that would be more likely to be acted upon by the House properly. That should be obvious to the Senate. I draw that to the attention of those who are listening at this time so that we can gear ourselves for further action as necessary upon the issue.

PRINTING OF AMENDMENTS DISCONTINUED

Mr. BAKER. Mr. President, several months ago, it was brought to my attention that the Senate was spending vast sums of money to print amendments, many of which never receive Senate action. As a result, I requested the Secretary of the Senate to investigate this matter and recommend ways of reducing associated costs.

The following are highlights of the Secretary's findings as submitted to the joint leadership:

1. GPO estimates that the minimum cost to print the smallest two-page amendment (i.e., one page front and back) is $145. Since there were over 5,600 amendments printed in the last Congress, the minimum cost of printing was approximately $813,000. It should be noted that since many amendments were much larger, the total cost is estimated to be over $1,000,000. To further illustrate the point, we have had, already this year, 464 amendments submitted to one bill, S. 47. The cost estimate for printing these is approximately $67,000.

2. Printed amendments are rarely considered by the Senate. For example, of the 5,611 printed amendments in the 97th Congress, only 230 or four percent were ever called up for consideration.

3. Of the total number printed, approximately 86 percent were submitted to only six measures, and of these, only five-tenths of one percent were ever offered for consideration by the Senate.

4. When a large volume of amendments is submitted to a single measure, printed copies are seldom available in the Document Room during the pendency of that measure and, in fact, it is usually several days or weeks after the measure is disposed of before the last printed amendment reaches the Capitol.

The Secretary's study recommends an alternative which will result in substantial cost savings without depriving Members of necessary information about amendments, and I believe it is a sound and constructive recommendation.

Therefore, beginning today, all amendments offered for printing will be numbered and printed in the CONGRESSIONAL RECORD only. Amendments offered to be referred to committee will be copied in limited numbers.

When an amendment is called up on the floor for consideration, copies for Members will be made available.

Member offices who desire to have a copy of an amendment that has been printed in the RECORD can get the RECORD date and page number from the LEGIS system or by calling the Legislative Information staff of the Senate library.

It is estimated that this new procedure will save the Senate several million dollars in printing costs each Congress and yet provide the necessary information needed by Senators to consider and vote on amendments when they are offered.

BREEDERS, PLUTONIUM, AND NUCLEAR WEAPONS

Mr. BUMPERS. Mr. President, the Nuclear Control Institute has recently printed a report written by Bill Adler documenting the dangers which inherantly arise in the use of plutonium as a fuel in powerplants such as the breeder reactor. The report points out the difficulty of securely guarding the reactors and the reprocessing plants. It is even more difficult to protect transportation routes. The report also notes that a single reprocessing plant could discharge enough plutonium to make 10,000 nuclear weapons per year.

This danger cannot be underestimated because the technology for building such weapons is relatively well known, if the plutonium is available. It could be only too easy for an unfriendly gov-

ernment or a terrorist group to obtain plutonium, especially because it is currently impossible to account for plutonium within a 5-percent margin of error, and because we have apparently lost track of some enriched uranium and plutonium already.

It is not pleasant to consider this subject. and it is tempting to comfort ourselves with assurances that generating and reprocessing facilities are safe. We have seen however, that such assurances cannot always be taken at face value. We must accept the broader implications of our actions. I urge my colleagues to consider Mr. Adler's words carefully.

I ask unanimous consent that the statement by the Nuclear Control Institute be printed in the RECORD at this point.

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

BREEDERS, PLUTONIUM AND NUCLEAR WEAPONS

There is no way that we will be able to provide assurances that thousands of tons of plutonium are being devoted to peaceful purposes.—Senior International Atomic Energy Agency Official [1]

BACKGROUND

The plutonium breeder reactor is being actively promoted by the governments of several advanced industrialized states and Third World countries as the next generation of nuclear power plant. Breeder reactors are favored by their proponents in government and industry on the basis of being able to produce more nuclear fuel than they consume. Tremendously high costs, however, are jeopardizing breeder programs in this country and abroad. For example, the most recent cost estimates for the Clinch River Breeder reactor, a prototype commercial breeder, range from $3.2 to more than $8.8 billion.[2] But even if breeders were economical, the threat to international security posed by the vast amounts of plutonium they would produce and use as a fuel makes them too dangerous even to operate. Plutonium is a key ingredient of atomic bombs.[3]

HOW BREEDERS WORK

Plutonium-breeder reactors, like conventional nuclear power reactors, generate electricity by heating water to operate steam turbines. Heat and plutonium are byproducts of nearly all nuclear-fission reactors.

A major difference between breeder and other power reactors is that breeders must use plutonium (or weapons-grade uranium) as fuel. Most conventional power reactors are fueled with natural or low-grade uranium unusable in nuclear weapons. The plutonium they produce can remain "locked" in highly radioactive spent fuel, where it is inaccessible and is in a dilute form unsuitable for nuclear weapons. This spent fuel can be disposed of in unaltered form. Breeders, however, require large quantities of pure plutonium to be reprocessed from spent fuel. This separated plutonium is then conbined with uranium and "recycled" as breeder fuel. The separated plutonium also can be fashioned into nuclear weapons.

Nuclear fission occurs in the breeder reactor's core and in a surrounding "blanket". A typical 1,000 megawatt breeder is designed with a core of over 30,000 pounds of uranium and more than 5,800 pounds of plutonium.[4] The blanket is comprised of some 22,000 pounds of uranium, primarily consisting of the fertile isotope (non-weapons usable) U-238. Neutrons are produced by fissioning of plutonium in the core and are absorbed by uranium in the core and in the blanket, generating both heat and more plutonium. More than 5,800 pounds of plutonium can be retrieved from the core and more than 760 pounds from the blanket each year of reactor operation. Over 6,500 pounds of plutonium are discharged from a breeder reactor every year.[5] Since less than 15 pounds of plutonium are needed to make an atomic weapon, each breeder reactor discharges enough plutonium to fashion at least 400 bombs a year.

PLUTONIUM AND THE BOMB

The principal obstacle to building an atomic bomb is obtaining plutonium or highly enriched uranium. The requisite technical information, including critical mass summaries and how to fabricate neutron reflectors and other components, is found in the public literature and is, therefore, readily available to individuals, groups and nations.

According to Dr. Theodore Taylor, a former nuclear weapons designer and former Deputy Director of the Defense Atomic Support Agency, a single, well-educated and determined individual could make a crude, but effective fission bomb.[6] A well-designed bomb could possibly fit into a small van or the trunk of a car. The Congressional Office of Technology Assessment reports:

"A small group of people, none of whom have ever had access to the classified literature, could possibly design and build a crude nuclear explosive device. They would not necessarily require a great deal of technical equipment or have to undertake any experiments. Only modest machine-shop facilities that could be contracted for without arousing suspicion would be required." [7]

Similarly, any country with a nuclear power or research program, or with access to plutonium or highly enriched uranium, can manufacture nuclear devices with an explosive yield likely to equal or to surpass the power of the bombs which destroyed Hiroshima and Nagasaki. According to the Office of Technology Assessment:

"The level of technological effort put forth in the minimal national program can be called low technology. Low technology encompasses the sort of nuclear device designs that would likely be produced for a first use or first test. This requires techniques which allow high confidence without prior nuclear test experience. This could be characterized as 1945 U.S. technology." [8]

SAFEGUARDING PLUTONIUM

Safeguarding large quanitites of separated plutonium from misuse for destructive purposes is virtually impossible. Two processes are involved in "safeguarding" this material: (1) measurement and accounting procedures to verify the amounts of plutonium in a reprocessing plant at various points of the fuel cycle, and (2) guards, barriers, cameras, alarms and other physical-security and containment measures to ensure that plutonium is not stolen.

Safeguards must be effectively applied [9] to all elements of the breeder fuel cycle that are subject to diversion or theft of plutonium: the reactor, reprocessing plant, fuel fabrication facility, fuel storage facility and along the transportation routes between and among these facilities.

Since commercial breeders are not yet operated routinely, there is no demonstrated experience for assuring effective safeguards against diversion or theft of fresh fuels containing plutonium for refueling the reactors.

There is a limited amount of safeguards experience for commercial reprocessing plants, the key component of the breeder fuel cycle, and two major problems have become manifest:

First, existing methods of measuring the large amounts of plutonium contained in spent reactor fuel are imprecise: it is possible to estimate the quantity of plutonium contained in the spent fuel of light water reactors only to within plus or minus 10 percent.

Second, current systems can account for the amount of weapons-useable material undergoing reprocessing only to within 5 percent.[10]

According to the General Accounting Office, "Uncertainties resulting from these measurements are so large that diversions of signficant quanities of plutonium might not be detectable in large operating plants." [11]

Similar problems are encountered in fuel fabrication plants and in other facilities that handle plutonium in bulk.

Little commercial reprocessing has taken place in the United States, but a substantial amount of non-commercial plutonium is unaccounted for in U.S. defense and other government nuclear facilities. This material, known as Material Unaccounted For, or "MUF," can result from numerous circumstances including accounting errors, measurement uncertainties, accumulated small losses in pipes, and deliberate diversion. Between 1947 and 1981, over 4,000 pounds of plutonium were unaccounted for in this country. One facility, the Savannah River Reprocessing Plant, a weapons facility operated by the government, had a net shortage of 320 pounds of plutonium during its operating lifetime from 1955 to 1972.[12]

Although the precision of material accountability for each part of the breeder fuel cycle remains difficult to ascertain, the total amount of unaccounted-for plutonium in the fuel-cycle would be large—certainly large enough to permit undetected diversion of weapons-useable plutonium.

STEALING PLUTONIUM

Two major dangers will persist: diversion of plutonium by states and theft by terrorists and gangsters.

The potential for clandestine diversion by governments raises grave dangers. Plutonium, once separated from highly radioactive spent fuel, is readily handled at all stages of the fuel cycle. The ability of the International Atomic Energy Agency to safeguard this material against diversions by states is subject to severe political and technical constraints. Its role is limited to verifying material balances reported by states. It has no authority to seek out clandestine activities. Its role is akin to an auditor, not a policeman.

Uncertainty of materials accounting is so large that the IAEA is unlikely to know for sure whether missing plutonium was, in fact, diverted or stolen. A nation's good faith and cooperation are required for international safeguards procedures and equipment to function properly. As pointed out in a published but still officially classified report by a former IAEA inspector to the Nuclear Regulatory Commission: ". . . the representatives of state systems and the op-

[1] Footnotes at end of article.

erators of the installations know exactly how effective international safeguards are and how the international safeguards system can be defeated." [13]

In a recent letter, Nuclear Regulatory Commission Chairman Nunzio Palladino pointed out that because plutonium and highly enriched uranium (HEU) ". . . can be transformed readily into weapons, we cannot count reliably on inspection alone to provide timely warning of diversion of HEU and separated plutonium in time to prevent weapons asssembly if the necessary preparatory work has been done." [14]

NRC Commissioner Victor Gillinsky recently wrote, ". . . the IAEA system does not (and cannot!) protect plutonium in national hands. . . . In the process of separation, the plutonium loses its national identity and effective control by any one fuel supplier becomes impossible." [15]

Monitoring tons of plutonium being transported around the world in hundreds of different vehicles, and maintaining accurate accounting for the hundreds of facilities in which plutonium is handled would be an arduous enough task. Operating an intelligence system that could provide quick warning of a diversion of plutonium might be impossible to accomplish.

Sober advice to the President has been offered by the Department of Defense regarding the ability of the International Atomic Energy Agency to safeguard plutonium and other dangerous materials:

"The Department of Defense wishes to express its reservations about the effectiveness of IAEA safeguards, the weakness of the IAEA as an international institution, its susceptibility to Third World and East Bloc politics, its lack of an intelligence capability, and the limits of its scope and jurisdiction, in order to guard against undue reliance on the IAEA by those responsible for national security within the United States Government." [16]

Given the known uncertainties and errors in materials accounting, and the technical and human limitations for dealing with them, there is no basis for believing that it is safe to proceed with commercial development of breeder reactors and related fuel facilities. There is no evidence for assuming that science will eventually achieve near perfect plutonium accounting. With tons—and eventually thousands of tons—of plutonium circulating annually in various facilities and being transported around the globe, nations desiring nuclear-weapons material would be able to obtain it.

NUCLEAR THEFTS AND THREATS

At the same time, overt seizure of plutonium, or sneak thefts within the margins of accounting error, also would be difficult to prevent. With dozens or more breeder reactors operating worldwide, hundreds of tons of plutonium would be transported within and among countries by rail, sea, truck and possibly air, presenting numerous opportunities for theft.

The principle presently used to prevent the theft of plutonium used in military facilities—containment—could not effectively be employed to keep plutonium secure once it becomes an item of international commerce. Keeping track of and guarding the hundreds of vehicles carrying plutonium will be an arduous task; preventing thefts of small quantities, enough for a few atomic bombs, could be impossible over the long run.

The Office of Technology Assessment reports, "If plutonium becomes a commonly traded commodity, minimal intermittent black market transactions seem plausible, simply because the large amounts of material that could be circulating would be difficult to safeguard perfectly." [17]

Many unauthorized intrusions of nuclear facilities already have occurred. For example, in March 1971, five uranium rods were stolen from the Springfield fuel fabrication plant in the United Kingdom "perhaps in transit or at the Wylfa reactor in Anglessy." [18] In 1975, in a demonstration of security inadequacy, a West German Member of Parliament carried a bazooka into the Biblis reactor plant and presented it to the Director. In 1976, an intruder successfully scaled a security fence and entered a protected area at the Three Mile Island Reactor. He was not apprehended.[19]

There are a number of recent reports of a disturbing phenomenon—nuclear threats:

". . . in the seven years ending in November 1977, forty-nine threats were received in the United States 'in which adversaries claimed to possess nuclear material or a nuclear device and threatened to wreak severe damage with it.' By mid-1981, the count was sixty-five and rising. . . At least four threats were deemed sufficiently credible to evoke intensive research by a specially instrumented team. . ." [20]

Nuclear terrorist threats would become far more credible once plutonium becomes widely available. In the absence of foolproof methods for keeping even small amounts of this weapons material out of irresponsible hands, the likelihood of genuine nuclear blackmail and of nuclear violence will increase over time if breeders are developed and deployed.

MOVING TOWARD A WORLDWIDE BREEDER ECONOMY

Elaborate plans are being made to protect a single commercial breeder reactor at Clinch River, Tennessee, and its accompanying facilities from sneak thefts and attack. For example, an extensive network of alarms, guards, fences, vaults and other devices, as well as specially equipped plutonium-carrying trucks with armed couriers in constant communication with law enforcement agencies, are being developed. Some of the ancillary fuel-cycle facilities will be located in high-security nuclear-weapons compounds operated by the Department of Energy. The Nuclear Regulatory Commission staff assessment of Clinch River safeguards maintains that "the probability of a successful act of sabotage or theft is low," [21] for this one reactor, but it also points out that "the proposed DOE facility design is conceptual in nature; hence the safeguards system is also conceptual." [22]

Despite the stringent safeguards required for Clinch River and its fuel cycle, and the present conceptual state of those safeguards, the impact of proceeding with Clinch River on the global spread of nuclear weapons is not formally being considered. According to the NRC assessment, "The staff has not evaluated the relative proliferation resistance of the various fuel cycles or the likelihood that development of the Clinch River Breeder Reactor Project will lead eventually to the further proliferation of nuclear weapons." [23]

Breeder proponents look ahead to a world in which there are hundreds, and eventually thousands, of breeder reactors despite the impracticality, if not the impossibility, that the military-like security and safeguards procedures planned for the Clinch River project can be uniformly applied throughout the world.

The International Nuclear Fuel Cycle Evaluation report estimates that there could be some 50 breeder reactors operating by the year 2000; [24] a recent Scientific American article projects that in 50 years about 1,500 breeders could be producing 1,000 megawatts of electricity each, supported by 60 large plutonium reprocessing plants and similar number of fuel fabrication facilities. [25]

Dr. Theodore B. Taylor, the former nuclear weapons designer, describes this breeder-supported world:

"The total annual quantity of plutonium shipped between the projected nuclear power plants and fuel reprocessing and fabrication plants would be in the vicinity of 2 million kilograms. It takes less than 10 kilograms of plutonium to make a fission bomb that is *now* old fashioned. Diversion of less than 1% of this annual flow of plutonium would be enough for more than 1,000 nuclear weapons per year." [26]

He points out that a "single fast breeder fuel reprocessing plant would discharge enough plutonium for more than 10,000 nuclear weapons per year." [27] Depending on how many breeders are producing electricity, there could be hundreds or thousands of bombs worth of material unaccounted for each year.

Plutonium, once separated from spent fuel, remains weapons usable for over 100,000 years; in fact, it then decays into another weapons material, uranium-235. Because of its exceedingly long active life, plutonium must be guarded with absolute assurance for a period of time equal to the millennia between the last ice age and the present.

THE GLOBAL IMPLICATIONS OF CLINCH RIVER

Given the inherent danger of separated plutonium, a material produced by the ton that can be used by the pound to make nuclear weapons, the implications of proceeding with the Clinch River plutonium breeder go far beyond the energy interests of the United States. Clinch River would further legitimize plutonium as a civilian fuel and would encourage breeder development and plutonium commerce around the world at the very time these programs are encountering serious difficulties in every country pursuing them.[28]

There is no human experience in commerce in a material as dangerous a plutonium. However, the inability of governments to control trafficking in heroin, portable anti-aircraft missiles and high explosives suggests that we cannot be sanguine about their ability to control trafficking in plutonium. The widespread use of plutonium as a civilian fuel would pose an unprecedented threat to human civilization, even to survival. Neither the political nor the technical skills have been developed to assure the safe and secure handling of plutonium in commerce. Unless they are, Clinch River and other commercial breeder reactors are too dangerous to bring into the world.

FOOTNOTES

[1] Judith Miller, "Trying Harder to Block the Bomb," *New York Times Magazine*, September 12, 1982.

[2] The Department of Energy's most recent cost estimate for Clinch River, made in 1980, is $3.2 billion, an eight-fold increase since the original 1971 projection of $400 million. An interim report by the General Accounting Office states that the cost of the project could exceed $8.8 billion (September 23, 1982). Neither the DOE nor GAO include in their calculations the cost of all the ancillary facilities such as reprocessing, fuel storage and fabrication plants. Breeder programs in France, Great Britain,

Japan and West Germany are experiencing major cost escalations as well.

[3] The vast amounts of weapons plutonium in the United States and other nuclear-weapons states are also of deep concern but beyond the scope of this report on the impact of commercial plutonium on the spread of nuclear weapons.

[4] All figures, unless otherwise stated, are for a 1000 ME(e) breeder reactor. Breeder input and output information is derived from the International Nuclear Fuel Cycle Evaluation, Report of Working Group 5, Chapter 3, "The Fast Breeder Fuel Cycle," pp. 83-91, International Atomic Energy Agency, Austria, January 1980.

[5] The isotopic content of the plutonium produced in the blanket is about 97% plutonium 239, which is considered ideal weapons material. Plutonium in the core has a higher concentration of plutonium 240, but still can be readily used in nuclear bombs.

[6] Statement made at a forum on nuclear terrorism at a meeting of the Nuclear Nonproliferation Task Force, U.S. Congress, August 12, 1982.

[7] *Nuclear Proliferation and Safeguards*, U.S. Congress, Office of Technology Assessment, 1977, p. 140.

[8] Ibid., p. 140.

[9] By "effectively applied" we mean safeguards that can provide prompt warning of a diversion of, or can prevent theft of, a weapons-quantity of plutonium—that is, less than 15 pounds.

[10] An accounting error of 5 percent of the plutonium going through a large commercial reprocessing plant amounts to 1,650 pounds, or the equivalent of more than 100 atomic bombs a year. Even if the margin could be reduced to one percent, which is regarded as highly unlikely, the amount of plutonium unaccounted for still would be equivalent to more than 20 bombs a year.

[11] "Nuclear Fuel Reprocessing and Problems of Safeguarding Against the Spread of Nuclear Weapons," General Accounting Office, EMD-80-38, March 18, 1980, p. ii.

[12] Ibid., p. ii.

[13] Emanuel R. Morgan, *Report on the Implementation of IAEA Safeguards*, as reported in *Nuclear Fuel*, November 23, 1981, p. 9.

[14] Nunzio A. Palladino, Chairman, Nuclear Regulatory Commission, Letter to Senator Gary Hart, March 2, 1982.

[15] Victor Gilinsky, "The Administration's Risky Plutonium Policy," *The Wall Street Journal*, July 15, 1982.

[16] See Gerald F. Seib and John R. Emshwiller, "President Unveils Nuclear Arms Policy as Pentagon Criticizes Watchdog Agency," *The Wall Street Journal*, July 17, 1981.

[17] OTA, op. cit., p. 15.

[18] "Obstacles to U.S. Ability to Control and Track Weapons-Grade Uranium Supplied Abroad," General Accounting Office, GAO/ID-82-21, August 2, 1982, p. 64.

[19] Ibid., p. 65.

[20] Amory B. Lovins and L. Hunter Lovins, *Brittle Power: Energy Strategies for National Security*, Brick House Publishing Co., Inc., 1982, p. 160. Quoted G. Bass, "Motivations and Possible Actions of Potential Criminal Adversaries of U.S. Nuclear Programs," report to Sandia Laboratories, RAND Corporation, R-2554-SL, February, 1980.

[21] Nuclear Regulatory Commission, "Supplemental to Final Environmental Statement related to construction and operation of Clinch River Breeder Reactor Plant," NUREF-0139, Supplement No. 1, Vol. 1, October 1982, p. 12-66.

[22] NRC Supplemental, vol. 2, op. cit., p. E-13.

[23] NRC Supplemental, vol. 1, op. cit., p. 12-33.

[24] INFCE, op. cit., p. 85.

[25] Wolfgang Sassin, "Energy," *Scientific American*, September 1980.

[26] Statement by Theodore B. Taylor, Subcommittee on Oversight and Investigations of the Committee on Interior and Insular Affairs, U.S. House of Representatives, October 23, 1981.

[27] Ibid.

[28] See "The Floundering Race to Build the Nuclear Concorde" by Walter C. Patterson, prepared for Congressional briefing by Taxpayers Coalition Against Clinch River, September 15, 1982.

COLBY—EX-HEAD OF CIA—CALLS FOR NUCLEAR FREEZE NOW

Mr. PROXMIRE. Mr. President, yesterday's Washington Post carried an article by William Colby calling on President Reagan to leapfrog the obstructionists who urge him to oppose the freeze and instead take the leadership of the freeze movement. Who is William Colby and what are his credentials to speak out in this nuclear freeze debate? Mr. President, William Colby is the former Director of the Central Intelligence Agency, that is right—the CIA. As the former chief of our intelligence he speaks with a profound and detailed knowledge of our nuclear weapons and the Soviet nuclear weapons. After all, for years his job was to know just what progress the Soviet Union was making and where we stood vis-a-vis the Soviet Union in the arms race.

And so Mr. Colby speaks with special force on the very tough problem of verification. No other element of the freeze has been so vigorously criticized by its opponents as our ability to determine whether or not the Soviet Union would abide by a freeze treaty and whether we could protect ourselves, if they would not. Consider what Colby says on this point:

> Could we verify whether the Soviets would abide by such an agreement? The administration's own reports show that we are doing exactly that in our attention to potential violations of SALT II and the steady buildup of Soviet power.

And now listen to this from the man who can speak with as much authority as anyone about our intelligence system. Colby goes on to say:

> The fact is that our intelligence system will cover the Soviet Union's nuclear weaponry whether there is a freeze between us or not; a freeze treaty would merely make it easier to do so because of the numerous elements included in recent treaties to facilitate the process.

And this former head of the CIA goes on to say:

> The fact that the Soviets might violate a treaty is not the determinant. No one should "trust" them not to do so. The real point is whether we would catch them at it and be able to act upon that information. The evidence today indicates that this is clearly the case. Any violation that would be extensive enough to have an impact on the strategic balance would certainly be noticed by us." And Colby concludes: "The real question is what we propose to do about a violation rather than whether we would know of it. In this respect there are improvements that can be made in procedures, such as third-party investigations and decisions, interim sanctions and greater visibility upon challenges. The Soviets have shown themselves in recent treaties to be willing to yield some of their long-held phobias against exposure of their affairs, provided that the result is specifically in their interest.

And consider, Mr. President, the advantages listed by Mr. Colby in evaluating the advantage of the freeze to the safety of our country:

First, a freeze on new types of land-based missiles permitted under SALT II would halt the present Soviet testing of two new types. It would also halt the MX. At worst, a standoff for this country—no net loss in security, and a gain for peace in avoiding hair-trigger, first-strike deployments.

Second, a freeze would bar the development of cruise missile armadas on both sides. True, we are ahead to date, but the U.S.S.R. will catch up as they did with MIRV. So the cruise missile armada race would stop—and what's wrong with that?

Third, a freeze would stop the Blackjack bomber on the Soviet side and the B-1 on our side, another gain for peace and national security.

Fourth, the freeze would stop both the D-5 missile by us and more accurate Soviet submarine-launched missiles, another gain for both national security and peace.

Finally, Mr. Colby argues that the Soviets are not superior to us in technology and that we have a retaliation potential that is "absolute." So why not freeze it right here?

Mr. President, I ask unanimous consent that the article by William Colby in the Tuesday, April 19, 1983, Washington Post be printed at this point in the RECORD.

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

[From the Washington Post, Apr. 19, 1983]

REAGAN SHOULD TURN FROM APPEASEMENT TO A FREEZE

(By William E. Colby)

To use language meaningful to those of President Reagan's generation (and my own), appeasement doesn't work. I am sure the president would agree with that statement, but in fact, he is engaged in a program of appeasement. NATO's first resolute decision to deploy 108 Pershing II missiles and 464 cruise missiles to meet the Soviet SS20 buildup has been followed by the president's proposal of a zero option on both sides, rejected by the Soviets, and then a suggestion for an interim solution, also rejected by the Soviets.

The president's proposal to supplant the SALT II treaty by the START proposal to reduce strategic launchers to 850 on each side and warheads to 5,000, no more than half of which would be land-based, has been rejected by the Soviets. The U.S.S.R. made a minimal move in our direction by suggesting an 1,800-launcher limit. The administration now considers means by which it could move off its original proposal toward the Soviet position.

Another appeasement being attempted is of the anti-nuclear and nuclear freeze movements in the West. The political force of these movements led the administration to soften its previous positions, in hopes of diluting the impatience of millions of Europeans and Americans over their governments' inability to reduce the nuclear terror to which they are exposed. Minor variations of the degree of terror certainly are not going to appease these movements, particularly when these gestures are matched by plans to bring in new weapons systems like the MX, the D5, the B1, and a whole new dimension of space warfare.

The real requirement is for a bold move to halt the arms race, as a clear indication of resolution to reduce the nuclear terror to which all our populations are subjected.

This is the basis for the call for a mutual and verifiable freeze on the testing, production and deployment of nuclear weapons and their delivery systems. A recitation of what this freeze will produce in benefits to the safety of the United States is a compelling argument for Reagan to leapfrog the obstructionists who urge him to oppose it and instead take leadership of it.

A simple projection of current weapons plans that would be obviated by a freeze demonstrates its value to the safety of our country:

(1) A freeze on new types of land-based missiles permitted under SALT II would halt the present Soviet testing of two new types. It would also halt the MX. The prime characteristic of these new weapons is an increase in accuracy and consequent targeting of the land-based missile systems of the other side. While the so-called "first-strike" scenario is discussed as a theoretical possibility today, the advent of these new weapons systems will bring it remarkably closer. Both sides will be convinced that the other will soon have the potential for a single devastating blow, requiring that it keep itself on hair-trigger alert for an equally devastating response. The decision time in such circumstances will be reduced so that automatic, not human, decisions will have to be programmed, offering the sickening prospect of mutual destruction through machine error.

(2) A freeze would bar the development of cruise missile armadas on both sides. While the United States is technologically ahead with this new device to date, it is predictable that the Soviets will develop their own capability within the next decade. They did just that with respect to the MIRV, after it was left out of SALT I in 1972 because the United States had no incentive to bar itself from something the Soviets did not then have. At the end of this decade, we can confidently expect a national debate over the need for a comprehensive air defense system to protect the United States from a Soviet cruise missile armada. This whole development would be eliminated by a freeze today.

(3) A freeze would bar the further development and deployment of the Blackjack bomber on the Soviet side and of the B1 on the American side. This would have to be clarified in the discussions leading to the freeze agreement, but it seems clear that the strategic arms negotiating history considers intercontinental aircraft to be launchers rather than platforms. Again, this would prevent the buildup of a large Soviet intercontinental nuclear air force requiring the kind of air defense system the Soviets are now hoping can hold off at least some of our B52s.

(4) The freeze would bar the development of the D5 missile by the United States, with its improvements in accuracy leading to the danger of first strike from the sea. Similarly, it would bar a more accurate Soviet submarine-launched missile. It would not bar the replacement of Polaris submarines by Tridents because the negotiating history has considered submarines as platforms rather than as launchers. The Soviets are currently considerably behind the United States in submarine technology, but again it can be confidently expected that they will improve over the next decades through a combination of espionage, allocation of resources and talent, and plain competitive determination. A freeze on launchers would limit the application of those improvements in the nuclear dimension.

Each of the arguments against the freeze collapses under careful examination:

(1) The Soviets are certainly not "superior" to the United States in any meaningful way today. If they were, we would see them using that superiority, rather than indicating concern over the technological superiority of the United States and its ability to leap ahead in technology in the coming years at a pace beyond that possible for the Soviet Union. The present American retaliation potential is absolute, and with a modicum of maintenance, its components will not vanish from old age.

The Soviets restrict their adventurism these days to the safer techniques of proxy war, subversion and attempts to encourage weakness of American will and separation from European opinion. This is not the bluster of someone convinced that he has the power to dominate. It is the wiliness of someone operating from a position of weakness, trying to slow the opponent down without direct confrontation.

(2) Could we verify whether the Soviets would abide by such an agreement? The administration's own reports show that we are doing exactly that in our attention to potential violations of SALT II and the steady buildup of Soviet power. The fact is that our intelligence system will cover the Soviet Union's nuclear weaponry whether there is a freeze between us or not; a freeze treaty would merely make it easier to do so because of the numerous elements included in recent treaties to facilitate the process. Even in areas of ambiguity, of which there will certainly be some, such as the current indications of Soviet violation of the chemical and biological treaty, it is plain that our intelligence systems have picked up these activities. They have not occurred without being exposed to outside scrutiny.

The fact that the Soviets might violate a treaty is not the determinant. No one should "trust" them not to do so. The real point is whether we would catch them at it and be able to act upon that information. The evidence today indicates that this is clearly the case. Any violation that would be extensive enough to have an impact on the strategic balance would certainly be noticed by us.

The real question is what we propose to do about a violation rather than whether we would know of it. In this respect, there are improvements that can be made in procedures, such as third-party investigations and decisions, interim sanctions and greater visibility upon challenge. The Soviets have shown themselves in recent treaties to be willing to yield some of their long-held phobias against exposure of their affairs, provided that the result is specifically in their interest.

(3) A freeze would certainly be of advantage to the Soviet Union, halting the major American nuclear buildup now planned. As with any successful treaty, however, the question is whether it would be in the equal interest of the United States, halting a certain further Soviet buildup of nuclear weaponry, which, of course, it would. We can protect the United States better by convincing the Soviet Union not to develop new weapons systems than by developing the defensive systems to shoot them down if they are used against us.

Thus appeasement is not the answer. It does not satisfy the nuclear priesthood, which thinks only of building new and more complex weapons systems. It does not satisfy the Soviets, as every indication of yielding is taken as a weakening of will to achieve a mutual solution to the arms race. It does not satisfy the opponents of nuclear warfare among the broad populations of Europe and the United States, who believe their leadership has failed to protect them against potential annihilation as a result of the inexorable march of technology.

Only a bold, firm call for a mutual stop in the arms race could cut through the present tangled political and diplomatic negotiations and produce a result worthy of an American president.

GENOCIDE CONVENTION: POLAND'S COMMEMORATION TO THE WARSAW GHETTO REBELLION

Mr. PROXMIRE. Mr. President, this week, Poland will salute the courage and determination of those Jews who waged an epic struggle against the Nazi occupation forces 40 years ago in the Warsaw Ghetto. This elaborate 40th anniversary celebration marks the first big international event to take place in Poland since the declaration of martial law more than 13 months ago.

Participants in this grand commemoration include representatives from many of the major United States and West European Jewish organizations and individual citizens from around the world. However, for many Jews the decision whether or not to attend the ceremonies was a painful one, forcing them to weigh their duty to honor the memory of those who paid with their lives in the Warsaw Ghetto against current Polish and East-West politics.

Undoubtedly, the revolt of the beleaguered and outnumbered Jews of the Warsaw Ghetto against the might of the Nazi Army deserves a special commemoration. Few question the world significance of this rebellion as a symbol of man's struggle for freedom over forces of oppression. Yet, many Jews hesitate supporting the commemoration in a country as blatantly anti-Semitic as Poland. The Jews strongly suspect that the memorial is a weak, but politically convenient, gesture for the government of General Jaruzelski to divert attention away from their declaration of martial law and to seek a new opening toward Jews without actually making amends for Poland's post-war anti-Semitic acts. Although few practicing Jews remain in Poland, government officials, who are going to considerable lengths to associate themselves with the memorial activities, hope that the political fallout from the celebration will uplift Poland's international image.

Marek Edelman, the last surviving leader of the Warsaw Ghetto uprising, is among those refusing to participate in the commemoration. When questioned about his refusal, the 62-year-old former resistance fighter and activist in the now-outlawed Solidarity Union issued this statement:

Forty years ago we did not fight merely to survive—we fought for life in dignity and freedom. To celebrate our anniversary here, where enslavement and humiliation are now the lot of the whole society, where words and gestures have become nothing but lies, would betray the spirit of our struggle.

Mr. Edelman's refusal to join the Polish commemoration proves that he has an awareness that the struggle against bigotry and hatred that characterized the Holocaust is far from being over. Gestures of sympathy and concern for past atrocities do little to assure their future prevention.

Mr. President, while the tragic events of the Holocaust are behind us, intolerance, anti-Semitism, and hatred are still prevalent today and could at any time ignite another genocidal act. We in the Senate have a moral responsibility to do everything in our power to prevent senseless tragedies of the past from being repeated.

We now have at our fingertips an instrument for our advocacy of human rights. I am referring to the Genocide Convention, which is specifically aimed at protecting ethnic, national, racial, or religious groups from extermination by making the act of genocide a crime under international law.

Although the Genocide Convention has been pending before the Senate since 1949, the United States stands alone among the developed nations in its failure to ratify this important treaty.

Let us prove to the world that we are willing to take a firm and positive step toward the prevention of another Holocaust by ratifying the Genocide Convention.

INVESTOR-OWNED HOSPITALS: PRESCRIPTION FOR SUCCESS

Mr. HUDDLESTON. Mr. President, my home State of Kentucky is fortunate to have an excellent network of profit and nonprofit hospitals, staffed by some of the most able and dedicated people I know.

We are also fortunate to be the home of Humana, Inc. Organized in Louisville in 1961, Humana now has 93 hospitals with more than 16,000 licensed beds in 23 States, and is helping to bring some innovative ideas and changes to the hopital industry.

This month's Reader's Digest includes an article about Humana and some of the other investor-owned hospital chains. I ask that "Investor-Owned Hospitals: Prescription for Success" be reprinted in the RECORD.

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

INVESTOR-OWNED RX FOR SUCCESS

BY MIXING BUSINESS ACUMEN WITH CREATIVE MEDICAL CARE, THESE CHAINS ARE REAPING HEALTHY DIVIDENDS FOR PATIENTS AND SHAREHOLDERS ALIKE

(By Donald Robinson)

You are wheeled into a hospital, conscious of the hiss and click of automatic doors and the cool glare of fluorescent lights above you. Like many of the 35 million Americans admitted to hospitals each year, you experience an apprehension that compounds your illness or injury. You've heard about indifferent care, overcrowding and the crunching costs.

You may, however, be pleasantly surprised. A revolution in hospital care is under way all over the country. Consider:

At Sunrise Hospital, an ultramodern 670-bed facility in Las Vegas, accident or trauma victims do not suffer painful—sometimes fatal—delays before being seen by a nurse or a doctor. Every patient is seen within 60 seconds of arriving in the emergency wing.

If a nurse or attendant fails to respond to a call signal within one minute at Eastwood Hospital in Memphis, Tenn., the patient receives a $10 refund on the daily bill. If his room is not cleaned properly, he receives an additional $10 reduction. As a result, the hospital is virtually spotless; care is prompt.

At Grand Strand Hospital, a glistening 133-bed community facility in Myrtle Beach, S.C., most patients occupy private rooms. There are no wards with patients shoehorned into corners. Yet private patients pay just a few dollars a day more for a room.

These three institutions belong to nationwide chains that are bringing long-overdue relief to hospital patients. At the same time they are producing healthy profits for hundreds of thousands of shareholders. The secret of their success? Simple. They make money by giving people what they need: dignified, comfortable and competent care. "We treat patients as customers, not statistics," says David A. Jones, chairman and chief executive officer of Humana, Inc., a hospital chain with $1.9 billion in operating revenues in 1982.

PERSONAL TOUCH

The vast majority of America's 7000 hospitals are nonprofit institutions. Inefficiency and waste are commonplace in those facilities that have not banded together. Costs rise unchecked and, with increased demand for services and inadequate payment, losses—especially in large inner-city hospitals—have been catastrophic.

By contrast, hospital chains have become one of the fastest-growing, most profitable industries in the United States. At last count, 41 chains owned 668 hospitals throughout the country (an increase of 37 percent in less than six years) and were being paid to manage 283 nonprofit hospitals. In 1981 such investor-owned chains handled more than six million patients—nearly 15 percent of all hospital admissions. Meanwhile, the chains have injected billions of dollars into the ailing hospital industry. And modern management by free-enterprise-oriented executives is paying high dividends—not only for investors but for patients as well.

Lewis-Gale Hospital in Roanoke, Va., is one of more than 350 facilities operated by Hospital Corp. of America (1982 operating revenues: $3.5 billion). Patients scheduled for surgery here are given routine X rays, lab work and other tests on an outpatient basis before admittance—thus saving costly days in the hospital.

HCA nurses are instructed to sit for a time at the bedside of every patient and calm his or her fears. The day before Robert Kennedy, a 59-year-old bank security guard, was scheduled for open-heart surgery at Park View Hospital in Nashville, he talked about his care. "The nurses have shown me kindness and love," he said. "It's not just that they take care of my needs. It's the way they come in and whisper, 'Don't worry, Bob. You're going to be all right.' "

Like most responsible hospitals, many chain hospitals send questionnaires to their patients as soon as they return home, requesting comments on food, nursing and orderly care, and on the business office. Hospital administrators try to follow through on every complaint.

NEWER AND BETTER

The average chain hospital has 175 beds, roughly the same as the average nonprofit institution, but here the similarities usually end. The investor-owned hospital is likely to be newer, with more sophisticated equipment than the average community hospital, because it has large amounts of capital at its disposal. Sixty-three percent of Humana's 90 hospitals are less than ten years old. In contrast, almost half our existing hospitals are at least 25 years old and will require major renovation or replacement within the next decade.

Many chain hospitals have been upgraded to treat a greater variety of diseases. HCA just opened a $9-million cancer wing at Park View. HCA's Los Robles Regional Medical Center near Los Angeles has one of the finest burn units in America. A 267-bed Humana hospital in Orlando, Fla., has earned an international reputation for rehabilitating patients with damaged spinal cords. Humana's Sunrise was the first hospital in Nevada to install a neonatal intensive-care unit. Result: the unit helped slash the State's death rate for premature babies by 50 percent.

DIAGNOSIS BY WIRE

Another characteristic of investor-owned hospitals is innovation. For example, American Medical International (AMI) has hooked up its 73 hospitals (and other subscriber hospitals) throughout the country to a central respiratory lab near Boston. When a respiratory therapist tests a patient's breathing, the impulses are sent over a special data wire to the Massachusetts lab. The information is printed out by a computer there and reviewed by a pulmonary specialist. In a few hours the local hospital gets a "big city hospital" diagnosis.

AMI has also put together a fleet of 55 mobile CAT scanners, which cost an average $1 million apiece, to circulate among hospitals that elect to purchase the service. Now even the smallest facility can make a CAT scanner available to patients.

In smaller cities and towns, a chain hospital sometimes can mean the difference between life and death. In the mid-1970s, for instance, hospitals in Hobbs, N.M. (pop. 29,800), were so substandard that the seriously ill often traveled 110 miles to hospitals in Lubbock, Texas. Answering the pleas of alarmed community leaders, a chain company built the ultramodern 180-bed Lea Regional Hospital. In 1979, it was sold to HCA. Since then the corporation has recruited 58 new specialists, including an eminent neurosurgeon, Dr. Byron Bloor, former chairman of neurology at Loyola University. Their

presence has saved the lives of many Hobbs residents. A typical emergency case:

Jesse Cano, a 22-year-old student at New Mexico Junior College, was cramming for an exam when he suffered a headache so excruciating that he fainted. An ambulance sped him to Lea Regional where a CAT scan revealed an aneurysm of an artery supplying blood to his brain. It had hemorrhaged.

After Cano's condition had been stabilized, Dr. Bloor performed delicate brain surgery, and 13 days after the operation Cano was discharged from the hospital. Had he suffered the hemorrhage a year earlier, he might not have survived the trip to Lubbock.

PROFITABLE LESSON

The idea for one of the first investor-owned hospitals came in the mid-1950s when a Nashville doctor, Thomas F. Frist, Sr., became unhappy with the quality of care his patients were receiving in local hospitals. His goal was to provide a standard of medical care unavailable from nonprofit public hospitals. How? By using private capital to establish a network of hospitals that would deliver quality care at competitive costs.

Frist and some colleagues pledged their personal assets to acquire Park View, which in 1968 became the flagship of the HCA chain. By 1978 Frist and his partners had 100 more. HCA was the first company on the New York Stock Exchange to pass the billion-dollar mark in sales in its first ten years of operation.

Since then the chain concept has continued to spread and to reap profits despite the fact that these hospitals pay federal, state and local taxes. As a group, they paid $484 million in taxes in 1981.

Investor-owned hospitals save money in myriad ways. They purchase supplies in bulk and minimize duplication of services. In addition, the chains make a big effort to collect unpaid bills. By speeding up accounts receivable at a California hospital from 48 to 33 days, National Medical Enterprises, a for-profit hospital-management company, saved the facility $410,411 in just 18 months.

Cutting bloated staffs while attracting good personnel is another important goal. Although a critical shortage of nurses has prevailed throughout the country, major chains have all they need because they have devised novel benefits and working conditions. For-profit chains, for example, helped pioneer day care and flextime for nurses.

The average daily nonprofit hospital bill of $284 is virtually identical to that at an investor-owned institution. But patients at the investor-owned hospitals actually pay less overall because they are discharged faster. The average stay in investor-owned community hospitals is 6.5 days compared with 7.8 days in nonprofit community hospitals. "A better-managed hospital gets people in and out quickly," says Michael D. Bromberg, executive director of the Federation of American Hospitals, a national association of investor-owned hospitals.

SALVAGE OPERATION

In addition to running their own hospitals, some chains supply management services and know-how to ailing nonprofit institutions. Not long ago Chicago's Cook County Hospital, the sole public hospital in the city, was in deep financial difficulty. The 1378-bed institution was racked by fiscal problems and inefficiency. In April 1980 the newly reappointed Cook County Board of Commissioners hired the Hyatt medical chain as management consultants in a last-ditch effort to rescue the dilapidated hospital.

The Hyatt team's survey found the vital medical-records department in chaos. The operating rooms worked at one-third capacity because of a shortage of anesthesiologists. The hospital had lost $51.3 million in unpaid bills over a three-year period.

The medical records were quickly brought up to par. Meanwhile, the company persuaded the Board of Commissioners to raise salaries for anesthesiologists to the going level—around $90,000 a year. As a result, the hospital was able to recruit a full complement of anesthesiologists, and last spring all 18 operating rooms were functioning at capacity. To date, $36 million in unpaid bills has been recovered—primarily by making patients aware of their eligibility for Medicaid.

Hyatt also reorganized the rest of the hospital. Twenty kitchens were consolidated into seven, eliminating $700,000 a year in wages, and there are plans to combine several large laboratories. Hyatt earned the hospital $6.2 million a year in interest by slashing in half the time it took to bill Medicaid. The consultants also earned the hospital $600,000 a year more in interest simply by changing the time the hospital's daily receipts are picked up and taken to the bank. "We still have a long way to go," says Elliott C. Roberts, Cook County Hospital director, "but we're on the way."

At the same time many other nonprofit hospitals have taken a leaf from the investor-owned hospital chains and banded together into regional systems to promote improved hospital management, shared services, joint purchasing, novel financing. "The chains have taught us a great deal," says J. Alexander McMahon, president of the American Hospital Association, which represents all the nation's hospitals, nonprofit and for-profit. "The ones who'll profit the most are the patients."

S. 764—THE AIR TRAVELERS SECURITY ACT OF 1983

Mr. WARNER. Mr. President, I ask unanimous consent that Senators COCHRAN and ABDNOR be listed as cosponsors of S. 764—the Air Travelers Security Act of 1983.

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

Mr. WARNER. Mr. President, on March 10, Senator SASSER and I, along with Senator PRESSLER, Senator INOUYE, and others introduced the Air Travelers Security Act of 1983, a bill to assure the continued protection of the traveling public in the marketing of air transportation, and for other purposes.

This is an important consumer-oriented bill which deserves the support of all Senators.

The purpose of this bill is to permit the airline industry to retain intercarrier agreements designed to provide the industry with an efficient, shared distribution system of retail agents. This system is of enormous benefit to the industry and the traveling public. The agreements which make this system possible provide a centralized process for accreditation and appointment of travel agents that is extraordinarily efficient.

Because all travel agents must meet a specific set of professional qualifications, related to experience and financial integrity and which are acceptable to the airlines, the airline parties to the agreements are enabled to accept each others' agents with a minimum of expense. The airlines also are able to recognize and honor the tickets issued by such agents, facilitating the provision of interline transportation throughout the United States and the world.

The integrated nationwide network of travel agents that is produced by the agreements has evolved, with the continuous oversight and approval of the Civil Aeronautics Board (CAB), over a period of 40 years.

This system has served the airlines and the public very well.

It has promoted competition in many important ways and, in particular, has contributed to the ability of the airline industry to make the transition to a less regulated environment as contemplated by the Airline Deregulation Act of 1978.

In an increasingly confusing, often chaotic market, the fully representative industry travel agent is a source of complete and objective information for consumers without parallel in other industries. The industry agent has likewise made it possible for airlines to enter new markets with maximum efficiency by providing new entrants with a preexisting network of agents that already represent the new carrier.

The CAB recently completed a lengthy investigation of the airlines' marketing agreements for both domestic and international sales. An administrative law judge, who presided over the trial of the case, recommended that the key feature of the agreements be retained. The judge heard the testimony through 90 hearing days and personally studied all of the evidence and briefs objectively.

The judge held that the provisions requiring all agents to be accredited under the agreed-to standards was essential to the efficient maintenance of an integrated air transport network, especially one which would continue to provide interline transportation, a very important public benefit.

The judge also found that the accreditation system should apply only to persons acting as agents on behalf of the airlines, to permit possible entry into the retail ticketing business by firms interested in a nonagent or traditional retailer relationship with the airlines.

Finally, the judge concluded that the agreements must continue to receive antitrust immunity, as they have for the past four decades, in order to continue operating. This immunity

protects the airlines from civil and criminal attack with respect to the agreements that the Government has administratively approved as in the public interest.

The airline parties to the agreements, the travel agency industry, and one firm that appeared to seek entry as a ticketing retailer, accepted the judge's approach as reasonable and balanced. It sustained the vital elements of the agency network while allowing new opportunities for innovation.

The CAB itself, by a divided vote, overturned the recommendations of the administrative law judge. The Board concluded that the provisions requiring all agents to be accredited should terminate immediately in cases where two or more airlines agreed to allow interline sales by unaccredited agents across the lines.

The Board also disapproved, as of January 1, 1985, the standards designed to limit accreditation to persons interested primarily in engaging in public business as agents for promotion and sale of airlines' services, as distinct from customers interested primarily in dealing for their own account and using agency accreditation as a device to obtain discounts from prices that airlines would otherwise charge.

The Board stripped all of the carrier marketing agreements of all antitrust immunity as of January 1, 1985.

The basis for the Board's objection to the judge's recommendations are entirely theoretical. The Board saw the central issue as one of deregulation versus regulation. It had earlier concluded that the conferral of antitrust immunity was essentially inconsistent with deregulation, even though the Airline Deregulation Act continued the authority of the Board to grant such immunity. The Board's desire to strip the immunity from the agreements led it to eliminate provisions that it believed, for the same theoretical reasons, were not sustainable without it, regardless of the public transportation benefits that those provisions secured.

The Board also interpreted the agreements review section of the Federal Aviation Act (section 412) in a way that placed an impossible burden on proponents of the agreements. This is clearly revealed in the following passage from the Board's opinion:

> The dominance of travel agents in ticketing airline services is not in itself objectionable. If this market position were achieved or persists solely because of the efficiencies of the existing distribution system vis-a-vis other options for purchasing tickets, there would be little basis for challenge under antitrust standards. However, with the exclusivity provisions in place we cannot find that this is the result of the normal operation of market forces but must instead presume that present industry-wide agreements are dictating marketing structure.

Under this rationale, as long as the mandatory accreditation rules were a reality, as they have been for decades, agreement supported, could never prove that agreements were beneficial.

This is neither the approach nor the result that the Congress intended when the agreement-review and antitrust immunity sections of the act were amended in 1978 and 1979. The Board's recognized enthusiasm for completing the deregulation process must be measured and overseen by the Congress when matters affecting the basic structure of the industry are involved.

This is especially important where the Board itself is facing near-term extinction and will thus not be available to deal with long-term consequences of its decision.

Conversely, the deadlines established by the Board's decision effectively foreclose any successor agency from reviewing the Board's action in a timely manner.

The Congress will soon address the complex, long-term decisions related to sunset of the Board, while the airline industry continues to be battered by recession and other economic problems. This is not the time to risk disruption of the marketing system and the tremendous public benefits that it has produced.

The Air Travelers Security Act restores the well-reasoned and fact-based result proposed by the administrative law judge. It adds two new sections to the Federal Aviation Act. The first establishes congressional policy with respect to the airline marketing agreements. It recognizes the important contribution they make to the traveling public and to efficiency and competition in the airline industry.

The second section directs the CAB to vacate its order and substitute the order recommended by the administrative law judge.

Among the groups which have endorsed this legislation are a wide range of industry and consumer groups, including the American Society of Travel Agents, Inc., the Association of Retail Travel Agents, the Air Travel Association, the American Automobile Association, Sheraton Hotels, Norwegian Caribbean Lines, the National Tour Association, and the Senate Commerce Committee Travel and Tourism Industry Advisory Council.

This bill was introduced by Congressman GLENN ANDERSON and has 40 cosponsors in the House of Representatives, including the cochairman of the U.S. Congressional Travel and Tourism Caucus, Congressmen BONER and BADHAM.

I am grateful for the support this legislation has received from my colleagues. I urge all other Senators who are concerned in the least about the rights and security of the American traveling public to support this bill.

THE SENATE TOURISM CAUCUS

Mr. WARNER. Mr. President, recently, Senator SASSER and I, as cochairmen of the Senate Tourism Caucus, wrote our colleagues to encourage the continued support of the caucus by those Senators who are already members, and to invite the participation of those who are not.

The response to our letter was heartening. From a membership of less than 50, the caucus grew to include 67 Senators—almost two-thirds of the Senate.

Nationally, the travel industry is America's second largest retail industry. It represents over 6.5 percent of the U.S. gross national product (GNP) and, as we ponder the size of the national debt over the next few weeks, we in the Senate should recall that the travel industry contributes better than $9 billion in tax revenue to the Federal Government.

Twenty-seven percent of all new jobs created in the last 3 years have been created in the travel industry and, for every two jobs created in the travel industry, one job is generated in other sectors of the private sector economy.

Clearly, travel and tourism is important to our Nation and our Nation's economy. More importantly, it is vitally important to the millions of Americans—many of them who are otherwise unemployable—who work in this industry.

The Senate Tourism Caucus was established to provide Senators information about travel and tourism issues. Over the years, the caucus supported passage of the National Tourism Policy Act, supported adequate funding for the U.S. Travel and Tourism Administration, held symposiums and produced a white paper on travel and tourism in the 1980's and now, in the 98th Congress, will hold a series of programs for caucus members and their staffs on issues of importance to the industry.

Recently, the Travel & Tourism Government Affairs Council published a resource kit of tourism facts. All Senators have, or will receive a copy of this resource kit. I believe they will find the kit to be a valuable tool. It is my hope that, in the near future, the council will be able to provide to Senators a briefing on that information, as well as other data resources they have available to help Senators better appreciate the importance of travel and tourism.

I will keep all Senators informed of that upcoming caucus program schedule.

Mr. President, I ask that a complete roster of the Tourism Caucus be included as a part of my statement.

The roster follows:

SENATE TOURISM CAUCUS MEMBERSHIP AND CONTACT LIST

Name, contact, and extension:

Senator Andrews, Larry Lesser, 42043.
Senator Armstrong, Greg Walcher, 45941.
Senator Baker, Melissa Galvin, 44944.
Senator Baucus, Brent Budowski, 42651.
Senator Bentsen, Steve Aguilar, 42157.
Senator Boschwitz, Tim Bergan, 45641.
Senator Bumpers, Mary Davis, 44843.
Senator Burdick, Connie Koehmstet, 42551.
Senator Byrd, Debbie Wood, 43954.
Senator Chafee, Dave Griswold, 42921.
Senator Chiles, Kim Christianson, 45274.
Senator Cochran, Sara Smith, 43063.
Senator Cohen, Peggy McGaffigan, 42523.
Senator Cranston, Gina Genton, 43553.
Senator D'Amato, Michael Forbes, 48375.
Senator Danforth, Ted Blanton, 41406.
Senator DeConcini, Laurie Sedlmayr, 44521.
Senator Domenici, Pat Lawson, 46621.
Senator Durenberger, Steve Lowe, 43244.
Senator East, Palmer Stacy, 43154.
Senator Ford, Martha Maloney, 41152.
Senator Garn, Bob Weidner, 45444.
Senator Goldwater, Dale Brown, 42235.
Senator Hatch, Louis Larsen, 45251.
Senator Hatfield, Jeff Arnold, 43753.
Senator Hawkins, Mike Sauls, 43041.
Senator Hecht, Royle Melton, 46244.
Senator Heflin, Mike House, 44124.
Senator Heinz, Peggy Baskets, 46324.
Senator Helms, David Craft, 46342.
Senator Hollings, Ralph Everett, 40411.
Senator Huddleston, Tim Dudgeon, 42541.
Senator Humphrey, Dave Gray, 42841.
Senator Inouye, John Hardy, 46742.
Senator Jepsen, John Conrad, 43254.
Senator Johnston, Felicia Rabito, 45824.
Senator Kasten, Willie Lukach, 48643.
Senator Kennedy, Jonathan Orloff, 44543.
Senator Laxalt, Kelton Abbott, 46797.
Senator Levin, Marda Robillard, 49122.
Senator Long, Pat Ingram, 40320.
Senator Mathias, Monica Healy, 44654.
Senator Matsunaga, Elma Henderson, 46361.
Senator Mattingly, Woodie Woodward, 43643.
Senator McClure, Jeff Cilek, 42752.
Senator Melcher, Dave Voight, 42644.
Senator Mitchell, Tom Gallagher, 45344.
Senator Moynihan, Jeff Viohl, 44451.
Senator Murkowski, Tim Burgess, 49306.
Senator Nunn, Ralph Petta, 43521.
Senator Packwood, Dennis Phelan, 48170.
Senator Pell, Brad Penny, 44642.
Senator Pressler, Kevin Schieffer, 45842.
Senator Proxmire, Larry Patton, 45653.
Senator Pryor, Ann Pride, 42353.
Senator Randolph, Rosemarie Sanders, 46472.
Senator Riegle, John Graykowski, 43161.
Senator Roth, Ann Butterfield, 42441.
Senator Sasser,[1] John Callahan, 43344.
Senator Simpson, Sam Routson, 42077.
Senator Specter, Gina Harris, 49037.
Senator Stafford, Neal Houston, 45141.
Senator Stevens, Bill Phillips, 41043.
Senator Thurmond, Mark McKnight, 45972.
Senator Tsongas, Missy Greeley, 42742.
Senator Wallop, Lynn Monroe, 46441.
Senator Warner,[1] Eric Peterson, 46674.

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

The PRESIDING OFFICER. The clerk will call the roll.

[1] Cochairman.

The assistant legislative clerk proceeded to call the roll.

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

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

RECESS UNTIL 1:30 P.M.

Mr. BAKER. Mr. President, I ask unanimous consent that the 1 hour prior to the quorum and the vote under the provisions of rule XXII begin running at 1:30 p.m. today instead of 1 o'clock.

I further ask unanimous consent, Mr. President, that the Senate stand in recess from this moment until 1:30 p.m.

Now, before the Chair puts the request, let me say that there are a number of Senators who are engaged in committee hearings and other activities off the floor. It appears that we will have better attendance and a better opportunity to address this matter in a responsible way under these circumstances.

Mr. BYRD. Mr. President, reserving the right to object, I think the majority leader is doing the right thing; Senators ought to know what is in the compromise. If they are involved in committee meetings and luncheons with constituents, that is going to preclude their participating in any floor debate, so I have no objection.

The PRESIDING OFFICER. Does the majority leader intend that the live quorum begin at 2:30 p.m.?

Mr. BAKER. Yes, Mr. President, the live quorum would begin at 2:30 p.m. and the vote would occur immediately after the presence of a quorum was ascertained.

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

Thereupon the Senate, at 1:03 p.m., recessed.

The Senate reassembled at 1:30 p.m. when called to order by the Presiding Officer (Mr. HATCH).

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. Mr. President, I suggest the absence of a quorum, the time to be equally divided.

The PRESIDING OFFICER. The clerk will call the roll. The time will be equally divided.

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.

INTERNATIONAL TRADE AND INVESTMENT ACT—S. 144

WITHHOLDING OF TAXES ON INTEREST AND DIVIDENDS

Mr. BAKER. Mr. President, under the order entered on last evening, the time remaining before the cloture vote today would be equally divided between the majority leader and the minority leader or their designees.

Mr. President, pursuant to that order, I designate the distinguished chairman of the Finance Committee, the Senator from Kansas (Mr. DOLE), to manage the time on this side.

Mr. BYRD. Mr. President, I designate Mr. BAUCUS, in the absence of Mr. LONG, who is working with his colleague here on a matter that is very important to Louisiana in relation to the floods and will be here later. In the meantime, I designate Mr. BAUCUS to control the time.

Mr. President, will Mr. BAUCUS yield me a little time?

Mr. BAUCUS. I yield to the Senator from West Virginia.

Mr. BYRD. Mr. President, the distinguished Senator from Arkansas wishes to put something in the RECORD. I yield to him.

Mr. PRYOR. Mr. President, much of the debate on the withholding amendment now before us has centered on the lobbying tactics of the American Bankers Association and their member banks.

I am not sure whether the lobbying question deserves as much attention as it has received. To my mind the real issue is whether the Treasury can collect the revenues it is due without the onerous and clumsy withholding solution.

For the record, however, I think we ought to take a look at just what the American bankers have distributed to their member associations so that we can all decide for ourselves if there has been any misrepresentation of the issues on the part of the ABA. At this point, Mr. President, I ask unanimous consent to have printed in the RECORD a reproduction of the sample advertisements, press releases, customer letters, and other materials included in the "withholding kits" distributed by the ABA.

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

A SPECIAL MESSAGE TO THE 80 MILLION SAVERS AND INVESTORS IN THE UNITED STATES

Last summer, Congress passed a law that will lower the amount of money you earn on your savings interest and investment dividends. You will be forced to give the government an interest-free loan starting next July 1.

Unless you act now, 10 percent of your interest and dividends will be withheld automatically from your accounts starting next July 1.

Help repeal this bad law now!

Some facts about "savings withholding":

Starting next July 1, the government will require that every institution that pays you interest—banks, savings and loans, money market mutual funds, brokerage firms, insurance companies and corporations in which you own stock and earn dividends—

automatically withhold 10 percent of your interest and dividend earnings.

What does this mean to you?

It means that the amount of money building up in your savings account will be reduced.

For example, if you're due a $200 interest payment next July and you plan to leave it in your bank to compound and make more money for you . . . you'll only be allowed to leave $180 in that account. The other 10 percent—or $20—will be sent to the government.

So, instead of having $200 for interest compounding, you'll have only $180. That means there will be less to build on in your savings account.

Why is this happening?

It's happening because the government doesn't trust you to pay your taxes.

The Treasury Department says they want to withhold 10 percent from every saver's and investor's dividends and interest payments "to encourage taxpayer compliance."

But the Treasury Department's own figures show that at least 95 percent of us already pay the taxes we owe on interest and dividend income that is subject to reporting. And next year, virtually all interest income will be reported to the IRS.

So we are being asked to give up some of our earnings on interest and dividends because the government is unable or unwilling to find the small minority of people who do cheat.

What will this "savings withholding" cost you?

A lot. The most conservative estimates say that American savers and investors will lose $1.5 billion in foregone earnings on interest and dividend earnings.

These are earnings that could be used for purchases to help American industry, to fund home mortgages or to finance business borrowing for capital improvements. Instead, they'll be sent straight to the federal government and that money will be lost.

By the time you take away the interest from the people, and add the cost to the government and to financial institutions to put this "savings withholding" into place, the net effect will be negative.

What are the implications to our economy from "savings withholding?"

Not good. Americans now save less of their earnings than any other developed country—6.6 percent versus 14.9 percent in West Germany, and 16 percent in France.

In a Behavioral Science Research survey taken nationwide before the bill was passed, more than half of the people questioned said that the 10 percent withholding tax would discourage them from saving money.

Does this law affect every one, or are there exceptions?

There are exceptions, but this law affects everyone.

Congress says that senior citizens with a tax liability of $1,500 or less ($2,500 for couples) and low-income citizens with a tax liability of $600 or less ($1,000 for couples) will be exempt from the 10 percent withholding.

But this exemption is not automatic.

You must fill out and file a form with each financial institution from which you receive interest or dividends and for each account.

Someone with five accounts, for example, at one bank and one savings and loan and a money market fund and stock in two companies would have to file five exemption certificates—one at each institution.

That means you must physically travel to each institution, or else write them if you are unable to travel.

If you don't—and are a senior or a low-income citizen—you'll be subject ot unnecessary tax withholding. That means that even if you don't owe any taxes—and haven't for years—you'll have to file a tax return to get your 10 percent interest withholding back from the government.

That also means that you will lose 10 percent of your interest and dividend income each month—money that would otherwise go to pay for food, housing and medical bills.

Your privacy will also be invaded. There are 26 million people in this country over 65. For the first time in our country's history, they will have to swear to a third person that their tax liability was less than the ceiling amounts in order to be exempt from "savings withholding." Is it fair that their bank teller, for example, should know their tax liability? All because of yet another government regulation?

How did "savings withholding" happen?

Last summer, when Congress was working on the tax bill, it decided that it needed more "revenues" to put on the plus side of the federal budget ledger.

So—despite the protests of banks and other financial institutions—it hurriedly added "savings withholdings." But the fact is, withholding 10 percent of citizens' interest and dividend earnings is not going to balance the budget.

This law is just another variation of the shell game our government does so well. Almost all of the money the government withholds in 1983 will be refunded in 1984. And the saver and investor pays for this shell game—to the tune of $1.5 billion in lost income on their savings and investments.

What can be done?

Fortunately, our political system allows its citizens to remedy mistakes Congress makes in hurriedly-passed legislation.

There is no reason why the new Congress we elected this fall can't repeal this withholding tax on savings and investments before it becomes effective next July 1.

Write to your Congressman and your Senators.

Help repeal this bad law now!

[Instructions: Substitute for page 4 of the main speech]

SENIOR CITIZEN SPEECH INSERT

This law calls for some exemptions from withholding. People who are under 65 who have a tax liability of $600 or $1,000 on a joint return, or who are over 65 with a tax liability of $1,500 or $2,500 on a joint return, may apply for an exemption from withholding.

Many people in this area are senior citizens, so let me take a few moments to discuss how this tax exemption will affect them. First, like many other government initiatives, the way the exemptions themselves will be handled is just another example of unnecessary government intrusion into our lives.

The Treasury Department estimates that the exemption applies to almost 87 percent of our country's senior citizens. A couple, for example, that had an annual gross income of $22,200—not including Social Security payments—would be considered "exempt" under the law.

But this exemption is not automatic. To receive it, someone over 65 has to fill out and file a government form with each financial institution where he or she has an account.

Let's look at how this would affect a hypothetical retired couple. Say that they had five sources of interest or dividend income—a bank savings account, a six-month certificate of deposit with a savings and loan company, a money market mutual fund and stock in two companies from which they receive dividend income. That hypothetical couple would have to file FIVE exemption certificates—one at EACH institution.

If the couple failed to do so—either because they didn't know they had to or because they were physically unable to reach these institutions—then 10 percent of their interest and dividend earnings would be withheld. Not only would they lose 10 percent of their interest and dividend income each month—money that might otherwise go to pay for food, housing and medical bills—but they would have to file a tax return to get their 10 percent interest withholding back from the government.

Besides the fact that people who haven't had to file a tax return in years might suddenly be thrown into the tax system again, there's another issue here as well. That is the issue of invasion of their privacy.

There are 26 million people in this country over the age of 65. For the first time in our country's history, they will have to swear to a third party that they have a low tax liability in order to be exempt from the withholding tax. How would you like your bank teller, who may be your neighbor or a member of your church, to know your tax liability? Isn't this a personal matter?

BRIEFING MATERIALS ON WITHHOLDING OF TAXES ON INTEREST AND DIVIDENDS

Last year, Congress, as part of the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA), enacted provisions which impose withholding at source of taxes in interest and dividend payments. Efforts are now underway to repeal the withholding provisions prior to their July 1, 1983 effective date. This paper provides background on the withholding issue and details some of the arguments in favor of repealing withholding.

BACKGROUND

Although the Congress had many times in the past rejected withholding by decisive margins, withholding at source was included in TEFRA on the basis that it would generate substantial amounts of additional revenue (and thereby reduce the deficit), and that it would increase taxpayer compliance. During its consideration of TEFRA, the Senate, by a vote of 48-47, narrowly defeated an amendment which would have deleted withholding from the bill. Because of the unique circumstances surrounding enactment of TEFRA, the House was not given an opportunity to vote on the issue of withholding.

Under the new law, virtually all payors of interest and dividends will be required to deduct and withhold 10 percent when interest or dividends are paid or credited to an individual. However, withholding is not required if the taxpayer has filed an "exemption" certificate and has incurred a tax liability of $600 or less in the preceding year ($1,000 on a joint return), or who is 65 years or older and incurred a tax liability of $1,500 or less ($2,500 on a joint return) in the preceding year. In addition, withholding is not required if an interest payment on an annualized basis is $150 or less.

DISCUSSION

Enactment of withholding of taxes on interest and dividends was a mistake. The objectives of increased taxpayer compliance and additional revenue can be substantially achieved without the imposition of this costly, complicated and confusing scheme.

WITHHOLDING IS NOT NECESSARY TO INCREASE TAXPAYER COMPLIANCE

According to the Treasury, nearly 89 percent of taxpayers pay the rates they owe on savings and investment income. Moreover, a 1981 IRS study showed that taxpayers voluntarily reported 97 percent of interest and dividend income where information returns (Form 1099) were filed with the IRS and the Service matched the information with tax returns. Simply stated, where information returns are filed, compliance approaches 100 percent.

The IRS has reported that it is currently matching 99% of the information returns which are filed with the service on magnetic tape. In fact, IRS Commissioner Egger testified before the House Ways and Means Committee in May, 1982: "If the information is sent (to the IRS) on magnetic media, we are generally able to match 100 percent of this information . . ." In addition, it is currently matching about 85% of the "paper" 1099s filed with the IRS. Moreover, the already "good" record of taxpayer compliance may be substantially improved without imposing the costs and burdens of withholding. For example, federal government securities have, up to now, been exempt from the reporting requirements that have long been applicable to deposits and other investments. Individuals hold $256 billion of such securities and a good portion of tax revenue lost in past years may well be traced to the fact that the government itself did not issue 1099 forms on its own securities. This is now changed. TEFRA contains provisions which broaden the categories of payments subject to reporting (including government securities), as well as stiffen the penalties for noncompliance with the information returns reporting system. These changes can be expected to substantially increase the level of taxpayer compliance. Moreover, if this expanded reporting system was coupled with an aggressive matching by the IRS of Form 1099s and tax returns, overall compliance may well reach almost 100 percent.

WITHHOLDING WILL BE COSTLY TO SAVERS, INVESTORS, INSTITUTIONS, AND THE NATION'S ECONOMY

Approximately 75 percent of all individual filers receive refunds. These people, through overwithholding, already pay the taxes due on their savings and investment income. For them, withholding will be a new tax and will be tantamount to giving an additional interest-free loan to the government. Withholding will also discourage savings and investments. By removing savings that would otherwise be on deposit, the yield on investments will be reduced. While the cost to the taxpayer in lost compounding may be small on an individual basis, the cost to the economy as a whole is massive. Dividend and interest payments last year were approximately $525 billion and withholding is estimated to remove $30 billion from the private capital markets—at the very time the economy is trying to pull out of the recession.

Withholding will be very costly to financial institutions and other payors of dividends and interest. Based on a survey of 250 commercial banks, savings and loan associations, and mutual savings banks, the accounting firm Peat, Marwick, Mitchell & Co. estimates that start-up costs will be in the range of $200,000 to $400,000 for each institution. The "float" provided by the regulations is expected to compensate institutions for less than 10 percent of these costs, according to the same survey. The balance of these costs will necessarily be reflected in reduced federal income taxes resulting from their impact on earnings and profits, higher interest rates, and increased service charges.

This cost should be tested against the benefit to be gained from withholding. In his testimony before the House Ways and Means Committee in May, 1982, IRS Commissioner Egger stated that the "tax gap" for interest and dividend payments for 1981 was $8.2 billion, of which $4.1 billion was interest. Extrapolating from the Peat, Marwick, Mitchell & Co. study, this would mean that the costs to the commercial banking industry alone could exceed the total tax gap for interest.

WITHHOLDING IS COMPLICATED AND CONFUSING

The law provides for an exemption system whereby certain elderly taxpayers and persons with low tax liability can file an exemption form. However, it will be up to each individual to keep track of the exemption status of each source of dividend and interest income and notify payors of changes in status. Moreover, in order to claim an exemption, a taxpayer will have to declare that he or she meets the age and tax liability requirements. The disclosure of sensitive information about income and age will undoubtedly be an embarrassing invasion of privacy for many. Finally, and because the exemption is keyed to tax liability in the past year, tax will be withheld from people whose incomes decline in the current year such as retirees or people who lose their jobs or become ill and can no longer work.

From the point of view of payors of interest and dividends, the exemption system will create a blizzard of paperwork. It has been estimated that more than 400 million different interest and dividend bearing investments will require either withholding or the precessing of exemption certificates. All dividend and interest paying institutions will have to develop expertise in the new law and its regulations. They will have to change data processing systems, reallocate personnel and train them to handle exemption certificates.

WITHHOLDING MAY NOT DELIVER THE ANTICIPATED REVENUES

As noted, there is great uncertainty about the extent to which the public will claim the exemptions specified. In addition, it should be remembered that taxpayers with sizable unearned income—those who pay quarterly estimated taxes—may adjust their estimates to compensate for amounts being withheld on interest and dividends. Furthermore, start-up and maintenance administration costs by businesses paying interest and dividends are eligible corporate tax expenses—thus diminishing revenues through business credits and deductions. And, not to be overlooked, the welcome decline in market interest rates means, necessarily, less revenue withheld from payors of interest.

CONCLUSION

In sum, withholding of taxes on interest and dividend income is not cost-effective, is unfair and is counterproductive to the goal of encouraging savings and investments. Certainly, no one favors tax evasion. Compliance can and should be improved. Federal deficits should be reduced. However, withholding is not the proper means to reach these goals.

Legislation has been introduced in both the House and Senate to repeal withholding. In the House, over 59 separate bills have been introduced, including H.R. 500, principally sponsored by Representative Norman E. D'Amours (D-N.H.), which has 182 cosponsors. In the Senate, 8 bills have been introduced, including S. 222, sponsored by Senator Robert W. Kasten (R-Wis.), which has 26 cosponsors, and S. 39, sponsored by Senator David Boren (D-Okla.), which is cosponsored by 12 other Senators.

In the private sectors, the withholding repeal effort has the active support of almost every financial trade group, shareholder representatives and associations representing retired groups.

[Instructions: Retype on your Bank letterhead; fill in spaces; distribute to local media]

INTEREST WITHHOLDING TO COST SAVERS BILLIONS OF DOLLARS

WASHINGTON.—Savers and investors will lose $1.5 billion a year beginning July 1 under a new law requiring banks and other financial institutions to withhold 10 percent of interest and dividend payments, a banking expert said today.

(Name), (title) of (name of bank), told the (name of organization) that the new withholding provision is a "consumer volcano that's about to erupt."

"People are just beginning to realize that the widely publicized 10 percent tax cut next July will be accompanied by the government's withholding 10 percent of their interest earnings on their savings and investments," he/she said.

(Name) added that Congress, after repeatedly defeating similar proposals over the past 40 years, passed the legislation this summer ostensibly to increase the level of taxpayer compliance in the area of dividends.

However, he/she said, the Treasury Department reports that at least 95 percent of taxpayers already pay taxes on interest and dividend income that is subject to reporting. And 75 percent of individual tax returns submitted end up with refunds.

"Therefore," said (name), "it is pretty obvious that instead of real income to the Treasury, there will be a surge of unreal new money to the government in 1983, most of which will have to be returned to taxpayers the following year."

Because the loss of income in interest and dividend compounding will exceed $1.5 billion, "most people who save and invest will be punished for saving," (name) charged. "What we have here is a disincentive for saving and investment."

The new law allows some exemptions from the withholding provision. People who are under 65 and have a tax liability of $600 ($1,000 on a joint return), and people over 65 with a tax liability of $1,500 ($2,500 on a joint return), may apply for an exemption from withholding.

However, (name) said, "The way those exemptions will be handled is just another example of unnecessary government intrusion into our lives." Filing for exemption will be the sole responsibility of the consumer and not that of the financial institution.

To qualify for an exemption, people have to go to the banks and give a bank employee a form on which they have sworn that their tax liability for the previous year was less

than the ceiling amounts. This raises a serious privacy issue, (name) charged.

"How would you like your bank teller, who may be your neighbor or a member of your church, to see how much tax you pay? In addition, you will have to file an exemption form for each account."

Besides the enormous expense to taxpayers in the loss of interest compounded and the privacy issue for those who qualify for exemptions, (name) added that another flaw in the withholding provision is that it shows no promise for improving compliance—the reason that Congress gave for passing the law in the first place.

(Name) explained that the tax law also includes new provisions to broaden "information reporting"—the process by which banks and other financial institutions report interest payments to the IRS.

(Name) said that the (name of bank) supported the provisions to broaden information reporting. It would be far more useful in improving compliance than withholding 10 percent of interest payments, "which penalizes millions of honest taxpayers," he/she said.

"The whole principle behind withholding on interest and dividends is an insult," (name) said. "The implication is that you and I cannot be trusted to pay the taxes we owe."

(Name) urged that people write their Congressional representatives about the 10 percent withholding on interest and dividends. "If there is a strong national protest from the people back home, our Congressmen and Senators will have no choice but to repeal this bad law," he/she said.

"Tell them in clear, unequivocal language that we would rather have Uncle Sam trust us and not be raiding our savings accounts.

"The government wants a piece of our savings. Instead, let's give Congress a piece of our mind."

THE GOVERNMENT WANTS A PIECE OF OUR SAVINGS

There's something I'd like to talk with you about that's part of the tax legislation passed this year. This part of the new tax law did not receive a lot of attention, but I believe it's a consumer volcano that is about to erupt.

A part of the new law due to go into effect in July of next year requires you to make a mandatory interest-loan to the government. This will happen—and you will have no choice in the matter—because the government will be requiring all institutions that make interest and dividend payments to their individual customers to withhold for federal taxes ten percent of the interest and dividends you have earned.

This means that the government will have free use of your money. It means you and I and the other Americans who earn interest or dividends will lose a lot of money. Savers and investors will lose an estimated $1.5 billion in reinvestment and compounding on their earnings.

On July 1, 1983, the government will cut taxes by 10 percent. On the same day, the government will reach into your savings account to withhold 10 percent of your interest earnings.

What is the government's purpose behind this law, which by the way has repeatedly been defeated in Congress over the years? The stated purpose is to increase the level of reporting on this income.

But let's look at the facts. According to the Treasury Department, Taxpayers are already paying taxes on 95 percent of their interest and dividend income that is subject to reporting. When you consider that approximately 75 percent of individual tax returns submitted end up with refunds, it is pretty obvious that instead of real income to the Treasury, there will be a surge of unreal new money in 1983, most of which will have to be returned to the taxpayers the following year. This means most people who do save and invest, people who put their dollars away for their own future, will be punished for saving.

What we have here is a disincentive for savings and investment.

This law calls for some exemptions from withholding. But the way exemptions will be handled is just another example of unnecessary government intrusion into our lives. People who are under 65 who have a tax liability of $600 or $1,000 on a joint return, or who are over 65 with a tax liability of $1,500 or $2,500 on a joint return may apply for exemption from withholding.

But the procedure for getting an exemption brings up a major privacy concern. To qualify for an exemption, you have to go to your bank and hand the teller a form on which you have sworn you have low tax liability. How would you like your bank teller, who may be your neighbor or a member of your church, to see how much tax you pay? Isn't this a personal matter? In addition, you will have to file an exemption form for each account.

Banks and other institutions that pay interest and dividends to individuals will be responsible for withholding this money for the IRS. There will be enormous expense involved for these institutions to develop and put into place a system that would take into account the vast array of investments and financial services offered to the public. Of course the institutions would have no choice but to pass these expenses along to their customers in the form of higher service fees and lower yields.

Literally, the government will be picking the taxpayers' pockets. I'll bet not many of you were aware that the tax law Congress passed on August 19 gave the government permission to loot your savings account. I don't know about all of you, but I know I didn't give my consent.

The ABA believes that besides taking money away from people who save and invest it, and besides the problem with the privacy issue for those who would qualify for exemptions, the other flaw in the plan is that it shows little or no promise for improving compliance. The ABA believes that improved compliance will be accomplished through the parts of this bill that broaden information reporting. This means banks and other institutions will be required to file more reporting forms and the IRS will be required to improve its recordkeeping. These approaches are much more effective than withholding, which penalizes millions of taxpayers.

And besides costing savers and investors $1.5 billion in lost reinvestment and compounding, advance withholding will cost the treasury millions of tax dollars it could be earning on taxes payable on those earnings.

The whole principle behind withholding on interest and dividends is an insult, when you really think about it. The implication is that you and I cannot be trusted to pay the taxes we owe. I think the Congress and the Administration got it backwards. It's not trust in the American people that should be questioned—it's whether we can trust our government.

What can we do about this law? What can we do if we choose not to give the government a gift from our own bank accounts?

What we can do, all of us, is make sure that our representatives in Washington know how we feel about making an interest-free loan to the Treasury. The lost income to savers and investors, the expense that banks and other institutions would be forced to pass along, and the obvious inability of this provision to achieve even its stated goal—all of these points must be made to our representatives in Washington. Our representative will yield to reason and repeal this law if we make sure our voices are heard in Washington.

The advantage of living in a democracy is that the Congress ultimately must represent the will of the people. That means, if there is a strong national protest from the people back home, our Congressmen and Senators will have no choice but to repeal this bad law. The way to force our representatives to repeal this law is to write to them. Tell them how you feel about the government raiding your savings account. Urge them to repeal this law before it goes into effect. I'm talking about your Congressmen. I'm talking about the Senators from this state.

The Speaker of the House and the Senate Majority Leader should also be made aware of how taxpayers feel about the Government's lack of trust in us. I'm going to give you their addresses right now, and I hope you'll write them down and get a letter out this week. You can write to Senate Majority Leader Howard Baker at Room 4123, Dirksen Senate Office Building. The ZIP is 20510.

You can write to the Speaker of the House Thomas P. O'Neill at Room 2231, Rayburn House Office Building. The ZIP is 20510.

I'd like to issue a challenge to you. Ask your Congressmen—and your Senators—to commit themselves on this issue. Let them know that this issue is important enough to sway your vote. All the men and women sitting in Congress are there because we elect them. That's why their continued opportunity to respresent us rests on their being responsive to us—to their constituents. That's why we must tell them in clear, unequivocal language that we would rather have Uncle Sam trust us and not be raiding our savings accounts. We have the time for a grassroots movement to get this repealed. But it can only happen if we speak up now.

The Government wants a piece of our savings. Instead, let's give Congress a piece of our mind.

[Instructions: Retype on your Bank letterhead; fill in spaces; distribute to local media]

10 PERCENT INTEREST WITHHOLDING "EXEMPTION" STILL AFFECTS ELDERLY, BANKER SAYS

(City).—Savers and investors will lose some $1.5 billion a year beginning next July 1 under a new law requiring banks and other financial institutions to withhold 10 percent of interest and dividend payments, a banking expert said today.

(Name of banker), (title) of the (name of bank) told the (name of organization) that the new withholding provision is "a consumer volcano that's about to erupt."

"People are just beginning to realize that the widely publicized 10 percent tax cut next July will be accompanied by the government's withholding 10 percent of their

interest earnings on their savings and investments," he/she said.

Even though almost 90 percent of the 26 million senior citizens in this country are officially "exempt" from the law, they will be directly affected by the exemption provisions, he/she said.

"As a matter of fact, this exemption process is just another example of unnecessary government intrusion into our lives," (name) said.

If a retired couple had five sources of interest or dividend income—a bank savings account, a six-month certificate of deposit from a savings and loan, a money market mutual fund and stocks in two companies from which they receive dividends, that couple would have to file five exemption certificates—one at each income source.

Should this couple fail to file these forms, (name) said, either because they didn't know they had to or because they were physically unable to, the 10 percent of their interest and dividend earnings would be withheld.

"Not only would they lose 10 percent of their interest and dividend income each month—money that might otherwise go to pay for food, housing, and medical bills—but they would have to file a tax return to get their 10 percent withholding back from the government," (name) charged.

(Name) also said that the exemption process raised a serious privacy issue. To qualify for an exemption, people have to go to their banks or other financial institutions and give a bank employee a form on which they have sworn that their tax liability for the previous year was less than the ceiling amounts.

"How would you like your bank teller, who may be your neighbor or a member of your church, to see how much tax you pay?", (name) said. (He/she) noted that this was the first time in our country's history that such a third person disclosure of tax liability had ever been required.

People who do not qualify for an exemption will lose the use of 10 percent of their interest and dividend earnings that would otherwise have been compounded, (name) said. "Savers and investors will lose some $1.5 billion a year," (name) charged. "What we have here is a disincentive for savings and investment."

(Name) urged that people write their Congressional representatives about the 10 percent withholding on interest and dividends. "If there is a strong national protest from the people back home, our Congressmen and Senators will have no choice but to repeal this bad law," he/she said.

"The government wants a piece of our savings. Instead, let's give Congress a piece of our mind."

[Instructions: Substitute for page 4 of the main speech]

SPEECH INSERT TO BE USED IN AREAS OF HIGH UNEMPLOYMENT

This law calls for some exemptions from withholding. People who are over 65 with a tax liability of $1,500 or $2,500 on a joint return—the elderly—and people who are under 65 who have a tax liability of $600 or $1,000 on a joint return—the low-income group—may apply for an exemption from withholding.

As you know only too well, this country is suffering from its worst unemployment since the Depression. This area has been especially hard-hit. I'd like to take a few minutes to discuss how the "low income" exemption might affect people out of work because, like so many other government initiatives, the way this exemption itself will be handled is just another example of unnecessary government intrusion into our lives.

For example, the Treasury Department estimates that a family of four with an income of $10,000 or less would be exempt from 10 percent tax withholding. That certainly seems fair.

But the "low-income" exemption won't even apply to a number of people who are out of work. That's because many unemployed people will have a much higher tax liability than $600 on a single return or $1,000 on a joint return. To declare tax liability limits, people have to use the previous year's return—a tax return when they may have been working. So they will not be eligible for the low-income exemption.

This is especially unfortunate when you consider that unemployed people are often forced to fall back on their savings—money that they have been carefully putting away for their children's education or their own retirement.

Many unemployed people are now living from month to month on the interest these funds produce. Starting next July 1, if they do not meet the exemption standards, their interest income will be reduced by 10 percent. This is money that would otherwise go to help pay for food, medical bills and housing—money that is essential for a family to help them survive these rough times.

Second, assume that the unemployed person does meet the criteria for exemption. We've all been made aware of the inherent emotional effects of unemployment—the increased stress, the embarrassment, the sense of loss of dignity and self-worth. Now, under the 10 percent withholding exemption procedure, we can add to this litany of bad feelings the loss of privacy.

In order to qualify for an exemption, people have to fill out and file a form at each institution where they have an account. On this form, which they hand to the bank employee, they have to swear that their tax liability is below the ceiling limits.

That means for the first time in our country's history, people will have to reveal to a third person their tax liability limits. This isn't even required with wage withholding!

How would you like your bank teller, who may be your neighbor or a member of your church, to know your tax liability? Isn't this a personal matter? Is it fair to add this burden to the many burdens our country's unemployed people already face?

[Instructions: Press release to be used in high unemployment areas. Fill in blanks. To be retyped on your bank letterhead and released to the press]

UNEMPLOYED MAY BE HIT HARD BY 10-PERCENT SAVINGS WITHHOLDINGS

(City).—Savers and investors will lose some $1.5 bilion a year beginning next July 1 under a new law requiring banks and other financial institutions to withhold 10 percent of interest and dividend payments, a banking expert said today.

(Name of banker), (title) of the (name of bank), told the (name of organization) that the new withholding provision is "a consumer volcano that's about to erupt.

"People are just beginning to realize that the widely-publicized 10 percent tax cut next July will be accompanied by the government's withholding 10 percent of their earnings on their savings and investments," he/she said.

The law calls for some exemptions from withholding, (name) said. People who are over 65 with a tax liability of $1,500 or $2,500 on a joint return—the elderly—and people who are under 65 who have a tax liability of $600 or $1,000 on a joint return—the low-income group—may apply for an exemption from withholding.

"This country is suffering from its worst unemployment since the Depression. Your area has been especially hard hit," said (name). "Like so many other government initiatives, the way this exemption itself will be handled is just another example of unnecessary government intrusion into our lives."

(Name) cited Treasury Department figures showing that a family of four with an income of $10,000 or less would be exempt from the savings withholdings.

"But the low-income exemption won't even apply to a number of people who are out of work. That's because many unemployed people will have a much higher tax liability than the ceiling limits. To declare tax liability limits, people have to use the previous year's return—a tax return when they may have been working. So they will not be eligible for the low-income exemption," (name) said.

"This is especially unfortunate when you consider that unemployed people are often forced to fall back on their savings—money that they have been carefully putting away for their children's education or their own retirement.

"Many unemployed people are now living from month-to-month on the interest these funds produce. Starting next July 1, if they do not meet the exemption standards, their interest income will be reduced by 10 percent. This is money that would otherwise go to help pay for food, medical bills and housing—money that is essential for a family to help them survive these rough times."

(Name) also pointed out that there was a serious privacy issue for those people who do qualify for exemptions. In order to be exempt from savings withholdings, people have to fill out and file a government form swearing that their tax liability is below the ceiling limits.

"That means for the first time in our country's history, people will have to reveal to a third person their tax liability. This isn't even required with wage withholding," (name) said.

Congress passed the 10 percent withholding provision ostensibly to improve taxpayer compliance, (name) said. However, he/she noted that the Treasury Department's own figures show that at least 95 percent of all taxpayers already pay taxes on interest and dividend income that is subject to reporting. "What we have here is a disincentive for savings and investment," (name) charged.

He/she urged that people write to their Congressional representatives about the 10 percent withholding on interest and dividends. "If there is a strong national protest from the people back home, Congress will have no choice but to repeal this bad law," he/she said.

"Tell them in clear, unequivocal language that we would rather have Uncle Sam trust us and not be raiding our savings accounts.

"The government wants a piece of our savings. Instead, let's give Congress a piece of our minds."

[Instructions: Retype on your letterhead and send with personal note to your newspaper editor]

WITHHOLDING: A BAD LAW

About 40 years ago, Congress passed a law requiring that federal income taxes be directly withheld from paychecks, instead of being paid at the end of the year. It was then called an "emergency" measure to help finance World War II.

Last summer, as part of a bill to raise federal revenues, Congress decreed that taxes will also have to be withheld at a rate of 10 percent—against interest on savings and dividend payments.

A part of the new law due to go into effect in July of next year will require all institutions that make interest or dividend payments to their customers to withhold 10 percent for federal taxes.

This part of the law goes into effect on July 1, 1983, and as a result, savers and investors will lose at least $1.5 billion a year.

How will it affect you as an individual? Let's say that you are due a $200 interest payment in July and you plan to leave it in your bank to compound and make money for you. Under the plan, you will have the use of only $180 of your interest payment. The other 10 percent, $20, will be withheld for the Internal Revenue Service. You will have lower earnings to build on. In fact, it is estimated that the public will lose at least $1.5 billion because of lost compounding and dividend reinvestment opportunities.

The government says that its purpose in raiding your savings is to crack down on tax cheaters.

Let's look at the facts.

Since 1962, federal law has required banks, other financial institutions and corporations to report to the IRS records of interest and dividends paid to the public. At the end of the year, the public receives from the paying institution a copy of these reports, called 1099 forms. The public is required by law to report and pay taxes on this "1099" income when they file their taxes at the end of the year. To ensure compliance, the IRS generally matches the 1099 forms provided by institutions against individual tax returns.

The IRS reports a 96.7 percent compliance rate.

However, because 1099 reports have not been required for all payments of dividends and interest, total taxpayer compliance on all forms of interest and dividend income has been less than 96.7 percent; specifically, according to the IRS, it has been around 85 percent. That is because 1099 reporting has not been required for Treasury bills and bonds, jumbo CDs ($100,000 denominations and up) and other types of bonds and certificates which have not been subject to registration requirements.

Under separate provisions of TEFRA, however, virtually all forms of interest and dividends must be reported by paying institutions to the IRS, thus eliminating these potential avenues of tax evasion.

If one is only concerned about cracking down on tax cheats, then withholding represents major overkill. If the IRS is failing to adequately match 1099s with individual tax returns, the burden is on them to remedy the system, rather than on the public to forfeit "up front" 10 percent of this income.

Furthermore, the IRS also says that about 75 percent of individual tax returns end up with refunds.

If most people pay their taxes and if most returns end up with refunds, why is the IRS after part of your savings?

It is going to all this trouble—and imposing trouble and cost on you—so that the government can use the money in 1983. Most of it will be returned to the taxpayers the following year and, in the long run, the plan will do nothing to solve the government's financial problems. The plan, however, will give the government an interest-free loan from you.

There are more than financial considerations at stake here, however.

When you think about it, the principle the Treasury is using to justify withholding on interest and dividends is an insult to most Americans. The implication is that we the people cannot be trusted by the government that we put in power.

What we are seeing here is the federal government giving with one hand and taking away with the other. On the same day that the government reaches into your savings account, it plans to cut taxes by 10 percent. If you are a saver, you are financing your own tax cut.

Furthermore, the plan represents yet another attempt by the federal government to push itself into the everyday life of the American people.

Consider, for example, how it would change your relationship with your banker.

When you make a deposit, you give your bank more than your money. You give it your trust.

Most people, when they think about it, consider their relationship with their banker a private affair. They can air the details of their financial lives with the confidence that it will go no further.

Your banker, like your doctor, believes that maintaining this relationship of privacy, trust and confidence is an ethical duty.

The withholding plan would compromise this relationship.

In effect, it would make your banker, against his wishes, an agent of the IRS.

To bankers, this result alone makes the plan an outrage. The banking industry is built on this relationship and bankers believe it is their most valuable asset. Because it cannot be measured in dollars, the IRS refuses to take it into account.

Should honest taxpayers be required to give up some of their earnings on interest and dividends because the government is unwilling or unable to find the few who cheat?

Should the federal government be allowed to stand beside your bank teller so that every month it can put its stamp on your savings statement, too?

You have the answers to these questions.

Our political system allows citizens to remedy the mistakes made by Congress.

There is no reason why the new Congress we just elected cannot repeal this plan before it goes into effect July 1.

Write to your Congressmen and Senators. Urge them to repeal this misguided attempt to impose a hidden tax on your savings.

The government wants a piece of your savings. Instead, give Congress a piece of your mind.

[Instructions: This newspaper or magazine article can be retyped on your bank letterhead and released to the press]

"EXEMPT SENIOR CITIZENS STILL AFFECTED BY SAVINGS WITHHOLDING TAX, BANKS POINT OUT

Last summer, when Congress enacted new tax legislation, most of the attention was focused on the fact that this was the first election-year tax increase in history. In the ensuing months, however, the public has begun to take a look at some of the provisions Congress put into that law—provisions that affect them directly.

Perhaps the real "sleeping giant" of the tax bill is its provision that requires banks and other financial institutions to begin withholding 10 percent of interest and dividend payments next July 1.

Congress did place exemptions into the law—low-income citizens with a tax liability of $600 or $1,000 on a joint return, and senior citizens with a tax liability of $1,500 or $2,500 on a joint return. The Treasury Department estimates that almost 90 percent of the 26 million senior citizens are officially "exempt" from the law.

But a closer look at the bill's provisions shows that, even if senior citizens are "exempt," they are nonetheless directly affected by the 10 percent withholding law. (Name), (title), (bank), says "This exemption process is just another example of unnecessary government intrusion into our lives."

First and foremost, the exemption process is not automatic. If, for example, a retired couple had five sources of interest or dividend income—a bank savings account, a six-month certificate of deposit from a savings and loan company, a money market mutual fund and stock in two companies from which they receive dividends, that couple would have to file five exemption certificates—one at each income source.

Should this couple fail to file the exemption forms, either because they didn't know they had to or because they were physically unable to do so, then 10 percent of their interest and dividend earnings would be withheld.

This raises serious implications. Not only would the couple lose 10 percent of their interest and dividend income each month—money that might otherwise go to pay for food, housing and medical bills—but they would have to file a tax return to get their 10 percent withholding back from the government. In other words, millions of people who have been outside the tax system for years might suddenly find themselves back in the thick of it—all to receive money that they were entitled to all along.

There's another issue involved in the exemption process, too. That is the issue of privacy invasion. For the first time in our country's history, senior citizens will have to swear to a third person—a financial institution employee—that they have low tax liability in order to be exempt from the withholding tax.

When you couple the extra paperwork involved for senior citizens and their loss of privacy when having to file exemption forms, it is clear that the 10 percent withholding provision affects them to a great degree. The most constructive course to take is to write our Congressional representatives now, urging them to repeal this law before it becomes effective July 1, 1983. No one is really exempt from this massive attempt by the government to control our own savings and investments.

[Instructions: Your bank may wish to reproduce this sheet and distribute it to your customers]

SAMPLE QUESTIONS AND ANSWERS ASKED BY CONSUMERS ON INTEREST AND DIVIDEND WITHHOLDING

1. Q. What does withholding on interest and dividends mean?

A. It is part of last summer's tax reform legislation, and it requires banks and other

financial institutions and corporations that pay interest dividends to begin withholding 10 percent of most interest and dividend earnings next July 1. The money that is withheld will be sent to the IRS for tax payments.

2. Q. Does withholding on interest and dividends affect the amount of money people earn from them?

A. Yes it does, to the extent that 10 percent of accrued interest and dividend earnings that would otherwise be compounded is instead withheld.

For example, if a person was due a $200 interest payment next July and planned to leave this payment in his bank to compound, he would have the use of only $180 in that account. The other 10 percent—$20—would be withheld for the IRS.

3. Q. What will withholding of interest and dividends cost savers and investors?

A. It will cost them collectively at least $1.5 billion in foregone earnings on interest and dividends. This is how that figure breaks down:

There are 80 million savers in the United States. The government estimates that $300 billion in interest and dividends will be subject to withholding in 1983.

A 10 percent withholding rate would bring the government about $30 billion (10 percent of $300 billion) by the end of the year.

If people reinvested this at 10 percent, they would collect additional income from their investment earnings of $1.5 billion.

4. Q. Does the 10 percent withholding apply to IRAs (individual retirement accounts)?

A. No, the 10 percent withholding does not apply to interest that is credited to your IRA account. Income distribution from an IRA will, however, be subject to the new pension withholding rules.

5. Q. Are there exemptions to withholding?

A. Yes. Senior citizens with a tax liability of $1,500 or $2,500 on a joint return, and citizens under age 65 with a tax liability of $600 or $1,000 on a joint return may apply for an exemption from withholding. However, each person will have to file an exemption form for each account.

6. Q. Is an exemption automatic?

A. No. In order to be exempt from the 10 percent withholding, a person must file an exemption form swearing that he or she falls under the tax liability limitation.

7. Q. Where must this exemption form be filed?

A. The exemption form must be filed with each institution where the person has an account.

For example, if someone has a bank savings account, a six-month certificate of deposit from a savings and loan, a money market mutual fund, and receives dividends from two corporations whose stock that person owns, then he or she must file five exemption certificates—one at each institution.

8. Q. If you earn less than $150 a year in interest, will 10 percent of your earnings be withheld?

A. Under the IRS regulations, a bank or other financial institution can choose not to withhold interest on accounts earning less than $150 per year. But because there is such active turnover in so many accounts, it may be impossible to judge just what the final interest earnings might be for some accounts. Therefore, financial institutions may decide to deduct on all non-exempt accounts.

9. Q. The banks and other financial institutions can, the law says, keep the money they collect from withholding for 30 days. Won't they make money from this "float"?

A. Yes, they will make some money, but not nearly enough to cover the expenses of the additional paperwork.

For example, one bank says that it will cost them $2.6 million in first-year start-up and operating costs to implement interest withholding. The money the bank will earn from the "30-day float" is $150,000—far less than the $2.6 million.

10. Q. What if I'm eligible for an exemption but fail to apply for it? Can I get back the money my bank has withheld?

A. Not from the bank and not until the end of the year, when you file your tax return. If you fail to apply for an exemption, the bank is required by law to withhold 10 percent of your interest earnings.

11. Q. Will I have to file a new exemption certificate every time I open a new savings account or buy new stock from a different company?

A. Yes. Otherwise, the 10 percent interest and dividend withholding provision will apply.

12. Q. Will the 10 percent withholding apply to savings bonds?

A. Yes. When a person cashes in savings bonds, the financial institution will be required to withhold 10 percent of the interest earned.

13. Q. Why did Congress pass the law to require interest and dividend withholding?

A. The Treasury Department said it was necessary to withhold 10 percent of savers' and investors' dividends and interest earnings to "encourage compliance"—in other words, to make sure that people paid taxes on these earnings.

14. Q. Are there any figures on how many people now comply with the law to pay taxes on their interest and dividend earnings?

A. Yes. According to the Treasury Department, over 95 percent of the people now pay taxes on interest and dividend income that is subject to reporting.

And over 85 percent of the people pay taxes on all interest and dividend income.

So, in effect, the honest taxpayer is being asked to send the government 10 percent of his interest and dividend income early—to give the government an interest-free loan on money that could be compounding—because the government is unable or unwilling to go after the few people who do cheat.

15. Q. Is there any way to stop the 10 percent interest and dividend withholding from going into effect?

A. Congress has the power to repeal this law before it goes into effect July 1, 1983. Bills have been introduced already that would repeal the 10 percent withholding of interest and dividends.

If you believe that the 10 percent withholding provision is unfair and unnecessary, then you should write to your Congressmen and Senators and urge them to vote for repeal of the law.

POSTCARD—10 PERCENT WITHHOLDING ON SAVINGS

INSTRUCTIONS

Each bank branch manager should have this card printed up with the name of the Congressman or Congresswoman in whose district the bank is. Please give your customers this card when they come to the bank and ask them to fill it out and put it in your bank's "ballot box." The cards should then be delivered personally to the Congressman or Congresswoman by the appropriate banker.

Suggested postcard to Members of Congress.

Hon. (NAME OF REPRESENTATIVE),
U.S. House of Representatives,
Washington, D.C. 20515

BACK OF POSTCARD

DEAR REPRESENTATIVE (Name): Please vote to Repeal the scheduled 10 percent withholding tax on interest and dividends. This tax is both unfair and unnecessary, and will harm millions of savers and investors like myself by decreasing the money we earn on our interest and dividends.

Please let me know how you feel about this important issue.

Sincerely,

NAME: ——— ———.
Address: ——— ———.

[Instructions: Retype on bank CEO's letterhead and send to stockholders]

STOCKHOLDER LETTER

DEAR STOCKHOLDER: In spite of strong opposition by (your bank) and other financial institutions, the Congress last summer enacted a system for federal tax withholding on dividends and interest. We want you to know about the new tax plan and our continuing efforts to have it repealed.

Beginning July 1, 1983, federal tax withholding will be required at the rate of 10% on all dividends and interest which you receive by check or have credited to your savings. A 15% withholding rate must be used if a valid social security number has not been furnished by a shareholder or savings depositor. Please be certain to supply us with a social security number if you have not already done so.

Exemptions to the withholding requirement are authorized only for individuals with a prior year income tax liability of $600 or less ($1,000 on a joint return) and for elderly individuals with a prior year income tax liability of $1,500 or less ($2,500 on a joint return). These exemptions are limited by law to qualifying taxpayers who file exemption certificates with each payor from which they receive dividends or interest. Further information on exemption certificates will be provided later.

What does this new withholding plan mean to you as a(n) (your bank) shareholder and depositor? As a shareholder, it means a smaller dividend check on your stock. If you participate in (your bank) dividend reinvestment plan, fewer shares of stock can be purchased with your dividends. As a depositor, it means reduced interest posted to your account and, therefore, less interest earned from compounding during the year. If you receive your interest by check, the amount of the check will be smaller.

Reliable estimates project that a minimum of $1.5 billion will be forfeited by shareholders and savers through loss of compounding and dividend reinvestment opportunities. Further, the cost of compliance to (your bank) and other financial institutions will be major. Any alleged progress toward narrowing staggering budget deficits or stimulating economic recovery will be illusory.

Just as Congress passed this section of the "Tax Equity and Fiscal Responsibility Act of 1982," it can repeal it. For this to happen, our elected officials in Washington must hear from you. (Your bank) and other financial institutions will be actively supporting legislation to repeal the withholding provisions, and if you agree that this is a bad law, your help is crucial.

You can write to your U.S. Senators and Congressmen to urge their commitment and active support for repeal legislation. Listed below are the addresses and telephone numbers of the Senators and Congressmen from (your state).

Hon. NAME OF SENATOR,
U.S. Senate, Senate Office Building, Washington, D.C. 20510.

Hon. NAME OF REPRESENTATIVE,
U.S. House of Representatives, House Office Building, Washington, D.C. 20515.

Thank you for your consideration.
Sincerly yours,

——— ———.

CONSUMER LETTER TO CONGRESS

DEAR CONGRESSMAN, SENATOR (Name): I'm writing to urge your support for H.R. (S.) , which will repeal the 10 percent withholding tax on interest and dividend earnings scheduled to go into effect next July 1.

I understand that Congress passed this legislation last summer because the Treasury Department said it would increase taxpayer compliance. I find this reasoning astonishing and appalling!

I don't understand why the honest saver and investor should be penalized because of a few people who cheat, especially when this penalty is going to cost all of us money. Conservative estimates say that U.S. savers and investors will lose some $1.5 billion a year in foregone earnings on interest and dividends.

In short, this 10 percent tax withholding on interest and dividends is both unnecessary and unfair. I would very much appreciate your support of H.R. (S.) , and would be interested in hearing how you feel about this matter.

Thank you.
Sincerely,

JOHN. Q. PUBLIC.

BANKER LETTER TO CONGRESS

DEAR CONGRESSMAN, SENATOR (Name): As you know, the tax law passed last summer contained a provision calling for banks and other financial institutions to withhold 10 percent of our customers' interest and dividend earnings beginning July 1, 1983.

I'm writing to urge your support of H.R. (S.) , which would repeal this provision. This 10 percent withholding measure is unfair: 95 percent of the taxpayers already pay the taxes they owe on interest and dividends subject to reporting. It's unnecessary: banks and other financial institutions already provide the IRS with the information they need to catch those few people who do cheat on their tax returns, but the IRS seems unable or unwilling to do anything with it.

Most important, this bill is a costly, administrative nightmare. Our country's 80 million savers and investors will lose a conservative $1.5 billion on foregone interest and dividend earnings. It's going to cost the financial industry at least another $1.5 billion just to implement the withholding, and that doesn't include the personnel training that's going to be required so that our employees can try to explain to the taxpayer just why 10 percent of their interest and dividend earnings are being withheld.

By the time you take the interest earnings away from the people, add the cost to the government and to the private sector to implement this program, the net effect of interest withholding will be negative.

Please let me know your position on H.R. (S.) . Thank you very much.
Sincerely,

J. P. BANKER.

BANKER LETTER TO THE EDITOR

DEAR EDITOR: Many of my customers are just beginning to realize that Congress passed a law last summer to withhold 10 percent of their interest and dividend earnings beginning next July 1.

Banks and other financial institutions have opposed interest and dividend withholding since the idea first surfaced 40 years ago. We still do.

Withholding on interest and dividends will cost America's 80 million savers and investors some $1.5 billion in foregone earnings on their interest and dividends. It will cost the country's financial institutions at least another $1.5 billion to put withholding into place.

Although there is an exemption allowed for most senior citizens and low income people, this exemption process is an administrative nightmare in itself. To be exempt, people will have to file a government form with each institution where they have an account. On this form they will have to swear their tax liability is below the ceiling. Besides the obvious invasion of privacy involved here, banks will be buried under mountains of new and unnecessary paperwork.

The (Name of Bank) strongly opposes the withholding of taxes from interest and dividends. It is unnecessary and unfair. It's unnecessary because 95 percent of taxpayers already pay the taxes they owe on interest and dividend earnings that are subject to reporting when they file their federal income tax return. It is unfair because it will lower their interest earnings by reducing the benefits of compounded savings growth.

In short, the law clearly penalizes savers and investors. It should be repealed by Congress, and we will need the help of every saver and investor to achieve this goal.

If you agree that this 10 percent withholding law is unfair and unnecessary, please write to your Congressman and Senators to tell them so. We can get this law repealed, but we must begin now.

Sincerely,

J. P. BANKER.

SENIOR CITIZEN LETTER TO CONGRESS

DEAR CONGRESSMAN, SENATOR (Name): I'm writing to urge you to support H.R. (S.) ——, which repeals the 10 percent withholding tax on interest and dividend earnings scheduled to go into effect next July 1.

As a senior citizen, I'm aware that Congress has said I'm exempt from the provisions of the 10 percent withholding tax. But even though I'm exempt, this law affects me very much.

To apply for an exemption, I have to fill out and file a government form with each financial institution where I have an account. Fortunately, I'm physically able to do so, but many of my friends are not. Does this mean that they'll lose the use of 10 percent of their earnings on interest and dividends? Many retired people depend on this money for their day-to-day expenses for food, medical bills and housing.

And in applying for an exemption, I'm told that I have to swear to my bank teller that my tax liability is below the ceiling. I think this is an invasion of my privacy! I've paid my taxes for all of my working life, and never once have I had to tell anyone what my tax bill was. Why should I have to start now, especially when this entire idea of tax withholding is wrong?

Please let me know how you feel about this important issue. Thank you very much.
Sincerely,

JOHN Q. PUBLIC, Sr.

CONSUMER LETTER TO THE EDITOR

DEAR EDITOR: It has recently come to my attention that next July 1, when the government puts our 10 percent tax cut into place to encourage us to save, it's going to begin withholding 10 percent of our interest and dividend earnings.

As one of America's 80 million savers and investors who will lose over $1.5 billion a year from this legislative sleight-of-hand, I am appalled. This country has the lowest incidence of savings in all developed nations and withholding 10 percent of interest and dividend earnings will only serve to discourage savers.

I think each of us should write to our Congressman and Senators asking them to repeal this misguided law that short-circuits our ability to earn interest and dividens on our savings and investments. By letting our legislators know how we feel, we can help repeal this bad law.

Sincerely,

JOHN Q. PUBLIC.

WARNING: 10% OF THE MONEY YOU EARN IN INTEREST IS GOING TO DISAPPEAR

Recently, Congress quietly passed a withholding law that will cost American savers and investors the use of 10% of their interest and dividends.

In simple terms, effective July 1st, 1983, this new law requires banks and other financial institutions to deduct 10% of the interest or dividends you earn on your savings and investments. That money then goes to the Internal Revenue Service in much the same way as payroll deductions are now handled.

The sponsors of this law have told us it was designed to catch a small minority of Americans who evade taxes on their interest and dividends. But the truth is the law penalizes the great majority of America's savers and investors who pay their taxes faithfully. What's more, the federal government is now receiving all the necessary information to curtail tax cheating.

Though the law does include exemptions for some low income and elderly Americans, if they go through the red tape of filing an application, most savers and investors will forfeit some of the money they could earn in compounded interest.

We urge you to join our efforts by writing letters to your representative in Congress and to the two senators from this state. Tell them you want the 10% withholding tax repealed, because it would impose an unfair penalty on savers like yourself.

For assistance in contacting your representative and senators please ask any of our bankers. If we all act now, Congress will get a clear message from the voters back home, and they will work to repeal this needless law.

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CONGRESS WANTS A PIECE OF YOUR SAVINGS: WHAT THEY NEED IS A PIECE OF YOUR MIND

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(Space for bank imprint here.)

SAVERS WARNING: NEXT, THE FEDERAL GOVERNMENT IS GOING TO WITHHOLD TAXES FROM YOUR SAVINGS INTEREST AND DIVIDENDS

The recently passed tax bill will require us to withhold and forward to the Internal Revenue Service 10% of the interest you earn on depository accounts, certificates, and dividends. It will require unnecessary paperwork, and your personal loss of these funds during a critical time in our economy.

A vigorous campaign to convince Congress to repeal this 10% withholding tax is urgently needed. To be successful, this campaign will require the help of each and every one of our valued customers.

Our bank, along with financial institutions across the United States, is working to change the law. We feel that it is unnecessary, unfair, and unjust. The federal government is already receiving all the information it needs to curtail tax cheating.

We urge you to join our efforts by writing letters to your representative in Congress and to the two senators from this state. Tell them you want the 10% withholding tax repealed, because it would impose an unfair penalty on savers like yourself.

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(Space for bank imprint here.)

Mr. PRYOR. Mr. President, another peripheral issue which has been raised by the proponents of withholding is the cost of the ABA campaign. The ABA tells me that it has spent approximately $300,000 on the withholding repeal effort and approximately $298,050 on compliance. The compliance figure includes the ABA Task Force on Withholding, the December colloquium and the withholding teleconference, along with printed compliance information.

I hope this information is helpful to my colleagues and that it may give some perspective to the ABA's role in this controversy.

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

Mr. BAUCUS. I yield to the Senator from West Virginia.

Mr. BYRD. Mr. President, I expressed the hope that we could have Senators here so that they could hear the explanation of the compromise. All I heard was what I heard last night, and I compliment Mr. DOLE and Mr. KASTEN on their explanation on the compromise last night—and they also inserted material in the RECORD. I thought that Senators, before the vote on cloture occurs today, would want to hear it again or hear it for the first time. Mr. DOLE and Mr. BAKER have been very accommodating in adding an hour for such explanation and in delaying the beginning of the hour until 1:30 p.m. today.

I have a couple of questions I would like to ask, if I may, of the distinguished author of the amendment, the leading author of the amendment, Mr. KASTEN—or is it Mr. DOLE?

Mr. DOLE. Yes.

Mr. BYRD. Mr. DOLE, then I will ask him.

First, I congratulate Mr. DOLE on the magnificent performance that he has displayed in this matter and in all past matters involving his committee on the floor. But I would like to ask him these questions.

One, has the President bought on to this compromise?

Mr. DOLE. Mr. President, if the minority leader will yield, I would say the answer is probably "no." I saw the President from a distance this morning, but I did not ask him about this particular issue. He was busy signing the social security legislation, and I wanted to get my pen so I did not want him to get it mixed up with withholding.

It is my understanding that the President has indicated, through his Press Secretary, that this is a compromise between the Senator from Kansas and the Senator from Wisconsin, not between any one of us or any group of us and the President. I think that is the stance the President will probably maintain.

Mr. BYRD. I first think that the distinguished Senator has made a very forthright statement. I have no trouble understanding what he has said. He has been honest about it and I thank him for that.

Mr. DOLE. I thank the Senator.

Mr. BYRD. I would like to ask a second question. Is there any indication that the House has bought on to it, if I might use that term a second time?

Mr. DOLE. Again, Mr. President, if the minority leader will yield, I have had a discussion with my distinguished counterpart in the House, a man whom I respect a great deal, the chairman of the Ways and Means Committee, DAN ROSTENKOWSKI. He has indicated, as I said last night for the RECORD, that he would have a hearing on this matter, on the matter of withholding.

Frankly, he is a bit concerned because we have an "S" numbered bill, which is a revenue bill, which should originate in the House, that we are sending to the House. I am not certain just how the chairman will treat that matter when it arrives, if it should arrive. I also understand that they are meeting today at 1:30, members of the Ways and Means Committee, to discuss the action taken by the Senate. So I just do not know the answer.

I know there are a lot of Members on the House side who have been pressuring everyone they can to take up the matter. But to say he would take this bill and pass it is probably unlikely.

As I understand it, this will go to the desk; the Speaker will then send it to the Ways and Means Committee; then it would be up to the chairman as to whether or not they have a hearing on the matter.

Mr. BYRD. I thank the Senator again. I think he has been forthright and honest in his response.

From my listening to what was said last night concerning the compromise, it sounded very much like a victory for those who want to repeal the withholding tax, because it delays and gives the executive branch an opportunity to enforce compliance and it requires the report by the General Accounting Office at a certain point in time down the road and it requires affirmative action on the part of both Houses then to implement the withholding tax.

So I think, if I correctly understand the compromise, it sounds like a pretty good thing.

But also from what I have heard, and from the Senator's responses to my questions, I have heard this is a compromise, as Mr. DOLE put it, between himself and Mr. KASTEN. We have no absolute assurance that the House is going to take this bill. The President has not said anything, and we have no assurance that he will sign this bill or he will accept the compromise.

I think this exchange has been helpful for the RECORD. I thank the Senator from Kansas for responding to my questions.

Mr. DOLE. I thank the distinguished minority leader.

Perhaps if I could give a portion of my statement, it might respond to some of the questions that Members have. I would certainly be willing to yield time to the Senator from Wis-

consin and other Senators. I could summarize my statement.

Mr. METZENBAUM. Will the Senator from Montana yield 1 minute?

Mr. BAUCUS. I yield.

Mr. METZENBAUM. Mr. President, I rise to ask for the yeas and nays on the Chafee-Metzenbaum amendment to the Dole amendment, which is pending business.

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

The yeas and nays were ordered.

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

Mr. DOLE. Mr. President, I would like to take just a few moments to discuss the amendment that we hope to vote on later today.

As I understand, we will first have a cloture vote, then there will be a series of procedural motions, and then we will have an opportunity to vote on the amendment.

The Senator from Kansas does not want to be misunderstood on this issue. I have said that if I were a banker I would not break out the champagne yet. I do not want to suggest that this is suddenly going to sail through the House. The Senator from Kansas has no control over the House whatsoever.

I still believe that withholding, as I said last evening, is the best tax policy. But I have also been around here long enough to learn how to count. The last time I counted there were about 28 solid or semisolid votes—I think maybe 25 solid and 3 semisolid—and maybe 2 or 3 that if you really got around a lot you might get up into the low 30's.

To avoid cloture we would need 41. to sustain a veto we would need 34.

It was on this basis, as I said last evening, that this Senator went to the White House a couple of nights ago. There was a weekend of calls by distinguished members of the President's staff and by the President himself to a number of Senators, to see if we could support the leadership on withholding. I indicated—I think to Jim Baker, Ed Meese, and others—that I thought we had about 28 votes. "How many do you have?" They said, "None." They did not say it quite that quickly but that was the result of all their reports and all the phone calls. They had zero.

The choices were considerably narrowed after that meeting. The Senator from Kansas then had the choice of either going ahead with the cloture vote, losing, and then going through a rather tedious process of offering several hundred amendments—I do not know how many I would have offered—asking for the yeas and nays, irritating probably 99 Senators, and probably frustrating this one.

It seemed to me that was not the right course to pursue. It also seemed obvious to me that, not because of the merits but because of the mail, the die had been cast in this Chamber and sooner or later, notwithstanding how many hundreds of amendments might be offered in a post-cloture effort, an outright repeal would have passed.

The distinguished Senator from Wisconsin had an amendment pending. That amendment sooner or later would have been dealt with. It then seemed to this Senator that we had one other option. That was to offer some amendment that would still pick up substantial revenue and still go after those who, for one reason or another, do not pay their taxes, and in the process delay withholding on interest and dividend income.

So that was the effort made yesterday. I might say that amendment arose out of a conversation I had with about 10 bankers and S&L representatives from Topeka, Kans., about 3 weeks ago. I said to these gentlemen who are friends of mine—they were friends of mine before last July and I hope they are still friends of mine—"If you do not like withholding, what would you do to pick up some revenue in its place?"

I must say that they were very forthcoming in their comments and followed the next day with a meeting of several hours with a member of my finance committee staff and members of the S&L and banking staffs in Kansas.

They put together about 10 ideas that they thought would tighten up on the penalties and furnish what we call backup withholding for those who fail to comply with the law and pay their taxes on interest income.

So it was on that basis that I suggested to the Senator from Wisconsin and others that we might have some grounds for compromise. That is, in effect, where we are today.

With that background, I would like to suggest that when I did visit the White House the night before last I left there with no authority from the President to make any compromise. I said this clearly to the Senator from Wisconsin and others at the Republican policy luncheon yesterday. But I left there with the feeling, at least, that they were aware we did not have the votes and that I had some obligation to try to preserve as much of the revenue as we could, not just for the sake of the revenue but for the sake of tax compliance. I think it was generally understood that I would discuss this matter with the Senator from Wisconsin so that he knew, and I knew, and the White House knew what was going on.

Yesterday afternoon during the drafting session there were Treasury representatives present, but they were there only to offer technical assistance. There was no indication that they were part of the compromise. That has been reconfirmed this morning by the Treasury Secretary, Mr. Regan, who had been in Mexico and just returned last evening.

That did not suggest that we have not made some progress, nor does it suggest that this Senator now believes that this is a better idea than withholding. I do not. In my view, withholding is still the best tax policy, still the fairest policy, and I would hope that whatever may happen in the future it may remain in the law. But somehow or other we have to move this bill out of the Senate and get on to other business. There are a number of matters pending.

Therefore, I think we have reached some middle ground between those who seek outright repeal—and there are still some who may want to vote on outright repeal of interest and dividend withholding—and those of us who continue to believe that withholding is the right solution to a serious problem.

The IRS thinks we lose almost $100 billion annually from tax cheating. Tax cheating is a serious problem. We are victims, I think, very honestly, of a massive mail campaign, of misinformation, but that is history.

I do not question any Senator's motive. Everybody makes his judgment based on the facts and on the politics, in some cases, as they see it. It is pretty clear that the majority in this body, by a good margin, would either vote to repeal interest and dividend withholding or would accept some compromise. I think that is where we are today, or will be there before long.

Mr. President, we have a lot of people who underreport interest and dividend income. We are told it is 20 million taxpayers. We are told we lose a lot of money from tax cheating; therefore, we have to raise taxes on honest taxpayers. If we could collect 99 percent of the tax owed, we could pay for another 23 percent rate reduction like that enacted in 1981.

For reasons that I do not quarrel with, many of my colleagues will tell you that withholding is not the right way to go; that it is too complicated; it is too burdensome; that it is intrusive; and a lot of other things. I am not going to go back and quarrel with that, but I do want to suggest one thing:

This amendment to be offered later on today goes far beyond any prior proposal in making a real effort to improve compliance. It picks up a total of $12.5 billion, including the improvements in information reporting enacted last year. The original Kasten amendment, according to the Joint Tax Committee and the IRS, would pick up zero. The information reporting improvements we enacted last year would pick up some, about $5.5 billion; but that was about it. So, with the

compromise, we pick up not only the $5.5 billion from improved information reporting, but an additional $7 billion because of the other provisions in this compromise.

I do not want to make it clear that, yes, we had a defeat. You can say we had a defeat; I would agree with that; we did not prevail. But we did not give up the entire ship. Maybe just about one-third of it. The other two-thirds are still above water and I hope in the final outcome, it will all be above water. In any event, there is still about $12.5 billion in revenue that will be collected.

Let me first say that the numbers may well change. They have changed about four or five times, as the Senator from Montana (Mr. MELCHER) pointed out last night. These numbers could go up or could go down. Whether or not it is $12.5 billion or some lesser figure will depend on vigorous enforcement by the IRS, plus some additional funding, I assume, for IRS so they can carry out some of the enforcement that will be necessary.

I think I have indicated that I am not enthusiastic about this, Mr. President, but I am also realistic. I am also concerned about the impact this retreat—I guess you could call it a strategic retreat—may have on tax reform and efforts to improve compliance. We hear a lot of talk about tax reform, the flat tax, the Fair Tax Act, and a whole host of tax reform proposals. But so far, except for last summer's Tax Equity and Fiscal Responsibility Act, most of what we have had is talk. Maybe this has ended the talk for some; they are going to be hard-pressed to talk about it. But I hope it has not ended tax reform and tax compliance reform.

The senior Senator from Louisiana knows the problems we have in enacting meaningful tax reform. In accepting today's amendment, we take a large step backward. I hope that as we get down to some later time, those of us who believe in withholding are still going to believe in withholding. We are not suggesting that the battle is lost; I cannot predict what the House will do. But let me suggest that the compromise that we will have before us later today borrows from amendments proposed by the Senator from Minnesota (Mr. BOSCHWITZ) and the Senator from Maine (Mr. COHEN), and I am certain a number of other Senators on both sides of the aisle.

Let me say I want to make it clear that I know of no Senator who wants anyone to avoid their taxes or to cheat on their taxes. The record should be clear in that regard. I think many Senators feel withholding is cumbersome, as I said, burdensome, costly, ineffective, and that the IRS could do better. I do not quarrel with their right to make those arguments, but I do not want to leave the impression that those of us who stand up and say we ought to have withholding are the only ones who want the taxes collected. That is why I believe that even though the amendment is less than this Senator desires, it is not a cop-out, it is not a surrender. It is a retreat, in a sense, because we pick up less revenue, but it does require withholding on those who fail to pay their taxes, and imposes penalties on banks, S&L's, and on credit unions who have a pattern of not providing the right information so the taxes can be collected.

I think I speak for all the Senators in this body when I suggest that this is, I hope, the policy they would want us to follow. We are going to have, I hope, by 1985, 95-percent compliance on interest and dividends. If, by 1985, compliance has not reached 95 percent, then the GAO will so certify and report to Congress. If Congress approves that study of noncompliance, then withholding goes into effect.

I have read that this means we have effectively repealed withholding. I am not so certain that is the case. I have listened to a good many arguments in this body about withholding and I think many Senators have some real doubts about compliance and real doubts about whether or not we should not try something else before we try withholding. This is going to be the test. Maybe in 1987, some of us will not have to be concerned about it. But if, in fact, there is a compliance rate of 95 percent on interest and dividend income, then we should not worry about withholding. We are told by the banks that they will have 97 percent or more by that time. But if the compliance rate is 95 percent for interest and dividends, that is good enough for this Senator. If it is not at 95 percent, I believe Congress will take the appropriate action and approve the GAO report which would, in effect, require that withholding go into effect on July 1, 1987.

In the meantime, we will have backup withholding at a 20-percent rate that will be imposed on nonfilers and those who underreport interest and dividend income. That rate of withholding is higher that the 10-percent rate for comprehensive withholding, but unlike comprehensive withholding, this provision is directed only at those who do not comply. Even the backup withholding rate is less than the average marginal tax rate. And at least 60 days' notice must be provided before backup withholding begins. And it can be terminated by the payee, by correcting his previous noncompliance.

In other words, Mr. President, we do not want to go out and trap anyone who can clean up or correct the apparent discrepancy disclosed by the information reporting system. We are not trying to punish anyone who makes an honest mistake, though I must say with 94 million Americans filing returns, some of that might happen. But it is not the intent of the amendment.

This amendment is similar to that proposed earlier by the Senator from Alaska (Mr. STEVENS).

I may say that backup withholding is less attractive in many ways than comprehensive withholding. The IRS will be required to use far more resources to implement this system and only about half the revenue gain from withholding will be retained.

Information returns will be filed with the IRS on magnetic tape. This will speed processing. This was recommended by Senators on both sides of the aisle. It was called to my attention by the Senator from Minnesota (Mr. BOSCHWITZ). We have also had suggestions from the Senator from Alaska (Mr. MURKOWSKI), who happens to be not only a well respected Senator, but a well-respected banker, as well. He suggested that we ought to require the attachment of 1099's on the return. We have included that in the amendment. I think Senator MURKOWSKI is fair. He wants people to pay their taxes. He believes if we attach the 1099's, we can address a great portion of the problem.

I must say the IRS does not share that view. They say they just have to tear them off since they do the matching with the magnetic tape forms filed by the payors. But rather than try to persuade the Senator from Alaska or anyone else, it is in the amendment that you must attach the 1099.

Maybe the IRS is covered up with paper. They get 660 million 1099 forms. So we are pleased to include that provision in the amendment.

In addition to that, my colleagues should know, as I said, that the IRS does not want this amendment. There are a lot of things they probably do not want.

I do not think the IRS is blameless, either. We do not want harassment. We do not want to hire 20,000, or 30,000, or 40,000 more employees and send them out to audit a lot of returns. But we do believe that the IRS can be a little more aggressive in their matching program. That is the purpose of the suggestions of Senator KASTEN and Senator MURKOWSKI.

We have also increased payor penalties, and that is going to reinforce the information reporting system. By that, I mean stricter penalties on payors who do not meet their responsibilities. I hope, frankly, that the IRS will start using these penalties. And if the payee is involved in civil fraud, he is going to be subject to a $1,000 civil fraud penalty.

This is certainly not a panacea. It is going to lose between 40 percent and one-half of the revenue picked up by mandatory withholding. It is going to

require some additional resources by the IRS—not 40,000 agents but perhaps several thousand. We are going to get a report from the IRS within 60 days on how many will be necessary to implement these changes, but the amendment will improve the ability of the IRS to catch tax cheaters in comparison to pre-1982 law.

If we cannot retain withholding, this may not be the perfect answer. I am certain, when they have this debate, discussion, and hearings in the House, they may find a better way to get better compliance for less money with less burden on the taxpayer. So I want to emphasize that this may not be the perfect alternative. Somebody may have a better idea. But it does seem to me to be at least a step in that direction.

Now, I also suggest that this is not going to be a very simple thing to enforce. It is not going to be as easy as withholding but again I suggest that this has been enthusiastically endorsed by the bankers in my State, and by the S&L's, and, I understand, by the ABA, and, I understand, by Congressman D'AMOURS, who has been leading the efforts in the other House for repeal of interest and dividend withholding. So there seems to be a lot of interest in this proposal. In fact, I must say that I think many of the bankers honestly feel they went too far in the first place and they are very happy to find some middle ground.

We are told by the experts—and this Senator is not an expert—but we are told by the nonpartisan experts on the Joint Tax Committee that it is going to be particularly difficult to implement on dividend income. For that reason, this Senator advocated retention of mandatory withholding on dividends even if we temporarily instituted a backup withholding rule for interest income.

When I presented that to my colleagues at the Republican luncheon, I think the general response was: "How am I going to explain the difference in my State?" Will we say: "We had a lot of mail on interest income so we left that out, but since we did not hear from you, we are going to have withholding on dividend income." So it became a political problem. But I must suggest, I think Senators will find or hear from many corporations who might rather have withholding than the so-called backup withholding.

The matching of information reports and tax returns followed by backup withholding on noncompliers is going to be substantially more complicated in some cases than mandatory withholding.

In many cases the debate over withholding has not been a debate between those who like withholding and those who dislike it. The debate has been over the relative cost effectiveness of withholding on the one hand, and following up on 25 million discrepancies disclosed by the current information reporting program on the other hand.

I said from the outset that I have not changed my mind. It seems to me that withholding is more effective and less costly. However, we are dealing in the real world. The real world is that the majority of the Senators in this body do not want withholding, at least at this time. They do want tax compliance, at least I assume every Senator wants tax compliance. I believe we have found some halfway mark that might satisfy a majority of my colleagues, and I thank those who have supported me.

Again, if this comes back and we have a big fight over a veto, I am going to stand with the President. But at the same time I understand the problem of getting this moved out of the Senate. I hope that we can have some bipartisan support and move on this yet today.

Mr. MURKOWSKI addressed the Chair.

Mr. EXON addressed the Chair.

Mr. DOLE. I promised to yield to the Senator from Nebraska.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, I yield 5 minutes to the Senator from Nebraska.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. EXON. I thank the Chair and I thank my colleague from Montana.

Mr. President, I lend my voice of congratulations and thanks to the distinguished Senator from Kansas, the chairman of the Finance Committee, and the distinguished Senator from Wisconsin, who worked toward repeal, hopefully totally, of the withholding on interest and dividends. If the Senator from Wisconsin is on or near the floor, I would very much appreciate his coming to the floor because there are one or two questions that I should like to pose to the Senator from Wisconsin and the Senator from Kansas.

Once again, I wish to emphasize the fact that I think the compromise that we seemingly are working toward is a good one, indeed. It shows, once again, that the Senate can have its differences but in the end majority will prevails.

As much as I endorse the compromise and as enthused as I am about the suggestion made by the Senator from Kansas with regard to requiring the proper information to be attached to the income tax return so that we can make sure that people do pay their taxes, I would like to probe a little more the glue, or the concrete, if you will, that holds this compromise together.

The reason for the question I am about to ask is that we only have a little over 2 months until the withholding on interest and dividends would begin on July 1 of this year. Therefore, the success that we are hailing on this measure at the present time might not turn out to be the success that we hope unless everything falls into place.

I asked some questions last night, and I appreciate the forthright answers of the Senator from Kansas now. The President has not signed on. We do not know what his action will be. Certainly the Treasury Department, as I understand it, has not signed on. We do not know what the position will be with regard to the House of Representatives. I recognize that those are legitimate concerns that all of us still have who want to get this repealed.

My specific question is, What do the Senators from Kansas and Wisconsin think are the chances of the vehicle that carries this repeal, which has to be passed before July 1—and certainly with regard to the expense that it could cause to the institutions which have to do the withholding, if they gear up for this, even if we repeal it, it is going to be an unnecessary expense on their part—what chance do the Senators think that S. 144, which is the carrying vehicle, has of being passed by the House and Senate and, therefore, going to the President? If during the next 6 weeks it is evident that that bill is not going to go to the desk of the President, has the compromise that has been reached been cemented or glued with an understanding that the chairman of the Finance Committee, the majority leader, and others on that side of the aisle would agree that the compromise amendment properly could and will be attached to some other bill that will go to the President before July 1 at the earliest possible date?

Mr. DOLE. I think that is a fair question. I am not certain I can answer it precisely. We have a revenue bill which should originate in the House, originating in the Senate, and that is going to cause problems in the House when it arrives.

As I understand it, the Speaker will send it to the Ways and Means Committee. I am not certain what the disposition will be. I doubt that they would act on the reciprocity portion of it. They may immediately have hearings on withholding. If the amendment does not move forward, I note that we have to extend the debt ceiling, as I understand it, within about 1 month. That is a vehicle that is always ripe for amendment. So I say to my colleague from Nebraska that it seems to me that unless there is a big change in position, that would be the next available vehicle for a repealer.

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

Mr. BAUCUS. Mr. President, how much time remains for each side?

The PRESIDING OFFICER. The Senator from Montana has 9 minutes; the Senator from Kansas has 1 minute.

Mr. BAUCUS. I yield 2 minutes to the Senator from Nebraska.

Mr. EXON. I thank my friend from Kansas.

I pose this question to the Senator from Kansas and the Senator from Wisconsin: The suggestion the Senator from Kansas just made with regard to the possibility of attaching this compromise amendment to the debt ceiling bill was exactly what I had in mind. Are we, therefore, making a commitment or an understanding now that the bipartisan compromise would carry forth and that, if necessary, we could attach this to the debt ceiling bill or some other appropriate vehicle?

Mr. KASTEN. I say to the Senator from Nebraska that from the very beginning we have said that we would like to try to work within the system and not bottle up social security, the jobs bill, or other bills if we could work it out. Unfortunately, to get to where we are today, we had to spend a few days on the jobs bill.

I believe that the House of Representatives and the White House will act in good faith. I believe that the will of the majority of the House of Representatives will not be thwarted by procedural delay. And I believe that the White House will act favorably on this modified language.

The PRESIDING OFFICER. The Senator's 2 minutes have expired.

Who yields time?

Mr. EXON. May I have another 30 seconds?

Mr. BAUCUS. I yield.

Mr. EXON. The question is to the Senator from Kansas and the Senator from Wisconsin: Does the glue of the compromise carry forth to a commitment that this amendment, if it is not successful on S. 144, will be allowed to come up again?

Mr. KASTEN. It is my intention to offer the amendment again, if it is not successful here.

The PRESIDING OFFICER. The 30 seconds have expired.

Mr. BAUCUS. I will ask the same question. If this compromise passes this body and if at a later date the House does not act in a manner which is in accordance with this compromise, will the Senator from Kansas be in a position to support the compromise as an amendment to a debt ceiling, or two, or three, or four other bills that may be in this body which could appropriately go back to the House?

Mr. DOLE. The Senator from Kansas does not want to hedge on that question, but as I indicated earlier, this may not be the perfect amendment. There may be better amendments devised that would raise more revenue and be less instrusive and less burdensome.

I still think withholding is the best way to go. I also know the realities of the numbers in this body, and I assume that they will not be changed very much.

I am trying to deal in a spirit of compromise. This Senator does not want to repeal or delay withholding, but we do not have the votes to do anything else. If there is a change in that, it would also change my position.

Mr. BAUCUS. So is the answer to the question, "Yes"? Would the Senator from Kansas support this compromise on a subsequent bill in the Senate at a future date this year?

Mr. DOLE. I think that is possible.

Mr. BAUCUS. I am sure it is possible. What are the probabilities?

Mr. DOLE. It is even probable.

Mr. BAUCUS. How probable?

Mr. DOLE. It is even likely. [Laughter.]

It depends on the vehicle. Many of the horses that go through the Chamber are not going anywhere.

Mr. BAUCUS. I heard the Senator, in answer to an earlier statement—maybe he was just explaining his position—if the President were to veto this compromise, is it true that the Senator from Kansas would work to sustain the President's veto?

Mr. DOLE. That is correct.

Mr. BAUCUS. I yield the floor.

The PRESIDING OFFICER. Who yields time?

SEVERAL SENATORS addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. DOLE. Mr. President, I ask unanimous consent that we may have an additional 5 minutes on each side.

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

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. I thank the Senator from Kansas for yielding me 2½ minutes.

Mr. President, I am pleased that the principals on the withholding issue have worked out a compromise that reflects the concerns of those on both sides of the issue. To their credit, both the Senator from Wisconsin and the Senator from Kansas have come a long way to resolve the withholding impasse. It has been demonstrated once again that the Senate is a body of negotiation and compromise. I was delighted to assist in the negotiations that led to this compromise. The problems that this body has experienced on withholding remind me of the mythical nine-headed Hydra. For each head of the Hydra that Hercules cut off, two heads grew back. So, too, have the problems of the Senate on withholding multiplied. With the assistance of the House of Representatives, I hope that we, like Hercules, have finally managed to dispose of this beast.

The substitute amendment contains a provision that I was particularly concerned with. This is the provision that requires taxpayers to include with their tax returns their copies of the form 1099 that they get from banks and corporations. This requirement would deal with the majority of the 20 million taxpayers who fail to report interest and dividend income on their tax returns. IRS claims it does not want it. If the 1099 is attached to the 1040, IRS certainly has an obligation to compare the two.

Since most of these taxpayers fail to include interest and dividend income out of inadvertance and mistake, this new requirement will encourage the taxpayers to keep copies of their 1099's, and they will be reminded as to their actual interest and dividend income when they attach the 1099's to their tax returns. I predict that come 1987, we will find that this requirement has greatly improved tax compliance in this particular area of nonreporting.

After all, the obligation is on the corporations and the financial institutions to get the accurate information and achieve the voluntary compliance in the 95-percent area. So the responsibility is theirs. I believe they will rise to it.

The compromise amendment that we are considering strikes a fair balance between the need to have tax compliance, and the need to respect the privacy and sensibilities of the taxpayers of this country. In particular, we will send a clear message to Americans that the Senate indeed respects the confidentiality and integrity of the individual savings account holders of this Nation. This amendment will restore the respect of the citizens of the United States for their Government in general, and the Senate in particular.

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

Mr. HEFLIN addressed the Chair.

Mr. BAUCUS. Mr. President, I yield 4 minutes to the Senator from Alabama.

Mr. HEFLIN. Mr. President, I should like to direct a question or two to the Senator from Wisconsin.

From what I have heard thus far, there has already been raised the issue that this is a Senate bill; that the Constitution requires that tax measures originate in the House; that if the compromise is approved and this bill goes to the House, you will have to overcome the procedural difficulty of the fact that it originated in the Senate and is a Senate bill; that, therefore, the chances are that, other than a hearing, nothing will be done about it in the House.

Does the Senator share that concern and that danger?

Mr. KASTEN. The Senator is correct in terms of the procedure. I do not share the Senator's perception of what might happen. I believe that there is a good chance, because of the Senate action in arriving at this modification and the tremendous public outcry on this issue, that the Ways and Means Committee will act to substitute this measure on a House revenue bill or go through some other kind of a mechanism which will allow a House vote on this matter. It is my hope that this modified language can pass the House and go on to the President.

Mr. BYRD. Mr. President, will the Senator yield to me?

Mr. HEFLIN. I yield.

Mr. BYRD. Perhaps I can help in answering the question that is in the minds of some here. I have just been informed that the Secretary of the Treasury, Mr. Regan, has said in an interview with the press that his mind has not been changed and neither has the administration's mind been changed. In other words, they oppose the repeal and I assume they oppose the compromise.

Mr. HEFLIN. Has the distinguished Senator from Wisconsin received any assurance whatsoever that the President would not veto this compromise if it got to him?

Mr. KASTEN. I have not received that assurance. It is my understanding that at the present time the White House has neither approved nor disapproved this compromise, but I think it is important that this morning in the daily press conference Mr. Speakes did not say the President would veto this bill and neither did the Secretary of Treasury say that he would veto this bill.

Their position is not unlike that of the Senator from Kansas who is in favor of withholding. But they are going to have to deal with the problem and this modified language is closer to their position and is more likely to be accepted than a flatout repeal, which would have been vetoed for certain.

Mr. HEFLIN. Is it fair to say that the President or anyone speaking for him has not indicated that the pencil has come out from behind the ear and back into his pocket? He has said nothing to give the Senator any assurance whatsoever?

Mr. KASTEN. He has not, but I think it is significant that this morning he did not take the pencil out from behind his ear and say "Now we are going to veto." He did the opposite and said "We neither approve nor disapprove." So I think there is a chance.

Mr. HEFLIN. Let me ask the next question which is this: Does the Senator plan to offer this amendment to some other vehicle?

Mr. KASTEN. I do plan to offer this amendment or an outright appeal. Frankly, it would be my intention to offer an amendment not only on a debt ceiling bill, which was discussed, but on any other revenue measure or a supplemental appropriations bill or any kind of emergency bill that has the power to make it all the way through the system.

The PRESIDING OFFICER. The Senator's 4 minutes have expired.

Who yields time?

Mr. METZENBAUM. Mr. President, will the Senator from Montana yield 2 minutes to me?

Mr. BAUCUS. Mr. President, I yield 2 minutes to the Senator from Ohio.

Mr. METZENBAUM. Mr. President, let us not kid ourselves about this so-called compromise. It is a bad compromise. I respect the Senator from Kansas and the battle that he has made with respect to the withholding issue. But I do not intend to go along with the compromise because the compromise effectively puts off withholding until 1987. That is wrong. It was wrong yesterday, it was wrong the day before, and we should defeat the Kasten amendment.

Now I can count, and I understand the position of the Senator from Kansas, and I respect him for his efforts in this respect. But no matter how one slices this issue this is a tremendous victory for the bankers of this country. And I hope that before we get done in the Halls of Congress somehow the House of Representatives will not go along, and I hope that if the House of Representatives does go along with the so-called compromise the President sees fit to veto it.

I very seldom have found in recent weeks and months the occasion to find myself in agreement with the President. In this one instance I am in total agreement. If we are going to balance the budget——

The PRESIDING OFFICER. The Senator's 2 minutes have expired.

Mr. METZENBAUM. Mr. President, I ask my friend from Montana will he yield me 1 additional minute?

Mr. BAUCUS. Will the Senator hold himself to 30 seconds?

Mr. METZENBAUM. I will.

Mr. BAUCUS. I yield 30 additional seconds to the Senator from Ohio.

Mr. METZENBAUM. Mr. President, if we are going to balance the budget, then we should have withholding on interest and dividends and absent that, those who are the so-called budget balancers are only kidding the American people and they are only giving in to the bankers of this Nation. I think the compromise should be defeated and the Kasten amendment should be defeated.

I thank my friend from Montana.

The PRESIDING OFFICER. Who yields time?

Mr. BAUCUS. Mr. President, I yield 1 minute to the Senator from Montana.

Mr. MELCHER. Mr. President, the Senate is going to vote on a delay of withholding tax on interest and dividends, and it is well and good, but the vehicle is not any good and the House of Representatives is not seriously thinking of doing anything on this reciprocity bill before July 1. Maybe they never will. The House of Representatives is going to want to originate whatever action is taken on this, and we may wait a long time over here and the people of this country may wait a long time and find out that July 1 has come and gone and this provision of law is put into effect.

What the people of this country would like our system of government to do is for the Senate to pass an amendment to either stall off the withholding provision or repeal it and the House of Representatives to do the same and vote on it and then the President sign it.

All this talk about the President vetoing it is one thing. That is his prerogative to veto it if he wants to. But my concern is that the Senate act, have the chance to vote on it, the House of Representatives have the chance to vote on it and get to the veto. We will also have a chance to vote on the veto.

This vehicle today does not give us that opportunity because this reciprocity bill was not orginated in the House of Representatives itself and the bill is in jeopardy. Because of the nature of the reciprocity bill, this issue may never be voted on in the House of Representatives quickly enough using this method.

I feel very strongly that we are going to have to have another vehicle later on if we ever hope to have a House vote on it and then the President have his chance to veto it if he wants, and we will also have a chance to override that veto.

The American people expect representative government to work.

The PRESIDING OFFICER. All time yielded to the Senator from Montana has expired.

Mr. MELCHER. The American people expect to have their voice heard and action taken on this. They wish to see withholding stalled off or flat out repealed.

The PRESIDING OFFICER. The Senator from Kansas has the remaining time.

Mr. DOLE. Mr. President, I shall be brief. I want to make it clear to the Senator from Alabama and others that this Senator is for withholding. I think it is good tax policy, but I hope that this Senator is also realistic. If the choice is between zero revenue and $7 billion or $12.5 billion, if you count information reporting, and that is the best we can do, I do not want to leave any misimpression that if we cannot have what we want, we will not have

anything. I am certain that will not give anyone any comfort. But I have to be honest about it. I do not want to give up on this position at all, but that does not mean you always get your way in this body. We are not getting our way in this body. We are going to have a vote. I think all of those who want to make some expression on this issue are going to have an opportunity after the cloture vote. Then we will be offering the amendment itself.

I am happy to yield the remainder of my time to the Senator from Wisconsin.

Mr. KASTEN. I thank the Senator, and I wish to thank him for his work in working out this modification. I understand his position. He is in favor of withholding. But I also appreciate the thoughtfulness and thoroughness with which he has worked out a modification that I hope will be acceptable not only to the House of Representatives but also ultimately to the President.

I also wish to, in particular, thank the junior Senator from Alaska, Senator MURKOWSKI, and the senior Senator from Alaska, Senator STEVENS, who have been working with us on an hourly basis as we have tried to work out this important modification.

I also wish to point out that the Senator from Minnesota, Senator BOSCHWITZ, has played an important role, and that a number of the elements that are included in this compromise were from suggestions that the Senator from Minnesota had brought forward over the last several weeks.

I want to assure the Senator from Nebraska, the Senator from Alabama, the minority leader, and others that if this effort fails, I believe withholding will still be repealed.

If, in fact, this is a legislative vehicle without wheels or whatever you want to call it, then we will put it on something else. But we have in the past several days acted in good faith, believing and hoping we can find a way to work ourselves through this controversy.

I hope and I expect that somehow the majority will of the House of Representatives will be reflected when this issue is considered there, because about three-quarters of its Members are now cosponsors of repeal legislation.

THE KASTEN-DOLE COMPROMISE

Mr. WARNER. Mr. President, as a cosponsor of Senator KASTEN's legislation to repeal withholding of interest on savings or dividends, I am pleased that our leadership was able to reach the compromise embodied in the Kasten-Dole amendment.

This is a very reasonable answer to a very difficult problem. I believe it demonstrates congressional confidence in, and gratitude toward, the millions of taxpayers who consistently and conscientiously pay all their lawfully owed taxes. I believe it demonstrates congressional determination to put in place a system to identify and prosecute those who willfully evade paying their lawfully owed taxes. And I believe it demonstrates congressional reaffirmation of the Internal Revenue Service's responsibility to collect lawfully owed taxes.

Last week, the Richmond News Leader published an editorial drawing a comparison between the difficulties Treasury may face in collecting interest and dividend withholding with the problems recently experienced by the Office of Personnel Management (OPM) in implementing its withholding procedure for Federal retirees. The problems for OPM were horrors for the Federal retirees.

Quoting from the News Leader editorial, allow me to cite a few examples.

> A Rhode Island retiree asked that $330 be withheld from his retirement checks; instead, the Government withheld more than $600. A retiree's widow expected to get a check for $400; the Government withheld $390 of it. A Massachusetts retiree received but $200 of his $700 check. Others are finding their withholding pegged inappropriately at the level of a married couple with three exemptions. The Government is withholding from some monthly checks the amount asked to be withheld on an annual basis.

The editorial continues,

> It will take months for retirees to clear up the mess at the Office of Personnel Management. Meanwhile, the retiree's widow—for example—may have to get along on $10 a month while the Federal Government enjoys the use of the extra $390 a month she is due.
>
> Perhaps this is just a preview of another colossal blunder that could occur if Congress does not repeal the punitive withholding scam on interest and dividends scheduled to take effect July 1. Perhaps the Nation's banks and industries can handle a job better than the OPM, but with equally onerous burdens on hapless savers and investors.

Mr. President, I will vote for the amendment, and I will work with other Members of the Senate to insure that the Kasten-Dole compromise is passed by both Houses of Congress and signed into law by the President.

Mr. KENNEDY. Mr. President, what is going on here is no secret. The Senate is being stampeded into the delay of withholding by hundreds of thousands of pieces of mail instigated by the bankers' lobby.

I believe that the Senate has a responsibility not just to weigh the mail, but to weigh the merits. And if we had done so, we would have found that the merits are as overwhelming in favor of withholding as the mail is against it.

Repeal of withholding is not a people's issue or a public interest issue. It is a bankers' issue and a special interest issue. Every consumer group and every public interest group support withholding. Only the American Bankers Association supports repeal.

But as a result of the massive distortions spread by the bankers in their lobbying campaign, hundreds of thousands of Americans have been misled into thinking that withholding is a new 10 percent tax on their savings; it is nothing of the kind. Its only real impact will be felt precisely where it should be felt—on the handful of dishonest taxpayers who fail to pay their proper share of taxes on income from interest and dividends. For millions of honest taxpayers, the burden will range from negligible to nonexistent.

In a sense, history is repeating itself. The same outcry erupted in 1942, when withholding was first proposed on wages. But Congress stood firm in favor of withholding in the 1940's, and we should do the same today. We needed withholding then to help pay for World War II. And we need it now to help pull ourselves out of the massive budget deficits confronting us.

No one seriously suggests today that Congress should repeal withholding on wages, and there is no legitimate justification now for refusing to apply the same elementary principle of tax collection to interest and dividends.

Withholding, like democracy, is not perfect, but it is better than any of the alternatives—and it is far better than raising taxes on honest taxpayers, which is the only realistic alternative to make up the revenues we are losing by this compromise.

Our action here is only a skirmish in a larger battle. I commend Senator DOLE for his skill in waging this thankless but essential fight on the Senate floor. We did not succeed in stopping the bankers juggernaut in the Senate, but I believe we did slow its momentum. There will be other stages in this battle—and the final stage may well be the fight to make the President's veto stick.

Finally, I ask unanimous consent that an excerpt from Randolph Paul's "Taxation in the United States" may be printed in the RECORD. Although it is a lengthy excerpt, it describes in detail the fight over wage withholding in the early 1940's and helps to put the present issue in perspective. If Senators detect a sense of déjà vu today, they are correct; we have seen all this before, and things turned out just fine.

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

[From "Taxation in the United States" by Randolph E. Paul (Little, Brown & Co., 1954) pp. 326ff]

4. THE PLAN THAT SLOGANS BUILT

For the Western Allies 1943 promised to be a year of increased hope and growing sacrifices. The Axis tide might have a long ebbing, but it had turned. In January Marshal von Paulus' German Sixth Army still held a precarious position in front of Stalin-

grad. In February the Russian trap closed and Germany suffered its greatest blow of the year. In Tunisia the British and American armies which had invaded North Africa in November 1942, in a huge armada of assault boats would soon crush the veteran desert armies of Field Marshal Rommel. Nazi dreams of African empire would lie buried in German graves that stretched from El Alamein to Cape Bon. Before the year's end Sicily would be conquered in thirty days of lightning warfare, southern Italy would fall, and the Allies would be fighting a bitter battle up the boot of Italy.

In 1943 came the real test of American productive genius. The term "arsenal of democracy" assumed a new and grimmer meaning for enemies. The United States had increased its output of military items 250 percent during 1942, but even that amazing record was only a curtain raiser for 1943. In some cases the experience of the battlefield had forced changes; airplane and tank production had fallen numerically short of the goals set in 1942. But there was still plenty of reason to be proud of the record.

In January President Roosevelt found the state of the nation good, the heart of the nation sound, the spirit of the nation strong, and the faith of the nation eternal. In his message on the State of the Union he reported with "genuine pride" on what had been accomplished in 1942:

"We produced about 48,000 military planes—more than the airplane production of Germany, Italy, and Japan put together. . . .

". . . we produced 56,000 combat vehicles, such as tanks and self-propelled artillery.

". . . we produced 670,000 machine guns, 6 times greater than our production in 1941. . . .

"We produced 21,000 antitank guns, 6 times greater than our 1941 production."

In January the President also presented his second war budget to Congress. This budget was not held to earth by any doubts about what the nation could financially afford. It was designed to reach the limit of what the country could manage, by straining night and day, to spend on the war. For the fiscal year 1944 Roosevelt estimated that the United States could spend over $104 billion; this was more than the budget of any other nation in any year in all history. It reflected, he said, the determination of American civilians "to pass the ammunition."

In January the government was spending at an average of $6 billion a month for military requirements; that average would reach nearly $8 billion during the fiscal year 1944. In 1943 the people, working harder than ever before, would pocket $142 billion. But a large part of their labor would go off to war. For every $15 they had to spend there would be only $10 of civilian goods available. American citizens now had about $45 billion of income in excess of available goods; this excess was more than the entire national income in 1932. The world had never known such figures. They were too huge to carry any concrete meaning. They were abstractions that could be compared only with other abstractions.

The simple routine of daily living became more complex and difficult. Stocks on store shelves had in many instances all but vanished. Bidding for scarce goods forced prices to higher levels. Price increases brought demands for higher wages. Some business groups continued their implacable struggle against the OPA. Black markets were in operation in many commodities, selling goods above ceiling prices and ignoring rationing restrictions. Disorder had insinuated itself into the national scene.

In April the President invoked his war powers to halt the Nation's progress up the spiral road to inflation. He issued the "hold-the-line" order by which all items affecting the cost of living were to be brought under control. The order said, in effect, that future price increases should be restricted to the minimum extent required by law and that some cost-of-living commodities which were above the level of September 15, 1942, should be reduced in price. There were to be no further increases in wage rates or salaries beyond the Little Steel formula, except where clearly necessary to correct substandard living. One of the most important provisions directed the War Manpower Commission to forbid workers to change their employment unless authorized by the Commission to do so. In an accompanying statement the President said that we must also be prepared to "tax ourselves more, to spend less and save more."

In March of 1942 Beardsley Ruml, Treasurer of R. H. Macy & Company and Chairman of the Board of the Federal Reserve Bank of New York, had published a pamphlet in which he advocated changing the measure or basis of tax to be paid in 1942 from 1941 income to 1942 income. In July, at the suggestion of representatives of the Treasury with whom he had discussed the matter, Ruml had appeared before the Senate Finance Committee, then holding public hearings on the 1942 revenue act, to present what he called the "Pay-as-you-go Income Tax Plan." The plan aroused little immediate interest. But the press was articulate. The reaction of many taxpayers was expressed by E. A. Goldenweiser, Federal Reserve Board economist, who said: "It's too good to be true! If there is something wrong with it I can't find it, so I'm for it." The Chairman of the Senate Finance Committee appointed a subcommittee consisting of Democratic Senators Clark of Missouri and Gerry of Rhode Island and Republican Senator Danaher of Connecticut to report to the full Committee on the plan. This subcommittee listened further to Mr. Ruml and approved his plan unanimously. But thirteen members of the full Committee could not agree, and Ruml's scheme went into temporary eclipse.

Ruml was discouraged but not defeated. His plan had political appeal. Though he conceived the plan as a method of getting people out of debt to the government, the public thought that Ruml had found a very white rabbit which would somehow lighten their tax load. In the hearings before the Senate subcommittee in August, 1942, Ruml was easily persuaded to be more expansive than he had previously been before the full Committee. Senator Clark asked everybody to "move in a little closer" and the tactful Ruml appreciated the opportunity of "unburdening" himself "a little further." The awkwardness of providing for the retirement of people who had grown old in service and who would be "perfectly prepared" to retire on a "modest income of $5, $7, or $8,000" had occurred to Ruml and his friends about a year previously. The problem arose out of the necessity of paying a tax on high income of the last working year out of the low income of the first retirement year. It was necessary to provide these retiring executives "first with the income tax, and that became income, and income tax on that income, and it got into a situation that made it impossible for a corporation to get into that sort of thing generally."

Ruml's plan had originally come to his fertile mind well before Pearl Harbor. He had then broached the idea at a luncheon of the New York Federal Reserve Board of Directors at which I also was present. The war had stimulated Ruml's vision. After it broke out he "saw another thing." Macy's department store had a "young man in the comptroller's office who was making $75 to $100 called into the Navy at a salary of $2,600 and we had to get together and take care of his income tax for him." That was "another impossible situation." Moreover, some of Ruml's many friends had come to Washington to work in the government; their alternative was either to "come on a dollar-a-year sort of thing, which is very objectionable, maintaining their corporate salary, or come against the old income tax debt problem." Ruml was moved to generalize. We are all "in hock to the government for the same income tax debt, and it was a pernicious fungus permeating the structure of things." What would happen "in case we just started continuing paying our income tax, but on this year instead of on last year, and as we began to talk about what would happen we discovered that nothing would happen. It would happen some time during the generation, to be sure, but as far as the Treasury and income were concerned, things would move along just the same as time moves on under daylight saving, so as we analyzed it, it seemed clear that great benefits would come, that there would be no substantial economic consequences except spread out over such a long period that it could be taken care of in some other form, and it would serve a real public purpose."

This reasoning came as no surprise to the Treasury representatives present at the hearing. Ruml had discussed his idea with them in the spring and early summer at occasional luncheons at the Treasury, which he facetiously described in intimate circles as "fish dinners." Macy's treasurer was a steak man himself. There was great sympathy in the Treasury with his basic purpose, but to some of us it seemed that Ruml had oversimplified a difficult problem.

The original printing of the Ruml plan contained a statement that it could be combined with collection of the tax at the source. But Ruml had at the moment little interest in this necessary improvement of the statute; his emphasis was entirely upon taking the taxpayer out of debt to his government. Later, after the third printing of his plan Ruml said that collection-at-the-source improved the pay-as-you-go plan, but insisted that his plan stood on its own feet without this device. Without collection-at-the-source Ruml's plan would accomplish his objective of taking the taxpayer out of debt, but for persons with fluctuating incomes the plan would make the payment problem worse rather than better. It would also seriously complicate the computation of tax where rates, exemptions, and the definition of taxable income changed, as they frequently did, from year to year. Perhaps most important of all, the plan shifted the tax burden from present taxpayers to new taxpayers and would result in a windfall gain to persons whose incomes were abnormally high in 1941—a particularly undesirable result because abnormally high 1941 income derived in many cases from the war effort. The November printing of the plan did acknowledge the probability of windfalls and suggested three remedies: (1) the elimination of cancellation with respect to cap-

ital gains, (2) a special death tax to recover what might be considered windfalls, and (3) in cases where the canceled tax exceeded $10,000 an averaging of 1941, 1942, and 1943 to get a fair normal income for purposes of cancellation. Ruml, who "disliked" windfalls, was still for his plan even if they could not be eliminated.

This whole problem of current payment has been under consideration in the Treasury for a long time. In response to the increasingly inflationary threat of price rises, Secretary Morgenthau, in November, 1941, had informally presented to the Ways and Means Committee a plan for collecting at the source the major portion of new taxes to be imposed. But the Committee had turned a deaf ear. Again in his statement of March 3, 1942, before the Ways and Means Committee, the Secretary had suggested that the "best available expedient" to achieve a more convenient method for the payment of income taxes was a "provision for collecting at the source for those incomes that are paid periodically, including wages, salaries, bond interest and dividends." On May 20 and again on June 19, against the embarrassing protest of the Commissioner of Internal Revenue, Treasury representatives presented extensive arguments to the Ways and Means Committee urging a system of collection-at-the-source as necessary to "the very existence of the income tax."

Commissioner Helvering's testimony on the administrative problems of current collection had been a dash of very cold water. To collect the tax he estimated that the Bureau of Internal Revenue would need somewhere between nine and twelve thousand additional employees and this at a time, he said, when they were unable to maintain satisfactorily their present authorized force. He anticipated "much difficulty" in securing the required office space, equipment, and supplies. It would require at least three months after final enactment before operations could commence, and the appropriations for the first full year would approximate $24 million. Some understanding, the Commissioner emphasized, must be had from a priority standpoint as to personnel, equipment, supplies, and funds, if the proposed collection-at-the-source provisions were to be administered satisfactorily.

Later, in August, Helvering told the subcommittee of the Senate Finance Committee, appointed to make a report on Ruml's plan, that the equipment situation and the prospect of securing adequate space had grown worse from the Bureau's standpoint than it had been when he appeared before the Ways and Means Committee. Despite the fact that the Bureau had been given a priority status on personnel, the personnel situation "could not be said to have improved." The Bureau looked with great concern upon its inability to recruit 5,400 employees needed to carry the regular work load, and 11,000 more would be required to administer the withholding plan. Furthermore, these employees must be "qualified in certain essential functions"; you could not take a "spit in the gutter" fellow and put him in the Internal Revenue service. It had taken until 1938 to "clear up" the records from World War I and it would be "unfortunate" if by reason of the enactment of a withholding tax a similar condition recurred now. Helvering suddenly developed sympathy for harassed businessmen. It was possible that a number of financial and industrial organizations would be even more seriously embarrassed by the withholding plan than the Bureau would be. The Commissioner "couldn't help but think that, while you gentleman are scratching your heads to find additional items of taxation, the effect will be to force upon industry the payment of large sums for the administrative cost of the withholding tax." Since these items would become deductions for business expense, the Commissioner hastened to point out that the result would be considerably reduced taxes from these companies.

It would be a masterpiece of understatement to say that these pronouncements, never submitted in advance by the Commissioner to the Treasury, were extremely embarrassing. I had to reply off the cuff. I tried to take some of the curse from the Commissioner's testimony by emphasing the advantages of collection-at-the-source in making tax payments easier, in strengthening the government in its critical fight against inflation by withdrawing purchasing power from the spending stream before it could exert an upward pressure on prices, and in guaranteeing a more prompt and certain flow of revenue to the Treasury than the existing method of collection did. I went on to explain the systems of Canada, Great Britain, and Australia; I might have added that this country had included the deduction-at-the-source principle in both its Civil War and 1913 tax laws. Despite Helvering's wet blanket, the Committee was well disposed toward the withholding idea. But the problem of transition was hard to hurdle. In the first year, 1943, some taxpayers would be required to pay, at the same time, the tax on 1942 income and part of the tax on 1943 income. The Ways and Means Committee proposed to get over the hump by a gradual transition.

Ruml, like the good general he was, shifted his strategy. Previously he had put little emphasis on collection-at-the-source. Before the Senate subcommittee, however, he testified that his plan offered advantages in instituting collection-at-the-source and he repeated his earlier statement that current collection could be incorporated into his plan. The Treasury agreed that collection-at-the-source would greatly improve the Ruml plan because tax payments could be synchronized with income payments. It acknowledged that the plan deserved serious consideration, if linked with collection-at-the-source at a rate equal to the combined normal tax and first bracket surtax rate. The Treasury went on to suggest other modification to mitigate remaining defects; at one point in the Senate Committee executive session the Treasury suggested a plan, very similar to the Robertson-Forand plan later adopted by the House, which would have made about 90 percent of taxpayers current except for minor yearend adjustments. From this point on, violent controversy developed within Congress over these remaining aspects of the plan.

The controversy within Congress was preceded by a deluge of publicity. Democratic Representative Disney of Oklahoma later commented that Ruml had a "bigger following than Dr. Townsend had in 1934 and 1935." In September, 1942, the Ruml plan was the U.S. News "Question of the Week," and only a few answers were registered in opposition. By January of 1943 the pressure for the adoption of the Ruml plan had become insistent, and most of the Republican members of the Ways and Means Committee demanded that the pay-as-you-go issue be made the first order of Congressional business. The problem had become critical because many taxpayers had come to believe that they would have no taxes to pay in March. On January 15 Senator George and Representative Doughton issued a statement warning all taxpayers that plans for Congressional action on a pay-as-you-go plan would in no way affect their obligations to file an income tax return by March 15 and pay at least the first quarterly installment of tax against 1942 income.

Speculative and contradictory stories about the Treasury's attitude toward pay-as-you-go legislation filled the press. Silence had become less than golden. On January 23 I made a public statement that the Treasury favored early legislation to put income tax payments on a current basis. It was ready to respond at any time to an invitation by the Ways and Means Committee to present its views or give its advice. Many advantages would accrue from disposal of the pay-as-you-go matter as soon as possible. One advantage would be to refute most effectively the baseless rumors that some form of tax forgiveness would be adopted which would make it unnecessary for taxpayers to meet their March 15 installments on 1942 tax liabilities.

In his budget message of January 6, 1943, President Roosevelt had emphasized the necessity of putting income taxes on a pay-as-you-go basis. Several newspapers misinterpreted the President's statement as an endorsement of the Ruml plan. A period of day and night conferences followed between Representatives Doughton, Cooper, Disney, and Robertson of the Ways and Means Committee, and members of the Treasury staff and the staff of the Joint Committee on Internal Revenue Taxation. The situation was out of hand. It was finally decided first to hold public hearings on a bill directed solely to the objective of putting the tax system on a current basis and to postpone the regular tax bill, which would be necessary to raise the $16 billion requested by the President.

Hearings before the Ways and Means Committee commenced on February 2, 1943. Two days before, three people stopped Representative Cooper in the lobby of the Washington Hotel and stated to him their understanding that they would not have to file any tax return on March 15, if Congress adopted the Ruml plan. John Sullivan, Assistant Secretary of the Treasury, who was in charge of the Bureau of Internal Revenue, told the Committee of the Treasury's concern at the "misapprehension in the minds of many taxpayers who have a feeling that perhaps something will be done by the Congress which will relieve them of the necessity of filing their returns and paying their quarterly tax." Reports from collectors indicated a sharp decrease in return filing. Sullivan asked the Committee to take action to notify taxpayers that in spite of any plan being considered they must file their returns and pay their quarterly installments.

I stated the Treasury's position on the basic issue. I reminded the Committee that in his budget message the President had asked Congress for "not less than $16 billion of additional funds by taxation, savings or both." The disposition made of the pay-as-you-go issue would have a direct bearing on the over-all revenue program. The existing income tax payment system was poorly adapted to the budgets and flow of income of 44 million taxpayers. The lag in payments had become a serious problem with the war expansion of the income tax, the backbone of the Federal tax system. Again

the Treasury recommendation was a system of collection-at-the-source for 30 million wage and salary earners whose incomes after exemptions and credits did not go above the first surtax bracket of $2,000; a system of quarterly statements, or declarations of estimated income, and tentative payments, for 10 million taxpayers whose incomes did not go above this bracket, but who received more than a nominal amount from sources other than wages and salaries; and a combination of these methods for the 4 million taxpayers whose incomes exceeded the first surtax bracket.

On the problem of transition, I admitted frankly that in a period of rising national income the forgiveness of a year's liability would not reduce the cash flow into the Treasury. But complete forgiveness of 1942 liability was a horse of a different color. It would benefit persons with large incomes relatively more than persons with low incomes. For the individual with an income of $1 million the forgiveness represented almost 600 percent of a year's income after taxes. The forgiveness of a year's taxes would enable this individual to add to his wealth at one stroke as much as he could add in nearly six years by saving every dollar he had left after paying taxes and spending nothing, and as much as he could add in twelve years by saving half of what he had left after paying taxes. Eventual increased taxes upon the estate of the forgiven person would not offset this economic windfall. There would be need for very great increases in governmental revenue. It seemed more equitable to collect at last to a substantial degree the tax liabilities which had been imposed by past legislation than to forgive a year's liability and to raise the additional revenue by increase in rates, the burden of which would have to be imposed more heavily upon the low and middle groups, since it was only at this level that the income tax was capable of substantial further expansion. A canceled liability could not be recouped from the high-bracket taxpayers were rates were as high as they could go, but only in the lower brackets where a rise in rates was still possible. I admitted that a simultaneous collection of 1942 and 1943 taxes would be too great a hardship and suggested methods for easing this burden by postponing or deferring the payment of part of the 1942 liabilities. One method of collecting the postponed tax would be to require the taxpayer to pay the postponed tax at his discretion within a certain number of years say before March 15, 1945. A second method would be to divide the postponed tax into fixed installments. A third method would be to increase the rate of current collection, whether at source or by quarterly payments, and to treat the additional amount collected as an offset to the postponed liabilities, with appropriate provision for persons not having any 1942 liabilities.

With his plan endorsed by the New York State Bar Association, Ruml testified before the Ways and Means Committee on February 4, 1943. Since 1941 taxes had been paid, he now proposed to omit 1942, rather than 1941, taxes. He had only "glanced through" the Treasury statement of February 2, and his testimony was substantially the same as the testimony he had given the year before to the Senate Finance Committee. But he had developed some new and powerful phrases. His "reform" had developed "personal and humane" grounds. Income tax debt had become a "modern form of peonage" that locked men and women into their present work and level of income. He returned more forcibly to an analogy first employed in his March, 1942, statement; a complex problem had become "as simple as daylight saving." Confusion had developed from use of the term "forgiveness"; there was so much feeling about the word; it would be better—Ruml did not mention semantics—if his plan were thought of as "a change in the method of assessment, as the turning of the tax clock ahead, not as the stopping of the clock."

Ruml cited three points of difference with the Treasury. The first, "a point of fact"—a difference as great as that between night and day—was whether the financial well-being of the government would suffer from a loss of assets of $10 billion when revenues would be larger. If we accepted a rising national income as axiomatic, the Treasury, Ruml declared, would collect more dollars under his system than under the existing system in the twenty-year period January 1, 1943, to December 31, 1962, a fact the Treasury never denied, since it was not making this comparison. The answer to the paradox was to be found by examining the position of the Treasury on Judgment Day when the books would finally be closed. "Under our present system," Ruml asserted, "the Treasury would have billions owing from the taxpayers. These would be bad debts in any case. Since the government is not concerned about any final loss on judgment day, the government is able to turn the tax clock ahead, make all taxpayers current, eliminate income tax debt, and do it with increased revenue and with no additional burden on any taxpayer."

Ruml nailed down his argument by saying that he had submitted it to a group of members of the American Institute of Accountants who agreed that he was right.

So far Ruml and the Treasury had talked past each other. The second point of difference was one of "principle," involving the question whether there should be "equal treatment for all alike in every bracket." Mr. Ruml thought that equal treatment meant cancellation for all taxpayers of complete liability even through cancellation of a larger amount of tax meant a greater benefit than would be involved in the cancellation of a smaller amount.

Ruml regarded the third point of difference with the Treasury as one of "policy." Was it wise policy to "carry forward to the future the 1942 tax liabilities for a part of the taxpayers," or, to put the question another way, was it wise policy to "use the assessments on 1942 personal income as a basis for collecting revenue in the fewer years ahead, revenue over and above the assessments on current personal income for current income tax, and limited in application to some four million taxpayers whose incomes fall above the normal and first surtax bracket?" The witness thought such a policy proposed, as he asserted, "by the Treasury," unwise. Ruml continued to address himself to a policy which had never been proposed by the Treasury. He had four reasons for his own contrary view. First, the so-called Treasury policy was opposed to the "right principle" of equal treatment; "wise policy cannot be founded on wrong principles; the result is sure to be uncertainty, disunity, conflict and lack of faith in the good faith of government." Second, as Ruml erroneously understood it, the Treasury policy also violated "the principle of taxation according to ability to pay." It measured future year payments in terms of 1942 income. "The carry-over of the so-called liabilities for 1942 is only a polite way of increasing indirectly the assessments in future years on income taxpayers. What the method gains in politeness, it loses in crude inexactness and unequal burden in relation to ability to pay." Third, the policy Ruml attributed to the Treasury would "impose an intolerable burden of double taxation." Finally, it would leave a large number of taxpayers with a large income tax debt outstanding, a debt they "would feel had been levied on a discriminatory basis." They would "persistently seek to redress" a "just grievance"; and an unwholesome factor would be introduced into American life. Ruml closed with a plea for collection-at-the-source, an unemphasized item in his early advocacy of his plan.

Talk of this kind was too much for Chairman Doughton. He thought in simpler terms. In the questioning which followed Ruml's statement to the Committee, the Chairman expressed his old-fashioned philosophy that one ought to pay his taxes "just as a man ought to pay his debts to his merchant"; he personally would not feel happy if he asked his creditor to forgive a debt he could pay. To this elderly Representative from North Carolina there was something shocking about a request from a good businessman for cancellation of the taxes of people who were able to pay "at a time when the government is having to impose the highest tax in its history." Ruml had to admit to him that the government would have more revenue if it collected 1943 taxes currently and then collected all of the 1942 tax that the taxpayers were able to pay than it would under his plan.

The Chairman yielded to other members of the Committee. It was "revolting" to Representative Disney's sense of honor "to walk out and leave the 1942 tax bill unpaid," and he was under the correct impression that "there is lots of money in this country." Representative Cooper forced an unwilling admission from Ruml that the taxpayer would gain from forgiveness, at least "at the time his income ceases or declines"—the higher the income tax bracket, the more his relief would be. The witness confessed to Representative Gearhart, the only Republican committeeman who opposed the plan, that there would be "a year of income" under his plan "upon which the people would pay no taxes." The member from California was troubled; "to walk off and leave a tax on $115 billion" was to him "a very considerable amount to forgive" when people had "more money, more savings, with more weekly wages than they have ever had before in the history of the nation." Ruml also agreed with Representative McGranery's "simple matter of mathematics" that his plan would increase "the principal account" of a taxpayer with a 1942 income of $1 million to the tune of $854,000.

Republican members of the Committee were more kindly. They complimented the witness on his statement and his contribution. The soft-spoken Carlson from Kansas brought out Ruml's record of friendliness to the Democratic Administration. The other witnesses testified that the plan was supported by such organizations as the American Institute of Accountants, the National Retail Dry Goods Association, the American Retail Federation, the American Legion, the National City Bank of New York, the New York City Bar Association, and the New York State Bar Association.

Two weeks of public hearings and a month-long executive session followed. Then Chairman Doughton introduced his

Committee's bill in the House on March 17 with a majority report which stressed the inequity and unworkability of Ruml's plan, by then embodied in the Ruml-Carlson bill. The Committee bill provided for withholding of taxes from wages and salaries and crediting the amounts withheld in the current calendar year against prior-year liabilities. It also permitted taxpayers to put themselves voluntarily on a current basis by paying an estimated tax at a discount. The majority believed that most of the American people would not want any of their taxes forgiven. "This is a debt which has already accrued and in equity and good conscience must be paid ahead of any other liability that may occur for future years." "Compelling reasons" had led the majority to discard the Ruml plan. The provision to forgive a whole year's tax was "particularly objectionable," since the taxpayer received two years of income and paid taxes only on one year's income. Cancellation of taxes on 1942 incomes would constitute "gross violation of ability to pay." The distribution of the benefit would be in inverse ratio to need. Cancellation would "bestow the greatest benefit on those least able to make economic sacrifices and the smallest benefit on those least able to make such sacrifices." About 60 taxpayers with $1 million incomes would each receive a benefit of at least $854,000.

The majority report articulated the basic objection to the Ruml plan. If taxes on 1942 incomes were canceled, the needed revenue could be obtained only by raising existing rates on the incomes of 1943 and subsequent years, which must necessarily fall on the lower or middle income groups, or by securing revenue from other sources. Since 1942 was a year of high national income and many persons, such as war contractors, had realized high profits directly attributable to the war, the cancellation of 1942 taxes would have the effect of exempting war profits. In addition, forgiveness would also impede the war effort. First, it meant gain rather than sacrifice for those on the home front; this would be detrimental to the morale of the armed forces. Second, forgiveness would stimulate the forces making for inflation by releasing funds set aside for taxes then due; this would reduce the pressure on those with 1942 tax liability to make "all possible economies."

Nine of the ten Republican members of the Ways and Means Committee joined in a minority report. It called upon Congress to substitute the Ruml-Carlson bill for what they termed "indigestible hasty pudding." It began with tears for the poor taxpayers whom the Committee bill would throw into confusion and uncertainty as to "just what they owe the government, and for what year," and for the Bureau of Internal Revenue which "would have an impossible task in trying to rescue the income tax system from the hopeless morass into which the Committee bill would plunge it."

Next came a neat disposition of the question of who would have to bear the burden of any additional taxation. The report claimed that the answer was the same under the Ruml plan, the existing system, or the Committee bill. In any case the taxpayers in the lower and middle brackets would bear the brunt of any increased taxes, "as in the upper income tax brackets the rates cannot be increased without actual confiscation." The majority report, the minority maintained, was in serious error, in echoing the false contention of the Treasury that the Ruml plan would shift the tax burden from those in the upper brackets to those in the lower brackets, and from old taxpayers to new taxpayers.

Current tax payment had become a partisan issue.

In a press conference on March 18 Secretary Morgenthau stated perhaps in a less than enthusiastic mood that the Administration fully supported the Committee bill. However, the bill was not the product of Treasury recommendation. As Doughton pointed out to the House on March 25, in direct response to unwarranted charges that the Treasury Department had written this tax bill, "at no time during the consideration of this bill has the Treasury Department presented any bill or attempted to usurp the prerogatives of our Committee or shown any special favoritism toward any bill."

While the Committee was still considering its bill, the Ruml plan had been placed before the House. On January 6, Representative Carlson had introduced a Joint House Resolution embodying the forgiveness feature of the Ruml plan; on March 2, Carlson followed with a bill embodying the plan. Neither measure had contained withholding provisions. On March 22, however, the member from Kansas introduced a bill combining the Ruml forgiveness principles with the withholding provisions of the Committee bill; this bill canceled one entire year's tax for every individual taxpayer.

For four days, beginning on March 25, the House acrimoniously debated the Ways and Means Committee bill. To forgive or not to forgive was the question. Or, as one wag put it, "to forgive, to forget—and thus perchance to make a wartime millionaire." Chairman Doughton's own soliloquy ran; "We are dealing with the most hateful, difficult problem that ever came along in the annals of mankind." He cited the handicaps under which the Committee had worked. The difficulties of the current payment issue had been "prejudged and misrepresented by many, but not all, newspapers, columnists, and news commentators, regardless of the true facts." The effect of the Ruml plan, Doughton explained, was to pay one year's tax out of two years' income. The question in the mind of the Chairman was whether, when the country was in the most desperate need of money in its history, war profiteers should escape one year's tax. Answering his own rhetorical question, he found the proposition absurd, ridiculous, preposterous, and immoral. Doughton had a sufficient capacity for emphasis. "If ever there was a counterfeit proposition brought before the American people," he said, "this is it." Half or more of our taxpayers were enjoying substantially increased incomes during the war. Their ability to pay would never be greater. The Chairman was trying to drive home "the simple fact that the Ruml-Carlson plan not only favored the wealthier taxpayers as compared with their less fortunate brethren, but that it discriminated sharply against the fixed income individual while tossing into the lap of the person enjoying a swollen wartime income a golden harvest which unjustly enriches him at the expense of his government, his fellow taxpayers or both."

The sardonic Representative Knutson, ranking minority member of the Ways and Means Committee, led the Republican fight for the Ruml-Carlson plan. He insisted that the Committee bill "has no genuine friends." It was a wondrous concoction of "guile, bile and rile." Its discount provisions offered a "lifetime bonus" to well-to-do taxpayers. "In short, he contended, "the New Deal majority were giving a stone to the great masses of the people, when they asked for bread."

Another Republican, Reed, became a tribune of a people. He considered that the real issue was whether "44,000,000 taxpayers . . . shall have a voice as against the bureaucrats" in the method of collecting revenue. In his opinion the Committee tax bill would put the taxpayer "in hock for life."

To the plain-spoken Dingell, a Democrat from Michigan, the Ruml plan was "about as legitimate as horse stealing." "It would make countless additional wartime millionaires . . . not as a result of war profiteering . . . but as a result of the action of Congress in remitting an amount of tax money which has been legally and properly levied for the year 1942, money that has been obligated and spent for tanks, for ships, for planes and for other war purposes." The objectionable feature of the Ruml-Carlson plan was "like working a three-shell game on the rube, Uncle Sam; he is the loser either way because there is no pea under either the 1942 or 1943 shell."

Representative Crawford, one of the few Republicans who sided with the Democrats, asked God to "forgive my party for getting caught in such a trap." Now was the time to stop inflation. According to his figures, accumulated savings for individuals had totaled $225 billion at the end of 1942. Congress should take the lead in arresting the inflationary force of the "dance of the deficit billions." In his opinion, the country's political leaders lacked "just plain guts." This Congress had a duty to perform "and that duty does not consist of canceling taxes on incomes built out of war deficits."

Representative Gearhart, the only Republican member of the Ways and Means Committee to desert his Party, was caustic. "The pay-as-you-go, skip-a-year, turn-the-tax-clock-forward, wipe-the-slate-clean scheme" proposed by Ruml was "the plan that slogans built." To cut ourselves "a tax cake" on the home front "when our fighting men are eating cold rations in the fox holes . . . would be the last straw."

With biting sarcasm Abernethy, Democrat from Mississippi, noted that "after 2,000 years we had discovered in our midst a real tax genius. Two thousand years of painful taxation had, at last, brought forth a painless panacea."

In his testimony before the Ways and Means Committee Ruml had stated that there was only one way, admittedly "impractical," to achieve absolutely current income tax payments, and that was "to collect every night." Upon being pushed Ruml said that an absolutely current income tax return was "something like a fresh egg; there is no such thing as an absolutely fresh egg on the market, but there are all sorts of degrees of it." In the House debate a similar question of degree arose to plague the Chairman of the Ways and Means Committee. It was a question of the degree of sin involved in different amounts of forgiveness. As dissected by Republican member of the Committee, Dan Reed, it was the position of the proponents of the various bills that "the abatement of the Carlson bill was sin; but that it was all right to sin 50 percent, or to sin the difference between 1941 and 1942, or to sin as to one class but not as to another which is the Robertson plan of sinning, or finally, as under the Doughton bill, to sin at the rate of 6, 4, 2 and 4, 3, 1, which are the rates of discount which the Doughton bill provides."

By the end of the fourth day of debate frayed nerves drove blood pressure to a dangerously high level. On March 30, resolving itself into the Committee of the Whole House on the State of the Union, the House adopted an amendment embodying the provisions of the Ruml-Carlson bill by a vote of 199 to 188. Then the Committee rose and a vote by the House rejected the amendment 215 to 198. Immediately the House sent the Committee bill back to the Committee by a vote of 248 to 168. The U.S. News observed that the idea of complete pay-as-you-go for individual income taxes appeared to have died from "overattention," and from too-enthusiastic support on the part of its sponsors.

But the U.S. News obituary was premature. Several new bills were now introduced, similar in providing for collection-at-the-source, but differing in the methods prescribed for payment of liabilities not collected at the source and for making the shift to a current payment basis. Another bill which received consideration was H.R. 2277, known as the Robertson-Forand bill, embodying withholding and current payment provisions which had been developed by a subcommittee of the Ways and Means Committee and submitted to the full Committee on March 8. The Committee, after extensive consideration of alternative plans, adopted a new plan embodied in H.R. 2570, introduced April 22, and reported to the House April 30.

The Committee report accompanying this bill, known as the second Committee bill, explained that it was providing for a cancellation of approximately one-half of the total individual liability for 1942, since the House had apparently considered that the first Committee bill did not go far enough either in the direction of current payment or forgiveness. In order to facilitate a shift from the old to the new system of payment, the bill provided for the reduction of the 1942 tax to 1941 levels by applying 1941 rates and exemptions to 1942 income, and the payment of the reduced tax over a three-year period. It allowed a discount of 6 percent if the entire amount of the reduced 1942 tax was paid by March 15, 1944, and a discount of 2 percent if one-third was paid by March 15, 1944, and the remainder by March 15, 1945. The current payment provisions covered withholding of income tax from wages and salaries at a 20 percent rate beginning July 1, 1943, and set up a system of current payment for liabilities not collected at the source. This system called for declarations of estimated tax on March 15 of each year. It permitted revisions each quarter and quarterly payments of the tax during the year when income was received, with final adjustments to be made in March of the following year. A special rule took care of farmers; they were permitted to delay their declarations and payments until December 15. The Secretary of the Treasury gave his support in a press release to this second Ways and Means Committee bill.

The Republican minority of the Committee was not in a mood to be easily satisfied. It filed another minority report again endorsing the Ruml-Carlson plan. The revised Ruml-Carlson bill (H.R. 2245) embodied the same current payment provisions as the second committee bill, but it differed in providing full cancellation of 1942 taxes, subject to some new and complicated anti-windfall provisions extolled by the minority as "tighter safeguards."

The first of these provisions was designed to prevent the abatement of the 1942 tax from resulting in a windfall to well-to-do taxpayers whose 1942 tax was greater than their 1943 tax. It provided for forgiveness of the 1942 tax if it were $1,050 or more, and also more than the 1943 tax, but increased the 1943 tax by the amount by which the 1942 tax exceeded the 1943 tax, or by the amount which the 1942 tax exceeded $1,050 in cases where the 1943 tax was less than that amount. The second anti-windfall provison contained a special rule for cases in which both the 1942 and 1943 incomes were more than $5,000 in excess of 1941 income. In these cases, in addition to the increased tax for 1943 which the taxpayer might have under the first anti-windfall provision, the excessive portion—that is, the amount by which the 1942 or 1943 surtax net income, whichever was lesser, exceeded $5,000 plus the 1941 surtax net income—was taxed at the regular normal tax and surtax for 1942, as if that portion itself constituted all of the surtax net income, and also all of the net income after exemptions and credits.

The fact that something new had been added in the way of complexity did not deter the minority pot from calling the majority kettle black. "The Committee bill," stated the minority, was "a tax lawyer's dream." Three days later Doughton yielded himself an additional five minutes on the House floor to have the clerk read the complete text of the second anti-windfall provision of the Ruml-Carlson plan. The Chairman punctuated this recital with the wry comment: "You cannot explain it in three years so the average man can understand it."

On May 3 Democratic Representative Forand of Rhode Island introduced another version of his plan in H.R. 2577. There was no difference between his plan and the current payment provisions of the second Committee bill and the Ruml-Carlson except that taxpayers were made current only with respect to the 6 percent normal tax plus the first bracket 13 percent surtax. Forand's bill canceled these brackets of 1942 liability for the year 1942. Only the basic liability for any year was payable currently, and there was no doubling-up of payment, since this liability corresponded to the amount of 1942 tax forgiven.

The House had thus before it three major current payment bills when it resumed consideration of the question—the second Committee bill, the revised Ruml-Carlson bill, and the revised Robertson-Forand bill. The three bills had virtually identical current payment provisions, but differed sharply in their provisions for transition to current payment and the distribution of forgiveness.

For two days the fires of vocal violence flared and flamed. Democratic Representative Cooper pointed out that the Treasury would lose more than $3.5 billion under the Ruml-Carlson bill as compared with the Committee bill. Republican Representative Knutson argued that the second Committee bill was "not the product of reason" but a "hybrid measure representing a compromise between stubborn adherence to an unsound position on the one hand and political expediency on the other." Jennings, a Rumlite, was "for the preservation of the American taxpayer," a species which he considered so nearly threatened with extinction that "the time will come when we can put [him] on exhibition and make money charging admission for people to see him." Representative Patman listed 13 reasons why he opposed the Ruml plan, winding up with: A vote for the Ruml plan is a vote for the sales tax; a vote for runaway inflation; a vote for printing-press money; and a vote to favor the rich at the expense of the poor."

Knutson thought that this was demogoguery and said so. Representative Disney lifted the discussion from what promised to be an all-time low with a final speech against the Ruml plan. Inherent in the plan was a "redistribution of the tax burden from the few to the many, in direct violation of the just and fundamental principle of ability of pay." The plan was "full of mistakes," and, in his opinion, it was fundamentally unfair to come to the House and make the claims that the anti-windfall provisions would cure its defects. He cited the undisputed figures in the Record that Charles Marcus of the Bendix Company would pay only $177 in taxes on his 1942 income of $77,000 under the Ruml-Carlson bill. Under these same anti-windfall provisions, J. D. Morrow of the Joy Manufacturing Company would pay only $282 on an income of $55,000. J. W. Frazier of the Willys-Overland Company would pay $477.22 on a $123,000 income. To curb inflation, Disney declared that "we should be taxing more instead of less."

Once again the Ruml-Carlson Bill was agreed to in the Committee of the Whole House on the State of the Union by a vote of 197 to 166, but was rejected by the House itself, 206 to 202. The second Committee bill was recommitted by a vote of 230 to 180, with instructions to the Ways and Means Committee to report back forthwith the revised Robertson-Forand bill. The House then adopted this latter bill by a vote of 313 to 95.

The Senate Finance Committee limited its hearings on May 6 and 7 to only two witnesses, a representative of the Treasury and a representative of the staff of the Joint Committee on Internal Revenue Taxation. For the Treasury, I presented an extensive statement describing the three bills which had been under consideration in the House, stating a preference for the second Committee bill, but also opposing the Ruml-Carlson bill as compared with the Robertson-Forand bill. I contended that forgiveness added wealth to the taxpayer, or reduced his liabilities, which in effect was the same thing. I presented tables showing that a person with a $2,000 income received forgiveness of only $140 under the Ruml-Carlson bill, whereas a person with a $100,000 income received forgiveness of $64,000. The tables showed also that the Ruml-Carlson bill would wipe out all increases of taxes imposed for the war effort up to January 1, 1943, for taxpayers with incomes of over $100,000, and at the $1 million level would confer additional benefits of nearly $600,000. I pointed out that increases of taxes requested by the President would fall most heavily proportionately on the middle and lower incomes, since it was not feasible to raise the rates on the higher incomes proportionately. It was, therefore, impossible to impose additional taxes across the board on all the same persons who had been forgiven 1942 taxes. This meant that the tax burden would be shifted from the high to the low incomes and from the low to new taxpayers. I also pointed out that the President's request for $16 billion of additional collections meant more than the doubling of individual taxes.

In the questioning which followed, the majority of the Senate Committee proved receptive to Ruml's plan. Senator Taft suggested that the additional revenue secured by the Ways and Means Committee bill might be a "capital levy"; but he was satis-

fied with my description of the tax as possibly "payable out of capital funds." Senator Lodge said that he did not like the word "forgive." Senator Vandenberg did not see how remission of taxes added to "real expendable wealth," as distinguished from what he called "bookkeeping wealth." Senator Tom Connally, however, was better able to understand that the forgiveness of a tax which had already accrued transferred the asset over to the taxpayer. On May 7 the Committee rejected the House bill in toto and adopted the Ruml plan by a vote of 13 to 7. Only Senator LaFollette filed minority views, saying that the middle and lower income groups would have to pay later in one form or another not only the full amount being forgiven but also a substantial part of the 1942 taxes of taxpayers in the upper brackets.

The pay-as-you-go issue was debated in the Senate for three days. The wrangling over the formula and the degree of forgiveness faithfully followed the pattern set by the House. Senator Connally lashed out against the "dividend" on dodging a year's taxes in the Finance Committee bill. Santa Claus was here and, according to this bill, he had come every day in 1942. He was going to give $854,000 to the man with a $1 million income. The doughty Texan drove home his point: the millionaire's chauffeur "is dodging taxes, and we have to place him on a current basis, so we will give the old man $854,000 back, and get $1.87 out of the chauffeur, through deductions." In contrast, Senator Clark, in favor of making taxpayers current by the 100 percent forgiveness of the Ruml plan, recalled that "Mr. Alfred I. duPont, had an income of more than $4 million in one year during the last war. He did not have to pay his income tax for that year until the year following. In the meantime, he had lost enough in stock transactions so that he did not have to pay anything at all. He died about that time, and his estate did not have to pay anything." Senator Connally replied that the case cited by the Senator from Missouri did not apply to the discussion of the bill. DuPont did not have withholding on his salary or wages. "That is all the bill would do," said the Senator from Texas. "It would not hold out the income of the millionaire. Mr. duPont would never have been touched by the bill, except for getting back a year's income taxes. . . . It would not have resulted in the collection of a cent currently from Mr. duPont because the bill applies only to salaries and wages."

In the judgment of the economy-minded Democratic Senator Byrd, of Virginia, it was absurd to believe "that this cancellation of taxes will not ultimately result in a loss of revenue to the Federal Treasury." It was "inconceivable" that if the American people knew all the facts they would be willing to adopt legislation providing for 100 percent cancellation of tax liability. To do so would mean that "immediately a demand would be made by the President and the Treasury Department to raise additional revenue by increasing the present tax rates so as to compensate for the loss to the Treasury as a result of cancellation of the taxes of those able to pay."

Republican Senator Davis of Pennsylvania, on the Ruml side, took that position that "to call for full taxation" was "to insist upon our pound of flesh." Senator LaFollette expressed the thought that "temporary insanity" had "seized the Congress and the country." In all the years he had been in Congress he had not known such a "sharp division of opinion among honest men."

Senator Bone of Washington, now a Federal Judge, propounded "the ethical and emotional side of the picture," saying:

"If I could abate any of the blood and tears and agony of the boys dying on the battlefields, if I could abate one little bit of the horror facing young men marching under the American flag into this world conflict, I would abate the horror coming to them, rather than abate a year's taxes for us who stay at home. I wish I could vote to abate blindness and insanity and vote away the blasting of boys' lives by shells on the battle fronts. But we cannot do that. All we can do is to abate the tax on some fellow's income. The whole thing presents a grotesque twist of logic. It is a sort of madness."

The debate produced five alternatives to the Ruml plan, including a 75 percent forgiveness plan of Chairman George, all of which the Senate rejected. The Robertson-Forand bill was defeated by a vote of 52 to 27, and the Finance Committee bill with complete forgiveness of 1942 taxes, was finally adopted on May 14, 1943, by a vote of 49 to 30.

President Roosevelt was concerned, and I helped him draft identical letters dated May 17th to Senator George and Chairman Doughton which stated:

"I am eager, as I am sure the whole country is eager, to see our taxes put on a pay-as-you-go basis at the earliest possible moment. Ever since 1941 the Treasury has consistently recommended provisions designed to this end. Such provisions would help hold the line against inflation.

"The Senate bill, however . . . would result in a highly inequitable distribution of the cost of the war and in an unjust and discriminatory enrichment of thousands of taxpayers in the upper income groups."

The President concluded:

"I am writing you now so that you may know my views and in the hope that a bill may be worked out in conference that I can sign. I have recommended pay-as-you-go taxation. I have not insisted upon any particular formula for transition to a pay-as-you-go basis. I believe that there should be substantial adjustments to ease this transition. But there are limits beyond which I cannot go. I cannot acquiesce in the elimination of a whole year's tax burden on the upper income groups during a war period when I must call for an increase in taxes and savings from the mass of our people."

The following day Knutson asked the House to instruct its conferees to accept the Senate bill. He warned his colleagues not to be stampeded by the President's letter. He found "not a word in it" to indicate that the President would veto the Ruml-Carlson Bill. If Knutson "understood the meaning of the English language," the President would allow the bill to become law without his approval. Chairman Doughton interpreted the President's letter differently. He was "just as certain as the sun shines and time rolls on, if this bill is sent to the President as passed by the Senate it will be vetoed." Furthermore, the House was presented with the humiliating spectacle of being asked to be "rubber stamps for the Senate." The Senate had not tied or bound its conferees.

The House stiffened and rejected the Senate bill by a vote of 202 to 194. This was the third time the Ruml plan had been voted down. "Muley" Doughton declared triumphantly: "We have killed it. As long as Franklin Roosevelt is President of the United States it will stay dead." But the Chairman of the Ways and Means Committee underestimated the vitality of the Ruml plan. The bill went to conference where it remained in deadlock for several days. A compromise in favor of Senator George's 75 percent cancellation plan could not secure the four necessary votes of the House conferees until May 26, when Chairman Doughton, formerly confident that the Ruml plan was forever dead, revived the plan by switching his vote and breaking the deadlock. The other three Democratic conferees neither changed their votes nor signed the conference report. The House and Senate agreed to the conference report by a large vote and at long last the noisy battle that had raged for many irritating weeks was done. The bill was signed by President Roosevelt at 7:00 p.m. June 9.

The Current Tax Payment Act of 1943 put wage and salary earners on a withholding basis of tax collection beginning July 1, 1943. Wage payments in certain types of occupations were excepted from the withholding requirement. The three main peacetime groups to which this exception applied were agricultural laborers, domestic servants, and casual laborers. In addition, the service pay of members of the armed forces was excluded from the withholding provisions.

From letters that came to the Treasury while this act was under consideration, it was apparent that many people, particularly in the lower wage levels, were greatly alarmed at the prospect of having 20 percent of their salaries withheld from them. Much of this alarm arose from an inaccurate conception of the withholding provisions. For the most part, these people failed to realize that withholding was not a new tax and not an extra tax, but merely a convenient method of collecting the Federal individual income and Victory taxes. These same people also failed to realize that withholding at the rate of 20 percent was applied only to income over and above the family status withholding exemption. For a single person with no dependents, the annual family status withholding exemption was $624. For a married person or head of a family, the exemption was $1,248, with an additional $312 for each dependent.

Collection of income taxes at the source through withholding only approximated the actual income tax liability of a particular taxpayer. Every taxpayer liable for income tax was subject to a 6 percent normal tax, a 13 percent surtax, and a net 3 percent Victory tax over the Victory tax exemption. These percentages totaled 22 percent on income above the family status exemption. Withholding, however, was required only at the rate of 20 percent, thus leaving a 2 percent leeway for average deductions.

Through withholding some 70 percent of the taxpayers became substantially current in their income tax liabilities. They would have only minor year-end adjustments by way of tax payment or refund to be made at the time of filing their annual returns.

The new act also required those individual income taxpayers not made fully current in their tax payments through withholding to make quarterly payments of estimated taxes. In this group were persons whose wages exceeded the first surtax bracket or who received more than $100 of income from sources other than wages. Declarations of estimated tax were to be filed by March 15 of each year; payments were to be made quarterly and estimates could be revised each quarter. A special rule permitted farmers to file their declarations of estimated tax at any time up to December 15. This date was later moved forward to the following January 15.

As a means of transition to a current payment system the act provided for the cancellation of 75 percent of one year's taxes (the lower of the 1942 or 1943 tax liabilities) or $50, whichever was higher. For tax liabilities under $50 the entire amount was canceled. The unforgiven tax was payable in two installments—one on March 15, 1944, and the other on March 15, 1945. The act also contained special relief provisions for members of the armed forces, including an exclusion from gross income of $1,500 of service pay for each member on active duty. Taxpayers guilty of fraud were denied the benefits of cancellation.

CLOTURE MOTION

The PRESIDING OFFICER. All time has expired.

Under rule XXII, 1 hour having passed since the Senate convened, the clerk will report the motion to invoke cloture.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate upon the Kasten amendment No. 522 to S. 144.

Bob Kasten, William Proxmire, Paula Hawkins, David L. Boren, John P. East, Jesse Helms, Wendell Ford, Walter D. Huddleston, Steve Symms, J. Bennett Johnston, Ernest F. Hollings, John Melcher, Nancy Landon Kassebaum, David Pryor, Orrin G. Hatch, Don Nickles, J. James Exon, Jeremiah Denton, Jennings Randolph, and Thad Cochran.

CALL OF THE ROLL

The PRESIDING OFFICER. Pursuant to rule XXII, the Chair now directs the clerk to call the roll to ascertain the presence of a quorum.

The assistant legislative clerk called the roll and the following Senators answered to their names:

[Quorum No. 6, Leg.]

Armstrong	Dole	Kasten
Baker	Exon	Long
Baucus	Hecht	Melcher
Boschwitz	Heflin	Metzenbaum
Byrd	Helms	Murkowski
Danforth	Jackson	Zorinsky
DeConcini	Johnston	

The PRESIDING OFFICER. A quorum is not present. The clerk will call the names of the absent Senators.

The assistant legislative clerk called the roll and the following Senators entered the Chamber and answered to their names:

Abdnor	East	Nickles
Andrews	Garn	Pressler
Bingaman	Grassley	Riegle
Bradley	Hatch	Specter
Burdick	Huddleston	Stafford
Cochran	Inouye	Stennis
Cohen	Leahy	Thurmond
D'Amato	Mathias	Trible
Denton	Mattingly	Tsongas
Dixon	McClure	Warner
Dodd	Moynihan	

The PRESIDING OFFICER. A quorum is present.

VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on the Kasten amendment numbered 522 to S. 144 shall be brought to a close? The yeas and nays are automatic under the rule. The clerk will call the roll.

The legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Connecticut (Mr. WEICKER) is necessarily absent.

Mr. CRANSTON. I announce that the Senator from Colorado (Mr. HART) is necessarily absent.

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

The result was announced—yeas 39, nays 59, as follows:

[Rollcall Vote No. 58, Leg.]

YEAS—39

Baucus	East	Matsunaga
Bentsen	Exon	Melcher
Biden	Ford	Mitchell
Bingaman	Glenn	Nunn
Boren	Heflin	Pell
Bradley	Helms	Pryor
Bumpers	Hollings	Randolph
Burdick	Huddleston	Riegle
Byrd	Inouye	Sarbanes
Chiles	Jackson	Sasser
DeConcini	Johnston	Stennis
Dixon	Leahy	Tsongas
Eagleton	Long	Zorinsky

NAYS—59

Abdnor	Hatch	Nickles
Andrews	Hatfield	Packwood
Armstrong	Hawkins	Percy
Baker	Hecht	Pressler
Boschwitz	Heinz	Proxmire
Chafee	Humphrey	Quayle
Cochran	Jepsen	Roth
Cohen	Kassebaum	Rudman
Cranston	Kasten	Simpson
D'Amato	Kennedy	Specter
Danforth	Lautenberg	Stafford
Denton	Laxalt	Stevens
Dodd	Levin	Symms
Dole	Lugar	Thurmond
Domenici	Mathias	Tower
Durenberger	Mattingly	Trible
Garn	McClure	Wallop
Goldwater	Metzenbaum	Warner
Gorton	Moynihan	Wilson
Grassley	Murkowski	

NOT VOTING—2

Hart	Weicker

The PRESIDING OFFICER. On this vote, the yeas are 39, and the nays are 59. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is not agreed to.

Mr. BAKER addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. BAKER. Mr. President, the cloture motion did not prevail. I believe the question recurs now on the Chafee amendment to the Dole amendment. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. BAKER. Mr. President, I hope at this point we can proceed with an exploration of the possibility of resolving this issue. I am told that there is some possibility of that. I also observe a smile on the face of the minority leader, which I find disquieting. But having made those observations now, Mr. President, I believe the Senator from Kansas (Mr. DOLE) may wish to be recognized, as may the Senator from Wisconsin (Mr. KASTEN).

The PRESIDING OFFICER. The Senator from Kansas is recognized.

There will be order in the Senate. The galleries will please be quiet.

INTERNATIONAL TRADE AND INVESTMENT ACT—S. 144

MOTION TO RECOMMIT

Mr. DOLE. Mr. President, I send a motion to recommit to the desk on behalf of myself, Mr. KASTEN, Mr. STEVENS, Mr. BOSCHWITZ, and Mr. THURMOND, which would in effect direct the committee to report such bill immediately with the following amendments, including the Senate Finance Committee amendment, and then add to the end thereof the following new title, which is the compromise on withholding on interest and dividend and patronage dividends.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kansas (Mr. DOLE) moves to recommit S. 144 to the Committee on Finance with instructions that the committee report such bill immediately with the following amendments: (1) include the Senate Finance Committee amendments reported on March 14, 1983, and (2) add at the end thereof the following new title:

TITLE II—WITHHOLDING ON INTEREST, DIVIDENDS, AND PATRONAGE DIVIDENDS

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

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

The motion is as follows:

MOTION TO RECOMMIT

Mr. DOLE. Mr. President, I move on behalf of myself, Senators KASTEN, STEVENS, BOSCHWITZ, and THURMOND to recommit S. 144 to the Committee on Finance with instructions that the committee report such bill immediately with the following amendments:

(1) include the Senate Finance Committee amendments reported on March 14, 1983, and

(2) add at the end thereof the following new title:

TITLE II—WITHHOLDING ON INTEREST, DIVIDENDS, AND PATRONAGE DIVIDENDS

SEC. 201. AMENDMENT OF 1954 CODE.

Except as otherwise expressly provided, whenever in this title an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

SEC. 202. DELAY IN WITHHOLDING ON INTEREST AND DIVIDENDS.

Section 308 of the Tax Equity and Fiscal Responsibility Act of 1982 (relating to effective dates and special rules involving with-

holding on interest and dividends) is amended—

(1) by striking out subsection (a) and inserting in lieu thereof the following:

"(a) IN GENERAL.—Except as otherwise provided in this section, the amendments made by this subtitle shall apply to interest, dividends, and patronage dividends paid or credited after June 30, 1987.

"(b) WITHHOLDING ON INTEREST, DIVIDENDS, AND PATRONAGE DIVIDENDS NOT TO TAKE EFFECT IF COMPLIANCE SUBSTANTIALLY IMPROVES.—

"(1) STUDY BY COMPTROLLER GENERAL.—The Comptroller General of the United States shall conduct a study with respect to the collection of taxes on interest, dividends, and patronage dividends.

"(2) DETERMINATION OF PERCENTAGE OF COMPLIANCE.—In connection with the study under paragraph (1), the Comptroller General shall compute the percentage determined by dividing—

"(A) the amount of interest, dividends, and patronage dividends which the Comptroller General reasonably estimates was shown on returns of tax imposed by subtitle A of the Internal Revenue Code of 1954—

"(i) which were required to be filed by individuals for taxable years which begin in 1985, and

"(ii) which were filed within the time prescribed by law (determined with regard to any extension) and before August 15, 1986, by

"(B) the aggregate amount of interest, individuals, and patronage individuals which the Comproller General reasonably estimates was required to be shown on returns described in subparagraph (A) (without regard to clause (ii) thereof).

"(3) REPORT TO CONGRESS.—Not later than January 1, 1987, the Comptroller General shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate the results of the study conducted under paragraph (1) and the percentage determined under paragraph (2).

"(4) WITHHOLDING NOT IMPLEMENTED IF COMPLIANCE SUBSTANTIALLY IMPROVED.—

"(A) IN GENERAL.—If the percentage determined under paragraph (2) is 95 percent or greater, then the amendments made by this subtitle shall not apply to any interest, dividends, or patronage dividends paid or credited after June 30, 1987.

"(B) WITHHOLDING TO APPLY IF COMPLIANCE NOT SUBSTANTIALLY IMPROVED AND CONGRESS AGREES.—If subparagraph (A) does not apply, the amendments made by this subtitle shall apply to any interest, dividends, or patronage dividends paid or credited after June 30, 1987, only if both Houses of Congress adopt, before April 1, 1987, a concurrent resolution, the matter after the resolving clause of which is as follows: 'That the Congress approves of the determination of the Comptroller General under section 308(a)(2) of the Tax Equity and Fiscal Responsibility Act of 1982 that the compliance percentage for payment of taxes on interest, dividends, and patronage dividends is less than 95 percent.'.

"(C) EXPEDITED PROCEDURE.—

"(i) EXPEDITED RULES TO APPLY.—The rules of subsections (c) through (g) of section 151 of the Trades Act of 1974 (19 U.S.C. 2191) shall apply to a resolution described in subparagraph (B) (ii) in the same manner as such rules apply to an implementing revenue bill, except that subsection (e) (3) of such section 151 shall not apply and such resolution, upon introduction in the Senate and the House of Representatives, shall be referred to the Committee on Finance and the Committee on Ways and Means, respectively.

"(ii) IN GENERAL.—The provisions of this subparagraph are enacted by the Congress—

"(I) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such they are deemed a part of the rules of each House, respectively and they supercede other rules only to the extent that they are inconsistent therewith, and

"(II) with full recognition of the constitutional right of either House to change the rules at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

"(5) ACTION BY COMPTROLLER IF CONGRESS DISAPPROVES EARLIER REPORT.—If both Houses of Congress do not adopt the resolution described in paragraph (4)(B)(ii) before April 1, 1987—

"(A) the Comptroller General shall, not later than January 1, 1988, resubmit the percentage determined under paragraph (2) (taking into account any revised data) and report such percentage to the committees described in such paragraph, and

"(B) if the percentage is less than 95 percent, the amendments made by this subtitle shall apply to interest, dividends, or patronage dividends paid or credited after June 30, 1988, if both Houses of Congress, before April 1, 1988, adopt a resolution described in paragraph (4)(B)(ii).

"(6) DEFINITIONS.—For purposes of this subsection, the terms 'interest', 'dividends', and 'patronage dividends' have the same meanings given such terms by sections 6049(b), 6042(b), and 3454(c) of the Internal Revenue Code of 1954, respectively.", and

"(2) by redesignating subsections (b), (c), and (d) as subsections (c), (d), and (e), respectively.

SEC. 203. APPLICATION OF BACKUP WITHHOLDING RULES TO CERTAIN PAYMENTS.

"(a) IN GENERAL.—Section 3402(s) (relating to extension of withholding to certain payments where indentifying number not furnished or inaccurate) is amended by adding at the end thereof the following new paragraph:

"(6) SPECIAL RULES OF BACKUP WITHHOLDING ON INTEREST, DIVIDENDS, AND PATRONAGE DIVIDENDS NOT REPORTED ON RETURNS.—

"(A) IN GENERAL.—If the Secretary determines that any payee failed—

"(i) to include in any return of tax required to be filed for any taxable year more than $50 of any backup withholding payments which—

"(I) are described in clause (iii), (iv), or (vi) of paragraph (3)(A) of this subsection, and

"(II) are required to be included in such return, or

"(ii) to file the return of tax in which such payments are required to be included.

the Secretary shall notify the payors of the payments described in subclause (I) of the requirement to deduct and withhold under paragraph (1) (but not the reason therefor).

"(B) NOTICE TO PAYEE.—

"(i) NOTICE BY SECRETARY.—At the same time as the Secretary notifies the payor under subparagraph (A), the Secretary shall notify the payee of—

"(I) the Secretary's determination under subparagraph (A) (and the reasons therefor), and

"(II) the requirement that the payor deduct and withhold tax under this subsection.

"(ii) 40-DAY PERIOD TO RESPOND.—The Secretary shall prescribe procedures which allow the payee to respond to the notice received under clause (i) within 40 days of receipt of such notice.

"(iii) NOTICE BY PAYOR.—Any payor required to withhold any tax under paragraph (1)(C) shall, at the time such withholding begins, notify the payee of such withholding.

"(C) CESSATION OF WITHHOLDING.—If—

"(i) there was no failure under subparagraph (A),

"(ii) any such failure (including the payment of any tax, penalty, or interest with respect to such failure) has been corrected, or

"(iii) the payee establishes to the satisfaction of the Secretary that any such failure will not occur again and that withholding under paragraph (1) would cause undue hardship to such payee,

then the Secretary shall notify payors withholding under paragraph (1)(C) to cease such withholding.".

(b) 20-PERCENT BACKUP WITHHOLDING IN CASES WHERE INTEREST, DIVIDEND, AND PATRONAGE DIVIDEND PAYMENTS INVOLVED.—Section 3402 (s) (5) (relating to definitions and special rules) is amended by adding at the end thereof the following new subparagraph:

"(K) WITHHOLDING AT 20 PERCENT IN FAILURE INVOLVING INTEREST, DIVIDENDS, OR PATRONAGE DIVIDENDS.—In the case of any withholding required under—

"(i) paragraph (1)(C), or

"(ii) subparagraph (A) or (B) of paragraph (1) to the extent the taxpayer identification number involved relates to a return described in clause (iii), (iv), or (vi) of paragraph (3) (A),

paragraph (1) shall be applied by substituting '20 percent' for '15 percent'.".

(c) MINIMUM PENALTY FOR FAILURE TO IMPLEMENT BACKUP WITHHOLDING.—Section 6672 (relating to penalty for failure to collect and pay over tax, etc.) is amended by adding at the end thereof the following new subsection:

"(c) MINIMUM PENALTY FOR FAILURE TO IMPLEMENT BACKUP WITHHOLDING.—In the case of any failure to deduct and withhold a tax under section 3402(s)(1)(C), there is hereby imposed a penalty equal to $100, less the amount of the penalty under subsection (a) with respect to such failure.".

(d) SECRETARY MAY REQUIRE PAYORS TO GET NOTICE.—Section 3402(s)(5) (relating to definitions and special rules), as amended by subsection (b), is amended by adding at the end thereof the following new subparagraph:

"(L) FORM OF NOTICE.—

"(i) IN GENERAL.—The Secretary may prescribe regulations which provide that notice may be given under paragraph (1) (B) or (C) by requiring payors to compare the tax identification numbers or names and taxpayer identification numbers of all payees of such payor with a list of such numbers or such names and numbers maintained by the Secretary and with respect to which withholding is required under this subsection.

"(ii) USE OF LIST BY PAYOR.—Any payor (or agent thereof) may use any information obtained from the list described in subparagraph (A) solely for the purpose of meeting any requirement of such payor under this subsection.

"(iii) CROSS REFERENCE.—For civil actions involving misuse of taxpayer return information, see section 7431.".

(e) CONFORMING AMENDMENTS.—Subsection (s) of section 3402 (relating to extension of withholding to certain payments where identifying number not furnished or inaccurate) is amended—

(1) in paragraph (1)—

(A) by striking out "or" at the end of subparagraph (A),

(B) by inserting "or" at the end of subparagraph (B), and

(C) by inserting after subparagraph (B) the following new subparagraph:

"(C) the Secretary notifies the payor under paragraph (6)(A),",

(2) by redesignating subparagraph (C) of paragraph (2) as subparagraph (D) and by inserting after subparagraph (B) of paragraph (2) the following new subparagraph:

"(C) FAILURE TO INCLUDE CERTAIN AMOUNTS IN INCOME.—In the case of any failure described in subparagraph (C) of paragraph (1), paragraph (1) shall apply to any backup withholding payment made during the period—

"(i) beginning on the 61st day after the day on which the payor was notified by the Secretary of such failure, and

"(ii) ending on the day on which the Secretary notifies the payor under paragraph (6)(C) to cease withholding.",

(3) in subparagraph (D) of paragraph (2), as redesignated by paragraph (2), by striking out "or (B)" in clause (i) and inserting in lieu thereof ", (B), or (C)", and

(4) by inserting "Or to Certain Interest, Dividend, or Patronage Dividend Payments Not Reported" after "Inaccurate" in the caption thereof.

SEC. 204. RETURNS ON MAGNETIC TAPE.

Subsection (e) of section 6011 (relating to regulations requiring returns on magnetic tape, etc.) is amended—

(1) by inserting "(1) IN GENERAL.—" before the first sentence thereof, and

(2) by adding at the end thereof the following new paragraph:

"(2) Certain returns must be filed on magnetic media.—In the case of any person who is required to file more than 50 returns under section 6042 (a), 6044 (a), or 6049 (a) for any calendar year, all returns under such section shall be on magnetic media.".

SEC. 205. PENALTY FOR FAILURE BY PAYORS TO MEET CERTAIN REPORTING REQUIREMENTS.

(a) IN GENERAL.—Subsection (a) of section 6676 (relating to failure to supply identifying numbers) is amended by redesignating paragraph (2) as paragraph (3) and by inserting after paragraph (1) the following new paragraph:

"(2) PENALTY FOR FAILURE TO SUPPLY CORRECTION ON CERTAIN RETURNS.—

"(A) IN GENERAL.—If any person—

"(i) is required to include in any return required to be filed under section 6042, 6044, or 6049 with respect to another person the taxpayer identification number of such other person, and

"(ii) fails to include such number or includes an incorrect number,

then, in lieu of any penalty under paragraph (1), such person shall pay a penalty for each such failure equal to the greater of (I) $50, or (III) 5 percent of the amount required to be included in the return to which such failure relates.

"(B) INCREASED PENALTY FOR SUBSTANTIAL NONCOMPLIANCE.—

"(i) IN GENERAL.—In the case of a person who is described in clause (ii) for any calendar year, subparagraph (A) shall be applied with respect to returns relating to such calendar year by substituting '$100' for '$50' and '10 percent' for '5 percent'.

"(ii) SUBSTANTIAL NONCOMPLIANCE.—For purposes of this subparagraph, a person is described in this clause if, with respect to such person, the sum of the number of failures under this paragraph and section 6652 (a) (3) for any calendar year exceeds the lesser of—

"(I) 10,000, or

"(II) 15 percent of the number of returns required to be filed under section 6042, 6044, or 6049 by such person with respect to such calendar year.

"(C) NO PENALTY IN CERTAIN CASES.—No penalty shall be imposed under this paragraph—

"(i) if the taxpayer identification number included on the return is the number provided after December 31, 1982, under penalty of perjury, by the person with respect to whom such return relates unless, under regulations prescribed by the Secretary, such number is obviously incorrect, or

"(ii) for any period during which a person is waiting for receipt of a taxpayer identification number from the Secretary.".

(b) FAILURE TO FILE STATEMENTS.—Subsection (a) of section 6652 (relating to returns relating to information at source, payments of dividends, etc., and certain transfers of stock) is amended—

(1) in paragraph (1) (A)—

(A) by striking out clauses (ii), (iii), and (iv) and by redesignating clauses (v) and (vi) as clauses (ii) and (iii), and

(B) by striking out "6042(e), 6044(f), 6049(e), or" in clause (iii), as so redesignated, and

(2) by adding at the end thereof the following new paragraph:

"(3) FAILURE TO FILE CERTAIN STATEMENTS.—

"(A) IN GENERAL.—In the case of any person who fails to file 1 or more returns or statements under section 6042, 6044, or 6049 on the date prescribed therefor (determined with regard to any extension of time for filing), such person shall pay (upon notice and demand by the Secretary and in the same manner as a tax) for each such failure an amount equal to the greater of—

"(i) $100, or

"(ii) 7.5 percent of the amount required to be reported on the statement.

"(B) INCREASED PENALTY FOR SUBSTANTIAL NONCOMPLIANCE.—In the case of a person who is described in section 6676(a)(2)(B)(ii), subparagraph (A) shall be applied by substituting '$200' for '$100' and '15 percent' for '7.5 percent'.".

SEC. 206. DUPLICATE STATEMENTS REQUIRED TO BE FURNISHED ON RETURN.

(a) INTEREST.—

(1) DUPLICATE STATEMENT REQUIRED ON RETURN.—Section 6049(c) (relating to statements regarding payment of interest) is amended by adding at the end thereof the following new paragraph:

"(4) DUPLICATE STATEMENT TO BE INCLUDED IN RETURN OF PERSON WITH RESPECT TO WHOM INFORMATION IS FURNISHED.—A duplicate of the statement required to be furnished to a person under paragraph (1) shall be included with the return of the person receiving such statement for the taxable year which ends with or within the calendar year to which the statement relates.".

(2) FORM AND METHOD OF MAILING STATEMENT.—Section 6049(c)(2) (relating to time statement must be furnished) is amended to read as follows:

"(2) TIME AND FORM OF STATEMENT.—The written statement under paragraph (1) shall—

"(A) be furnished (either in person or by first-class mail) to the person on or before January 31 of the year following the calendar year for which the return under subsection (a) was made, and

"(B) shall, under regulations prescribed by the Secretary, be in a form similar to the form of statements required under section 6041(d).".

(b) DIVIDENDS.—

(1) DUPLICATE STATEMENT REQUIRED ON RETURN.—Section 6042 of such Code (relating to returns regarding payments of dividends) is amended by adding at the end thereof the following new subsection:

"(e) DUPLICATE STATEMENT TO BE INCLUDED IN RETURN OF PERSON WITH RESPECT TO WHOM INFORMATION IS FURNISHED.—A duplicate of the statement required to be furnished to a person under subsection (c) shall be included with the return of the person receiving such statement for the taxable year which ends with or within the calendar year to which the statement relates.".

(2) FORM AND METHOD OF MAILING STATEMENT.—The second sentence of section 6042 (c) (relating to time statement must be furnished) is amended to read as follows: "The written statement required under the preceding sentence shall be furnished (either in person or by first-class mail) to the person on or before January 31 of the year following the calendar year for which the return under subsection (a) was made, and shall, under regulations prescribed by the Secretary, be in a form similar to the form of statements required under section 6041 (d).".

(c) PATRONAGE DIVIDENDS.—

(1) DUPLICATE STATEMENT REQUIRED ON RETURN.—Section 6044 of such Code (relating to returns regarding payment of patronage dividends) is amended by adding at the end thereof the following new subsection:

"(f) DUPLICATE STATEMENT TO BE INCLUDED IN RETURN OF PERSON WITH RESPECT TO WHOM INFORMATION IS FURNISHED.—A duplicate of the statement required to be furnished to a person under subsection (e) shall be included with the return of the person receiving such statement for the taxable year which ends with or within the calendar year to which the statement relates.".

(2) FORM AND METHOD OF MAILING STATEMENT.—The second sentence of section 6044 (e) (relating to time statement must be furnished) is amended to read as follows: "The written statement required under the preceding sentence shall be furnished (either in person or by first-class mail) to the person on or before January 31 of the year following the calendar year for which the return under subsection (a) was made, and shall, under regulations prescribed by the Secretary, be in a form similar to the form of statements required under section 6041 (d).".

(d) PENALTIES FOR FAILURE TO INCLUDE STATEMENT ON RETURN.—

(1) IN GENERAL.—Section 6678 (relating to failure to furnish certain statements) is amended—

(A) by inserting "(a) IN GENERAL.—" before "In the case of",

(B) by adding at the end thereof the following new subsection:

"(b) FAILURE TO ATTACH STATEMENT TO A RETURN.—In the case of each failure to attach a statement to a return under section 6042(e), 6044(f), or 6049(c)(4), unless it is shown that such failure is due to reasonable

cause and not to willful neglect, there shall be paid (upon notice and demand by the Secretary and in the same manner as tax) by the person failing to attach such statement $50 for each such failure, but the total amount imposed for all such failures during such calendar year with respect to any person shall not exceed $50,000.", and

(C) by inserting "or attach" after "furnish" in the heading thereof.

(2) CONFORMING AMENDMENT.—The table of sections for subchapter B of chapter 68 is amended by inserting "or attach" after "furnish" in the item relating to section 6678.

SEC. 207. PENALTY ON PAYEE FOR FAILURE TO REPORT.

(a) IN GENERAL.—Subchapter B of chapter 68 (relating to assessable penalties) is amended by adding at the end thereof the following new section:

"SEC. 6705. ADDITIONAL PENALTY ON TAXPAYERS WHO WILLFULLY ATTEMPT TO EVADE OR AVOID TAX ON INTEREST, DIVIDENDS, OR PATRONAGE DIVIDENDS.

"(a) CIVIL PENALTY.—If, for any taxable year—

"(1) any taxpayer fails to include on a return of tax the amount of any interest, dividends, or patronage dividends required to be included in such return, and

"(2) the Secretary establishes that the taxpayer willfully attempted to evade or avoid Federal tax on such interest, dividends, or patronage dividends,

then there is imposed on such taxpayer for such taxable year a penalty of $1,000.

"(b) PENALTY IN ADDITION TO OTHER PENALTIES.—The penalty imposed by subsection (a) shall be in addition to any other penalty imposed by law.".

(b) CONFORMING AMENDMENT.—The table of sections for subchapter B of chapter 68 is amended by adding at the end thereof the following new item:

"Sec. 6705. Additional penalty on taxpayers who willfully attempt to evade or avoid tax on interest, dividends, or patronage dividends.".

SEC. 208. MATCHING OF RETURNS BY THE SECRETARY OF THE TREASURY.

It is the sense of the Congress that—

(1) with respect to taxable years beginning after December 31, 1982, the Secretary of the Treasury or his delegate should implement a program which matches—

(A) information received by the Secretary under section 6042, 6044, or 6049 of the Internal Revenue Code of 1954 with respect to any person for any calendar year, with

(B) the return of the tax imposed by such Code on such person in which the information described in subparagraph (A) is required to be included, and

(2) except in the case of taxpayers whose taxable year is not a calendar year, the Secretary of the Treasury or his delegate should, under any program implemented under paragraph (1), complete the matching of any information described in paragraph (1)(A) which is received for any calendar year within 10 months of the close of such calendar year.

SEC. 209. REPORT; AUTHORIZATION OF APPROPRIATIONS.

(a) SENSE OF SENATE WITH RESPECT TO REPORTING ON AVAILABILITY OF RESOURCES.—It is the sense of the Senate that not later than June 15, 1983, the Secretary of the Treasury or his delegate shall report to the Congress on the availability of resources to carry out any program implementing the amendments made by, or the provisions of, title II of this Act.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated such sums as may be necessary to carry out any program implementing the amendments made by, or the provisions of, title II of this Act and it is the sense of the Congress that such sums be appropriated.

SEC. 210. EFFECTIVE DATES.

(a) IN GENERAL.—Except as provided in this section, the amendments made by this title shall apply to taxable years beginning after December 31, 1982, and before the termination date.

(b) SPECIAL RULE FOR REPORTING PROVISIONS.—

(1) The amendments made by section 203 shall apply to payments made after June 30, 1983, and before the termination date.

(2) The amendments made by section 204 shall apply to returns for calendar years beginning after December 31, 1982, and before the termination date, except that the Secretary of the Treasury or his delegate may provide that such amendments shall not apply to any person for calendar year 1983 in any case where application of such amendments would cause undue hardship to such person.

(3) The amendments made by sections 205 and 206 shall apply to returns or statements the due date for which (without regard to extensions) is after December 31, 1982, and before the termination date.

(c) TERMINATION DATE DEFINED.—For purposes of this section, the term "termination date" means the date (if any) on which the amendments made by subtitle A of title III of the Tax Equity and Fiscal Responsibility Act of 1982 apply to interest, dividends, and patronage dividends under section 308 of such Act.

Mr. DOLE. 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.

SEVERAL SENATORS addressed the Chair.

The PRESIDING OFFICER. The minority leader is recognized.

Mr. BYRD. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. 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.

SEVERAL SENATORS addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

AMENDMENT NO. 1179

Mr. KASTEN. Mr. President, I move to amend the motion of the Senator from Kansas, and I send my amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Wisconsin (Mr. KASTEN) moves to amend the Dole motion and to recommit with amendments as follows: striking out the matter proposed to be added by clause (2) of the motion and inserting in lieu thereof the following:

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

SEVERAL SENATORS. I object.

Mr. LONG. I should like to know what it is.

The legislative clerk continued to read, as follows:

TITLE II—WITHHOLDING ON INTEREST, DIVIDENDS, AND PATRONAGE DIVIDENDS

SEC. 201. AMENDMENT OF 1954 CODE.

Except as otherwise expressly provided, whenever in this title an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

SEC. 202. DELAY IN WITHHOLDING ON INTEREST AND DIVIDENDS.

Section 308 of the Tax Equity and Fiscal Responsibility Act of 1982 (relating to effective dates and special rules involving withholding on interest and dividends) is amended—

(1) by striking out subsection (a) and inserting in lieu thereof the following:

"(a) IN GENERAL.—Except as otherwise provided in this section, the amendments made by this subtitle shall apply to interest, dividends, and patronage dividends paid or credited after June 30, 1987.

"(b) WITHHOLDING ON INTEREST, DIVIDENDS, AND PATRONAGE DIVIDENDS NOT TO TAKE EFFECT IF COMPLIANCE SUBSTANTIALLY IMPROVES.—

"(1) STUDY BY COMPTROLLER GENERAL.—The Comptroller General of the United States shall conduct a study with respect to the collection of taxes on interest, dividends, and patronage dividends.

"(2) DETERMINATION OF PERCENTAGE OF COMPLIANCE.—In connection with the study under paragraph (1), the Comptroller General shall compute the percentage determined by dividing—

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

The PRESIDING OFFICER. Is there objection?

Mr. MELCHER. Mr. President, reserving the right to object——

The PRESIDING OFFICER. Debate is not in order.

Mr. MELCHER. I object.

The PRESIDING OFFICER. Objection is heard.

The legislative clerk continued to read, as follows:

(A) the amount of interest, dividends, and patronage dividends which the Comptroller General reasonably estimates was shown on returns of tax imposed by subtitle A of the Internal Revenue Code of 1954—

Mr. BYRD. Mr. President, I was one of the objectors, and I realize debate is not in order. I was one of those who objected because I wanted to know what was in the amendment. So far as this Senator is concerned, I am willing to consent to dispense with further reading of the amendment if the Senator from Wisconsin is prepared to explain what his amendment does.

So I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Is there objection?

Mr. MELCHER. Mr. President, I do not want the reading of this amendment, but I want to make the point that——

The PRESIDING OFFICER. Is there objection?

Mr. BAKER Mr. President, I ask unanimous consent that at this point there may be 3 minutes on each side for the explanation of this amendment and any questions in respect thereto, to be under the control of the Senator from Wisconsin and the minority leader or his designee.

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

The Senator from Wisconsin.

Mr. KASTEN. Mr. President, I should like to explain briefly to the minority leader and to the Senator from Montana that this amendment is the compromise amendment. All three of these amendments are in fact the compromise amendment, in making an effort to close the loop so that we have a compromise amendment we can vote on without being amended.

The elements include the delay until July 1, 1987, the backup withholding provision, the return format of the 1099, the IRS matching, the stricter failure to report penalties, and the fraud penalty.

In other words, this amendment is the same, except for a date change, as the amendment of the Senator from Kansas and is the final amendment.

We will have one more amendment, at which point we will have an opportunity to vote on the compromise. This is the compromise we have been discussing and about which we have been replying to questions back and forth over the past hour or so.

This is the compromise amendment, and the elements are the delay until 1987, the backup withholding, the return format of the 1099, the IRS matching, the stricter failure to report penalties, and the fraud penalties.

I hope there will be no objection to dispense with the reading of the amendment. It is 14 or 15 pages long.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. Mr. President, is there objection?

Mr. BYRD. Mr. President, I believe I have 3 minutes. I yield it to the Senator from Louisiana (Mr. LONG).

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. LONG. Mr. President, just permit the Senator from Louisiana to make this statement by way of explanation.

There are some of us—and I am one—who received a great deal of mail urging us to vote to repeal withholding on interest and dividends. I, for one, have answered all that mail, telling people that is how I am going to vote. So far as I am concerned, that is the opportunity for which I have been looking for some some time—an opportunity to vote to repeal withholding.

In the judgment of the Senator from Louisiana, if we had been privileged to vote on the cloture motion before people started to negotiate about deals to do less than repeal withholding, we would have had a direct up and down vote on the merits, and we would have had a very strong showing—I think a huge majority—in favor of cloture and in favor of doing what some of us, such as this Senator, have said we were going to do.

This Senator, in addition to answering that mail, spoke to civic clubs, I asked for a show of hands before discussing the issue, before explaining it. I said, "Before I discuss it, tell me what you think." Civic clubs and chamber of commerce groups were 95 percent in favor of repealing withholding. Then the Senator from Louisiana answered all that mail.

Incidentally, one of the clubs he spoke to was a chapter of Sigma Delta Chi, which is a journalism fraternity representing the media people, the people who write for the newspapers, the people who address the radio audience, the people who address the TV audience. Oddly enough, that audience was unanimous, when I was addressing a cross-segment of the media, in what they thought about it.

So I am firm in my position. The Senator from Louisiana was not a party to the negotiations which resulted in the pending proposal. He was flattered and honored that he was consulted by the Senator from Wisconsin, who sought his thoughts about the matter; and he told the Senator from Wisconsin what he thought, insofar as he was capable of discussing the matter.

If those negotiations had not been conducted, we would have been privileged to have had a vote on the merits, to some degree, when we voted on cloture. But we did not have that opportunity. We were denied our rights by a quorum call that took 3 hours. In my judgment, that is a wrong procedure.

Any time the leadership uses its power to deny a majority of Senators their opportunity to vote on something where there is a rule or where there is a unanimous-consent agreement, and makes us wait for 3 hours while deals are made, that is wrong.

Having been denied our right to vote on the merits up and down or to have a meaningful vote on the matter, we are now confronted with another parliamentary situation contrived by the same people.

We are offered an opportunity to vote for a so-called compromise but not to vote to do what we said we were going to do, namely to repeal withholding.

So the Senator from Louisiana cannot buy this type of arrangement. I will have to continue to hope to have an opportunity to vote to repeal—what I said I was going to do. If I had made an agreement with somebody, I would feel compelled to keep it. But I did not make an agreement.

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

Mr. LONG. I ask for one further minute, Mr. President.

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

Mr. LONG. Mr. President, I say this: If the majority of the Senators in the U.S. Senate will continue to vote in such a way as to press for an opportunity on this measure and other measures to keep voting to repeal withholding, eventually the Senate will prevail for the majority view. If the majority of the House Members keep doing the same—they may not do it on this bill or on the first, second, or third try—but if they keep it up, eventually, in my opinion, they will prevail.

My judgment is that this is probably what we should do. And not knowing what all the ramifications are on this compromise, not knowing what is going to happen down at the White House, not knowing what is going to happen in the Senate, this Senator wishes to do what he said he was going to do, and that is vote to repeal withholding.

That being the case, Mr. President, at some point I hope to be able to offer an amendment to give the Senate an opportunity to vote to repeal this provision of law, and this parliamentary situation we have right now seeks to deny us that opportunity. So I cannot vote for the amendment or the substitute. I will have to await my chance to offer an amendment at some point, so that we get a chance to vote just to repeal withholding on interest and dividends as we said we were going to do.

Mr. DOLE. Mr. President, is there further objection to extensive reading of the motion?

The PRESIDING OFFICER. Is there objection? The Chair hears none.

Without objection, it is so ordered.

The amendment is as follows:

Strike out the matter proposed to be added by clause (2) of the motion and inserting in lieu thereof the following:

TITLE II—WITHHOLDING ON INTEREST, DIVIDENDS, AND PATRONAGE DIVIDENDS

SEC. 201. AMENDMENT OF 1954 CODE.

Except as otherwise expressly provided, whenever in this title an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be made to a section or

other provision of the Internal Revenue Code of 1954.

SEC. 202. DELAY IN WITHHOLDING ON INTEREST AND DIVIDENDS.

Section 308 of the Tax Equity and Fiscal Responsibility Act of 1982 (relating to effective dates and special rules involving withholding on interest and dividends) is amended—

(1) by striking out subsection (a) and inserting in lieu thereof the following:

"(a) IN GENERAL.—Except as otherwise provided in this section, the amendments made by this subtitle shall apply to interest, dividends, and patronage dividends paid or credited after June 30, 1987.

"(b) WITHHOLDING ON INTEREST, DIVIDENDS, AND PATRONAGE DIVIDENDS NOT TO TAKE EFFECT IF COMPLIANCE SUBSTANTIALLY IMPROVES.—

"(1) STUDY BY COMPTROLLER GENERAL.—The Comptroller General of the United States shall conduct a study with respect to the collection of taxes on interest, dividends, and patronage dividends.

"(2) DETERMINATION OF PERCENTAGE OF COMPLIANCE.—In connection with the study under paragraph (1), the Comptroller General shall compute the percentage determined by dividing—

"(A) the amount of interest, dividends, and patronage dividends which the Comptroller General reasonably estimates was shown on returns of tax imposed by subtitle a of the Internal Revenue Code of 1954—

"(i) which were required to be filed by individuals for taxable years which begin in 1985, and

"(ii) which were filed within the time prescribed by law (determined with regard to any extension) and before August 15, 1986, by

"(B) the aggregate amount of interest, dividends, and patronage dividends which the Comptroller General reasonably estimates was required to be shown on returns described in subparagraph (A) (without regard to clause (ii) thereof).

"(3) REPORT TO CONGRESS.—Not later January 1, 1987, the Comptroller general shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate the results of the study conducted under paragraph (1) and the percentage determined under paragraph (2).

"(4) WITHHOLDING NOT IMPLEMENTED IF COMPLIANCE SUBSTANTIALLY IMPROVED.—

"(A) IN GENERAL.—If the percentage determined under paragraph (2) is 95 percent or greater, then the amendments made by this subtitle shall not apply to any interest, dividends, or patronage dividends paid or credited after June 30, 1987.

"(B) WITHHOLDING TO APPLY IF COMPLIANCE NOT SUBSTANTIALLY IMPROVED AND CONGRESS AGREES.—If subparagraph (A) does not apply, the amendments made by this subtitle shall apply to any interest, dividends, or patronage dividends paid or credited after June 30, 1987, and if both Houses of Congress adopt, before April 1, 1987, a concurrent resolution, the matter after the resolving clause of which is as follows: 'That the Congress approves of the determination of the Comptroller General under section 308(a)(2) of the Tax Equity and Fiscal Responsibility Act of 1982 that the compliance percentage for payment of taxes on interest, dividends, and patronage dividends is less than 95 percent.'.

"(C) EXPEDITED PROCEDURE.—

"(i) EXPEDITED RULES TO APPLY.—The rules of subsections (c) through (g) of section 151 of the Trade Act of 1974 (19 U.S.C. 2191) shall apply to a resolution described in subparagraph (B)(ii) in the same manner as such rules apply to an implementing revenue bill, except that subsection (e)(3) of such section 151 shall not apply and such resolution, upon introduction in the Senate and the House of Representatives, shall be referred to the Committee on Finance and the Committee on Ways and Means, respectively.

"(ii) IN GENERAL.—The provisions of this subparagraph are enacted by the Congress—

"(I) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such they are deemed a part of the rules of each House, respectively and they supercede other rules only to the extent that they are inconsistent therewith, and

"(II) with full recognition of the constitutional right of either House to change the rules at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

"(5) ACTION BY COMPTROLLER IF CONGRESS DISAPPROVES EARLIER REPORT.—If both Houses of Congress do not adopt the resolution described in paragraph (4)(B)(ii) before April 1, 1987—

"(A) the Comptroller General shall, not later than January 1, 1988, resubmit the percentage determined under paragraph (2) (taking into account any revised data) and report such percentage to the committees described in such paragraph, and

"(B) if the percentage is less than 95 percent, the amendments made by this subtitle shall apply to interest, dividends, or patronage dividends paid or credited after June 30, 1988, if both Houses of Congress, before April 1, 1988, adopt a resolution described in paragraph (4)(B)(ii).

"(6) DEFINITIONS.—For purposes of this subsection, the terms 'interest', 'dividends', and 'patronage dividends' have the same meanings given such terms by sections 6049(b), 6042(b), and 3454(c) of the Internal Revenue Code of 1954, respectively.", and

(2) by redesignating subsections (b), (c), and (d) as subsections (c), (d), and (e), respectively.

SEC. 203. APPLICATION OF BACKUP WITHHOLDING RULES TO CERTAIN PAYMENTS.

(a) IN GENERAL.—Section 3402(s) (relating to extension of withholding to certain payments where identifying number not furnished or inaccurate) is amended by adding at the end thereof the following new paragraph:

"(6) SPECIAL RULES FOR BACKUP WITHHOLDING ON INTEREST, DIVIDENDS, AND PATRONAGE DIVIDENDS NOT REPORTED ON RETURN.—

"(A) IN GENERAL.—If the Secretary determines that any payee failed—

"(i) to include in any return of tax required to be filed for any taxable year more than $50 of any backup withholding payments which—

"(I) are described in clause (iii), (iv), or (vi) of paragraph (3)(A) of this subsection, and

"(II) are required to be included in such return, or

"(ii) to file the return of tax in which such payments are required to be included,

the Secretary shall notify the payors of the payments described in subclause (I) of the requirement to deduct and withhold under paragraph (1) (but not the reason therefor).

"(B) NOTICE TO PAYEE.—

"(i) NOTICE BY SECRETARY.—At the same time as the Secretary notifies the payor under subparagraph (A), the Secretary shall notify the payee of—

"(I) the Secretary's determination under subparagraph (A) (and the reasons therefor), and

"(II) the requirement that the payor deduct and withhold tax under this subsection.

"(ii) 42-DAY PERIOD TO RESPOND.—The Secretary shall prescribe procedures which allow the payee to respond to the notice received under clause (i) within 42 days of receipt of such notice.

"(iii) NOTICE BY PAYOR.—Any payor required to withhold any tax under paragraph (1)(C) shall, at the time such withholding begins, notify the payee of such withholding.

"(C) CESSATION OF WITHHOLDING.—If—

"(i) there was no failure under subparagraph (A),

"(ii) any such failure (including the payment of any tax, penalty, or interest with respect to such failure) has been corrected, or

"(iii) the payee established to the satisfaction of the Secretary that any such failure will not occur again and that withholding under paragraph (1) would cause undue hardship to such payee,

then the Secretary shall notify payors withholding under paragraph (1)(C) to cease such withholding.".

(b) 20-PERCENT BACKUP WITHHOLDING IN CASES WHERE INTEREST, DIVIDEND, AND PATRONAGE DIVIDEND PAYMENTS INVOLVED.—Section 3402(s)(5) (relating to definitions and special rules) is amended by adding at the end thereof the following new subparagraph:

"(K) WITHHOLDING AT 20 PERCENT IN FAILURE INVOLVING INTEREST, DIVIDENDS, OR PATRONAGE DIVIDENDS.—In the case of any withholding required under—

"(i) paragraph (1)(C), or

"(ii) subparagraph (A) or (B) of paragraph (1) to the extent the taxpayer indentification number involved relates to a return described in clause (iii), (iv), or (vi) of paragraph (3)(A),

paragraph (1) shall be applied by substituting '20 percent' for '15 percent'.".

(c) MINIMUM PENALTY FOR FAILURE TO IMPLEMENT BACKUP WITHHOLDING.—Section 6672 (relating to penalty for failure to collect and pay over tax, etc.) is amended by adding at the end thereof the following new subsection:

"(c) MINIMUM PENALTY FOR FAILURE TO IMPLEMENT BACKUP WITHHOLDING.—In the case of any failure to deduct and withhold a tax under section 3402(s)(1)(C), there is hereby imposed a penalty equal to $100, less the amount of the penalty under subsection (a) with respect to such failure.".

(d) SECRETARY MAY REQUIRE PAYORS TO GET NOTICE.—Section 3402(s)(5) (relating to definitions and special rules), as amended by subsection (b), is amended by adding at the end thereof the following new subparagraph:

"(L) FORM OF NOTICE.—

"(i) IN GENERAL.—The Secretary may prescribe regulations which provide that notice may be given under paragraph (1) (B) or (C) by requiring payors to compare the tax identification numbers or names and taxpayer identification numbers of all payees of such payor with a list of such numbers or such names and numbers maintained by the Secretary and with respect to which withholding is required under this subsection.

"(ii) USE OF LIST BY PAYOR.—Any payor (or agent thereof) may use any information obtained from the list described in subparagraph (A) solely for the purpose of meeting any requirement of such payor under this subsection.

"(iii) CROSS REFERENCE.—For civil actions involving misuse of taxpayer return information, see section 7431.".

(e) CONFORMING AMENDMENTS.—Subsection (s) of section 3402 (relating to extension of withholding to certain payments where identifying number not furnished or inaccurate) is amended—

(1) in paragraph (1)—

(A) by striking out "or" at the end of subparagraph (A),

(B) by inserting "or" at the end of subparagraph (B), and

(C) by inserting after subparagraph (B) the following new subparagraph:

"(C) the Secretary notifies the payor under paragraph (6)(A),",

(2) by redesignating subparagraph (C) of paragraph (2) as subparagraph (D) and by inserting after subparagraph (B) of paragraph (2) the following new subparagraph:

"(C) FAILURE TO INCLUDE CERTAIN AMOUNTS IN INCOME.—In the case of any failure described in subparagraph (C) of paragraph (1), paragraph (1) shall apply to any backup withholding payment made during the period—

"(i) beginning on the 61st day after the day on which the payor was notified by the Secretary of such failure, and

"(ii) ending on the day on which the Secretary notifies the payor under paragraph (6)(C) to cease withholding.",

(3) in subparagraph (D) of paragraph (2), as redesignated by paragraph (2), by striking out "or (B)" in clause (i) and inserting in lieu thereof ", (B), or (C)", and

(4) by inserting "OR TO CERTAIN INTEREST, DIVIDEND, OR PATRONAGE DIVIDEND PAYMENTS NOT REPORTED" after "INACCURATE" in the caption thereof.

SEC. 204. RETURNS ON MAGNETIC TAPE.

Subsection (e) of section 6011 (relating to regulations requiring returns on magnetic tape, etc.) is amended—

(1) by inserting "(1) IN GENERAL.—" before the first sentence thereof, and

(2) by adding at the end thereof the following new paragraph:

"(2) CERTAIN RETURNS MUST BE FILED ON MAGNETIC MEDIA.—In the case of any person who is required to file more than 50 returns under section 6042(a), 6044(a), or 6049(a) for any calendar year, all returns under such section shall be on magnetic media.".

SEC. 205. PENALTY FOR FAILURE BY PAYORS TO MEET CERTAIN REPORTING REQUIREMENTS.

(a) IN GENERAL.—Subsection (a) of section 6676 (relating to failure to supply identifying numbers) is amended by redesignating paragraph (2) as paragraph (3) and by inserting after paragraph (1) the following new paragraph:

"(2) PENALTY FOR FAILURE TO SUPPLY CORRECTION ON CERTAIN RETURNS.—

"(A) IN GENERAL.—If any person—

"(i) is required to include in any return required to be filed under section 6042, 6044, or 6049 with respect to another person the taxpayer identification number of such other person, and

"(ii) fails to include such number or includes an incorrect number,

then, in lieu of any penalty under paragraph (1), such person shall pay a penalty for each such failure equal to the greater of (I) $50, or (II) 5 percent of the amount required to be included in the return to which such failure relates.

"(E) INCREASED PENALTY FOR SUBSTANTIAL NONCOMPLIANCE.—

"(i) IN GENERAL.—In the case of a person who is described in clause (ii) for any calendar year, subparagraph (A) shall be applied with respect to returns relating to such calendar year by substituting '$100' for '$50' and '10 percent' for '5 percent'.

"(ii) SUBSTANTIAL NONCOMPLIANCE.—For purposes of this subparagraph, a person is described in this clause if, with respect to such person, the sum of the number of failures under this paragraph and section 6652(a)(3) for any calendar year exceeds the lesser of—

"(I) 10,000, or

"(II) 15 percent of the number of returns required to be filed under section 6042, 6044, or 6049 by such person with respect to such calendar year.

"(C) NO PENALTY IN CERTAIN CASES.—No penalty shall be imposed under this paragraph—

"(i) if the taxpayer identification number included on the return is the number provided after December 31, 1982, under penalty of perjury, by the person with respect to whom such return relates unless, under regulations prescribed by the Secretary, such number is obviously incorrect, or

"(ii) for any period during which a person is waiting for receipt of a taxpayer identification number from the Secretary.".

(b) FAILURE TO FILE STATEMENTS.—Subsection (a) of section 6652 (relating to returns relating to information at source, payments of dividends, etc., and certain transfers of stock) is amended—

(1) in paragraph (1)(A)—

(A) by striking out clauses (ii), (iii), and (iv) and by redesignating clauses (v) and (vi) as clauses (ii) and (iii), and

(B) by striking out "6042(e), 6044(f), 6049(e), or" in clause (iii), as so redesignated, and

(2) by adding at the end thereof the following new paragraph:

"(3) FAILURE TO FILE CERTAIN STATEMENTS.—

"(A) IN GENERAL.—In the case of any person who fails to file one or more returns or statements under section 6042, 6044, or 6049 on the date prescribed therefor (determined with regard to any extension of time for filing), such person shall pay (upon notice and demand by the Secretary and in the same manner as a tax) for each such failure an amount equal to the greater of—

"(i) $100, or

"(ii) 7.5 percent of the amount required to be reported on the statement.

"(B) INCREASED PENALTY FOR SUBSTANTIAL NONCOMPLIANCE.—In the case of a person who is described in section 6676(a)(2)(B)(ii), subparagraph (A) shall be applied by substituting '$200' for '$100' and '15 percent' for '7.5 percent'.".

SEC. 206. DUPLICATE STATEMENTS REQUIRED TO BE FURNISHED ON RETURN.

(a) INTEREST.—

(1) DUPLICATE STATEMENT REQUIRED ON RETURN.—Section 6049(c) (relating to statements regarding payment of interest) is amended by adding at the end thereof the following new paragraph:

"(4) DUPLICATE STATEMENT TO BE INCLUDED IN RETURN OF PERSON WITH RESPECT TO WHOM INFORMATION IS FURNISHED.—A duplicate of the statement required to be furnished to a person under paragraph (1) shall be included with the return of the person receiving such statement for the taxable year which ends with or within the calendar year to which the statement relates.".

(2) FORM AND METHOD OF MAILING STATEMENT.—Section 6049(c)(2) (relating to time statement must be furnished) is amended to read as follows:

"(2) TIME AND FORM OF STATEMENT.—The written statement under paragraph (1) shall—

"(A) be furnished (either in person or by first-class mail) to the person on or before January 31 of the year following the calendar year for which the return under subsection (a) was made, and

"(B) shall, under regulations prescribed by the Secretary, be in a form similar to the form of statements required under section 6024(d).".

(b) DIVIDENDS.—

(1) DUPLICATE STATEMENT REQUIRED ON RETURN.—Section 6042 of such Code (relating to return regarding payments of dividends) is amended by adding at the end thereof the following new subsection:

"(e) DUPLICATE STATEMENT TO BE INCLUDED IN RETURN OF PERSON WITH RESPECT TO WHOM INFORMATION IS FURNISHED.—A duplicate of the statement required to be furnished to a person under subsection (c) shall be included with the return of the person receiving such statement for the taxable year which ends with or within the calendar year to which the statement relates.".

(2) FORM AND METHOD OF MAILING STATEMENT.—The second sentence of section 6042(c) (relating to time statement must be furnished) is amended to read as follows: "The written statement required under the preceding sentence shall be furnished (either in person or by first-class mail) to the person on or before Janauary 31 of the year following the calendar year for which the return under subsection (a) was made, and shall, under regulations prescribed by the Secretary, be in a form similar to the form of statements required under section 6041(d).".

(c) PATRONAGE DIVIDENDS.—

(1) DUPLICATE STATEMENT REQUIRED ON RETURN.—Section 6044 of such Code (relating to returns regarding payment of patronage dividends) is amended by adding at the end thereof the following new subsection:

"(f) DUPLICATE STATEMENT TO BE INCLUDED IN RETURN OF PERSON WITH RESPECT TO WHOM INFORMATION IS FURNISHED.—A duplicate of the statement required to be furnished to a person under subsection (e) shall be included with the return of the person receiving such statement for the taxable year which ends with or within the calendar year to which the statement relates.".

(2) FORM AND METHOD OF MAILING STATEMENT.—The second sentence of section 6044 (e) (relating to time statement must be furnished) is amended to read as follows: "The written statement required under the preceding sentence shall be furnished (either in person or by first-class mail) to the person on or before January 31 of the year following the calendar year for which the return under subsection (a) was made, and shall, under regulations prescribed by the Secretary, be in a form similar to the form of statements required under section 6041(d).".

(d) PENALTIES FOR FAILURE TO INCLUDE STATEMENT ON RETURN.—

(1) IN GENERAL.—Section 6678 (relating to failure to furnish certain statements) is amended—

(A) by inserting "(a) IN GENERAL.—" before "In the Case of",

(B) by adding at the end thereof the following new subsection:

"(b) FAILURE TO ATTACH STATEMENT TO A RETURN.—In the case of each failure to attach a statement to a return under section 6042(e), 6044(f), or 6049(c)(4), unless it is shown that such failure is due to reasonable cause and not to willful neglect, there shall be paid (upon notice and demand by the Secretary and in the same manner as tax) by the person failing to attach such statement $50 for each such failure, but the total amount imposed for all such failures during such calendar year with respect to any person shall not exceed $50,000.", and

(C) by inserting "or attach" after "furnish" in the heading thereof.

(2) CONFORMING AMENDMENT.—The table of sections for subchapter B of chapter 68 is amended by inserting "or attach" after "furnish" in the item relating to section 6678.

SEC. 207. PENALTY ON PAYEE FOR FAILURE TO REPORT.

(a) IN GENERAL.—Subchapter B of chapter 68 (relating to assessable penalties) is amended by adding at the end thereof the following new section:

"SEC. 6705. ADDITIONAL PENALTY ON TAXPAYERS WHO WILLFULLY ATTEMPT TO EVADE OR AVOID TAX ON INTEREST, DIVIDENDS, OR PATRONAGE DIVIDENDS.

"(a) CIVIL PENALTY.—If, for any taxable year—

"(1) any taxpayer fails to include on a return of tax the amount of any interest, dividends, or patronage dividends required to be included in such return, and

"(2) the Secretary establishes that the taxpayer willfully attempted to evade or avoid Federal tax on such interest, dividends, or patronage dividends,

then there is imposed on such taxpayer for such taxable year a penalty of $1,000.

"(b) PENALTY IN ADDITION TO OTHER PENALTIES.—The penalty imposed by subsection (a) shall be in addition to any other penalty imposed by law.".

(b) CONFORMING AMENDMENT.—The table of sections for subchapter B of chapter 68 is amended by adding at the end thereof the following new item:

"Sec. 6705. Additional penalty on taxpayers who willfully attempt to evade or avoid tax on interest, dividends, or patronage dividends.".

SEC. 208. MATCHING OF RETURNS BY THE SECRETARY OF THE TREASURY.

It is the sense of the Congress that—

(1) with respect to taxable years beginning after December 31, 1982, the Secretary of the Treasury or his delegate should implement a program which matches—

(A) information received by the Secretary under section 6042, 6044, or 6049 of the Internal Revenue Code of 1954 with respect to any person for any calendar year, with

(B) the return of the tax imposed by such Code on such person in which the information described in subparagraph (A) is required to be included, and

(2) except in the case of taxpayers whose taxable year is not a calendar year, the Secretary of the Treasury or his delegate should, under any program implemented under paragraph (1), complete the matching of any information described in paragraph (1)(A) which is received for any calendar within 10 months of the close of such calendar year.

SEC. 209. REPORT; AUTHORIZATION OF APPROPRIATIONS.

(a) SENSE OF SENATE WITH RESPECT TO REPORTING ON AVAILABILITY OF RESOURCES.—It is the sense of the Senate that not later than June 15, 1983, the Secretary of the Treasury or his delegate shall report to the Congress on the availability of resources to carry out any program implementing the amendments made by, or the provisions of, title II of this Act.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated such sums as may be necessary to carry out any program implementing the amendments made by, or the provisions of, title II of this Act and it is the sense of the Congress that such sums be appropriated.

SEC. 210. EFFECTIVE DATES.

(a) IN GENERAL.—Except as provided in this section, the amendments made by this title shall apply to taxable years beginning after December 31, 1982, and before the termination date.

(b) SPECIAL RULE FOR REPORTING PROVISIONS.—

(1) The amendments made by section 203 shall apply to payments made after June 30, 1983, and before the termination date.

(2) The amendments made by section 204 shall apply to returns for calendar years beginning after December 31, 1982, and before the termination date, except that the Secretary of the Treasury or his delegate may provide that such amendments shall not apply to any person for calendar year 1983 in any case where application of such amendments would cause undue hardship to such person.

(3) The amendments made by sections 205 and 206 shall apply to returns or statements the due date for which (without regard to extensions) is after December 31, 1982, and before the termination date.

(c) TERMINATION DATE DEFINED.—For purposes of this section, the term "termination date" means the date (if any) on which the amendments made by subtitle A of title III of the Tax Equity and Fiscal Responsibility Act of 1982 apply to interest, dividends, and patronage dividends under section 308 of such Act.

AMENDMENT NO. 1180

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

The PRESIDING OFFICER. The clerk will state the amendment.

The legislative clerk read as follows:

The Senator from Kansas (Mr. DOLE) proposes an amendment to the motion.

Mr. DOLE. 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:

Motion of Mr. DOLE to amend the motion of Mr. KASTEN to amend the motion of Mr. DOLE to recommit S. 144 to the Committee on Finance:

"I move to amend the motion of the Senator from Wisconsin to amend the motion of the Senator from Kansas to recommit S. 144 to the Committee on Finance by striking out the matter proposed to be inserted by the amendment of the Senator from Wisconsin to the motion of the Senator from Kansas and inserting in lieu thereof the following:"

AMENDMENT NO. 1180

TITLE II—WITHHOLDING ON INTEREST, DIVIDENDS, AND PATRONAGE DIVIDENDS

SEC. 201. AMENDMENT OF 1954 CODE.

Except as otherwise expressly provided, whenever in this title an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

SEC. 202. DELAY IN WITHHOLDING ON INTEREST AND DIVIDENDS.

Section 308 of the Tax Equity and Fiscal Responsibility Act of 1982 (relating to effective dates and special rules involving withholding on interest and dividends) is amended—

(1) by striking out subsection (a) and inserting in lieu thereof the following:

"(a) IN GENERAL.—Except as otherwise provided in this section, the amendments made by this subtitle shall apply to interest, dividends, and patronage dividends paid or credited after June 30, 1987.

"(b) WITHHOLDING ON INTEREST, DIVIDENDS, AND PATRONAGE DIVIDENDS NOT TO TAKE EFFECT IF COMPLIANCE SUBSTANTIALLY IMPROVES.—

"(1) STUDY BY COMPTROLLER GENERAL.—The Comptroller General of the United States shall conduct a study with respect to the collection of taxes on interest, dividends, and patronage dividends.

"(2) DETERMINATION OF PERCENTAGE OF COMPLIANCE.—In connection with the study under paragraph (1), the Comptroller General shall compute the percentage determined by dividing—

"(A) the amount of interest, dividends, and patronage dividends which the Comptroller General reasonably estimates was shown on returns of tax imposed by subtitle A of the Internal Revenue Code of 1954—

"(i) which were required to be filed by individuals for taxable years which begin in 1985, and

"(ii) which were filed within the time prescribed by law (determined with regard to any extension) and before August 15, 1986, by

"(B) the aggregate amount of interest, dividends, and patronage dividends which the Comptroller General reasonably estimates was required to be shown on returns described in subparagraph (A) (without regard to clause (ii) thereof).

"(3) REPORT TO CONGRESS.—Not later than January 1, 1987, the Comptroller General shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate the results of the study conducted under paragraph (1) and the percentage determined under paragraph (2).

"(4) WITHHOLDING NOT IMPLEMENTED IF COMPLIANCE SUBSTANTIALLY IMPROVED.—

"(A) IN GENERAL.—If the percentage determined under paragraph (2) is 95 percent or greater, then the amendments made by this subtitle shall not apply to any interest, dividends, or patronage dividends paid or credited after June 30, 1987.

"(B) WITHHOLDING TO APPLY IF COMPLIANCE NOT SUBSTANTIALLY IMPROVED AND CONGRESS AGREES.—If subparagraph (A) does not apply, the amendments made by this subtitle shall apply to any interest, dividends, or patronage dividends paid or credited after June 30, 1987, only if both Houses of Congress adopt, before April 1, 1987, a concurrent resolution, the matter after the re-

solving clause of which is as follows: 'That the Congress approves of the determination of the Comptroller General under section 308(a)(2) of the Tax Equity and Fiscal Responsibility Act of 1982 that the compliance percentage for payment of taxes on interest, dividends, and patronage dividends is less than 95 percent.'.

"(C) EXPEDITED PROCEDURE.—

"(i) EXPEDITED RULES TO APPLY.—The rules of subsections (c) through (g) of section 151 of the Trade Act of 1974 (19 U.S.C. 2191) shall apply to a resolution described in subparagraph (B)(ii) in the same manner as such rules apply to an implementing revenue bill, except that subsection (e)(3) of such section 151 shall not apply and such resolution, upon introduction in the Senate and the House of Representatives, shall be referred to the Committee on Finance and the Committee on Ways and Means, respectively.

"(ii) IN GENERAL.—The provisions of this subparagraph are enacted by the Congress—

"(I) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such they are deemed a part of the rules of each House, only to the extent that they are inconsistent therewith, and

"(II) with full recognition of the constitutional right of either House to change the rules at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

"(5) ACTION BY COMPTROLLER IF CONGRESS DISAPPROVES EARLIER REPORT.—If both Houses of Congress do not adopt the resolution described in paragraph (4)(B)(ii) before April 1, 1987—

"(A) the Comptroller General shall, not later than January 1, 1988, resubmit the percentage determined under paragraph (2) (taking into account any revised data) and report such percentage to the committees described in such paragraph, and

"(B) if the percentage is less than 95 percent, the amendments made by this subtitle shall apply to interest, dividends, or patronage dividends paid or credited after June 30, 1988, if both Houses of Congress, before April 1, 1988, adopt a resolution described in paragraph (4)(B)(ii).

"(6) DEFINITIONS.—For purposes of this subsection, the terms 'interest', 'dividends', and 'patronage dividends' have the same meanings given such terms by sections 6049(b), 6042(b), and 3454(c) of the Internal Revenue Code of 1954, respectively.", and

(2) by redesignating subsections (b), (c), and (d) as subsections (c), (d), and (e), respectively.

SEC. 203. APPLICATION OF BACKUP WITHHOLDING RULES TO CERTAIN PAYMENTS.

(a) IN GENERAL.—Section 3402(s) (relating to extension of withholding to certain payments where identifying number not furnished or inaccurate) is amended by adding at the end thereof the following new paragraph:

"(6) SPECIAL RULES FOR BACKUP WITHHOLDING ON INTEREST, DIVIDENDS, AND PATRONAGE DIVIDENDS NOT REPORTED ON RETURN.—

"(A) IN GENERAL.—If the Secretary determines that any payee failed—

"(i) to include in any return of tax required to be filed for any taxable year more than $50 of any backup withholding payments which—

"(I) are described in clause (iii), (iv), or (vi) or paragraph (3)(A) of this subsection, and

"(II) are required to be included in such return, or

"(ii) to file the return of tax in which such payments are required to be included,

the Secretary shall notify the payors of the payments described in subclause (I) of the requirement to deduct and withhold under paragraph (1) (but not the reason therefor).

"(B) NOTICE TO PAYEE.—

"(i) NOTICE BY SECRETARY.—At the same time as the Secretary notifies the payor under subparagraph (A), the Secretary shall notify the payee of—

"(I) the Secretary's determination under subparagraph (A) (and the reasons therefor), and

"(II) the requirement that the payor deduct and withhold tax under this subsection.

"(ii) 45-DAY PERIOD TO RESPOND.—The Secretary shall prescribe procedures which allow the payee to respond to the notice received under clause (i) within 45 days of receipt of such notice.

"(iii) NOTICE BY PAYOR.—Any payor required to withhold any tax under paragraph (1)(C) shall, at the time such withholding begins, notify the payee of such withholding.

"(C) CESSATION OF WITHHOLDING.—If—

"(i) there was no failure under subparagraph (A),

"(ii) any such failure (including the payment of any tax, penalty, or interest with respect to such failure) has been corrected, or

"(iii) the payee establishes to the satisfaction of the Secretary that any such failure will not occur again and that withholding under paragraph (1) would cause undue hardship to such payee,

then the Secretary shall notify payors withholding under paragraph (1)(C) to cease such withholding.".

(b) 20-PERCENT BACKUP WITHHOLDING IN CASES WHERE INTEREST, DIVIDEND, AND PATRONAGE DIVIDEND PAYMENTS INVOLVED.—Section 3402(s)(5) (relating to definitions and special rules) is amended by adding at the end thereof the following new subparagraph:

"(K) WITHHOLDING AT 20 PERCENT IN FAILURE INVOLVING INTEREST, DIVIDENDS, OR PATRONAGE DIVIDENDS.—In the case of any withholding required under—

"(i) paragraph (1)(C), or

"(ii) subparagraph (A) or (B) of paragraph (1) to the extent the taxpayer identification number involved relates to a return described in clause (iii), (iv), or (vi) of paragraph (3)(A),

paragraph (1) shall be applied by substituting '20 percent' for '15 percent'.".

(c) MINIMUM PENALTY FOR FAILURE TO IMPLEMENT BACKUP WITHHOLDING.—Section 6672 (relating to penalty for failure to collect and pay over tax, etc.) is amended by adding at the end thereof the following new subsection:

"(c) MINIMUM PENALTY FOR FAILURE TO IMPLEMENT BACKUP WITHHOLDING.—In the case of any failure to deduct and withhold a tax under section 3402(s)(1)(C), there is hereby imposed a penalty equal to $100, less the amount of the penalty under subsection (a) with respect to such failure.".

(d) SECRETARY MAY REQUIRE PAYORS TO GET NOTICE.—Section 3402(s)(5) (relating to definitions and special rules), as amended by subsection (b), is amended by adding at the end thereof the following new subparagraph:

"(L) FORM OF NOTICE.—

"(i) IN GENERAL.—The Secretary may prescribe regulations which provide that notice may be given under paragraph (1) (B) or (C) by requiring payors to compare the tax identification numbers or names and taxpayer identification numbers of all payees of such payor with a list of such numbers or such names and numbers maintained by the Secretary and with respect to which withholding is required under this subsection.

"(ii) USE OF LIST BY PAYOR.—Any payor (or agent thereof) may use any information obtained from the list described in subparagraph (A) solely for the purpose of meeting any requirement of such payor under this subsection.

"(iii) CROSS REFERENCE.—For civil actions involving misuse of taxpayer return information, see section 7431.".

(e) CONFORMING AMENDMENTS.—Subsection (s) of section 3402 (relating to extension of withholding to certain payments where identifying number not furnished or inaccurate) is amended—

(1) in paragraph (1)—

(A) by striking out "or" at the end of subparagraph (A),

(B) by inserting "or" at the end of subparagraph (B), and

(C) by inserting after subparagraph (B) the following new subparagaph:

"(C) the Secretary notifies the payor under paragraph (6)(A),",

(2) by redesignating subparagraph (c) of paragraph (2) as subparagraph (D) and by inserting after subparagraph (B) of paragraph (2) the following new subparagraph:

"(C) FAILURE TO INCLUDE CERTAIN AMOUNTS IN INCOME.—In the case of any failure described in subparagraph (C) of paragraph (1), paragraph (1) shall apply to any backup withholding payment made during the period—

"(i) beginning on the 61st day after the day on which the payor was notified by the Secretary of such failure, and

"(ii) ending on the day on which the Secretary notifies the payor under paragraph (6) (c) to cease withholding.",

(3) in subparagraph (D) of paragraph (2), as redesignated by paragraph (2), by striking out "or (B)" in clause (i) and inserting in lieu thereof ", (B), or (C)", and

(4) by inserting "or to Certain Interest, Dividend, or Patronage Dividend Payments Not Reported" after "Inaccurate" in the caption thereof.

SEC. 204. RETURNS ON MAGNETIC TAPE.

Subsection (e) of section 6011 (relating to regulations requiring returns on magnetic tape, etc.) is amended—

(1) by inserting "(1) IN GENERAL.—" before the first sentence thereof, and

(2) by adding at the end thereof the following new paragraph:

"(2) CERTAIN RETURNS MUST BE FILED ON MAGNETIC MEDIA.—In the case of any person who is required to file more than 50 returns under section 6042(a), 6044(a), or 6049(a) for any calendar year, all returns under such section shall be on magnetic media.".

SEC. 205. PENALTY FOR FAILURE BY PAYORS TO MEET CERTAIN REPORTING REQUIREMENTS.

(a) IN GENERAL.—Subsection (a) of section 6676 (relating to failure to supply identifying numbers) is amended by redesignating paragraph (2) as paragraph (3) and by inserting after paragraph (1) the following new paragraph:

"(2) PENALTY FOR FAILURE TO SUPPLY CORRECTION ON CERTAIN RETURNS.—

"(A) IN GENERAL.—If any person—

"(i) is required to include in any return required to be filed under section 6042, 6044, or 6049 with respect to another person the

taxpayer identification number of such other person, and

"(ii) fails to include such number or includes an incorrect number,

then, in lieu of any penalty under paragraph (1), such person shall pay a penalty for each such failure equal to the greater of (I) $50, or (II) 5 percent of the amount required to be included in the return to which such failure relates.

"(B) INCREASED PENALTY FOR SUBSTANTIAL NONCOMPLIANCE.—

"(i) IN GENERAL.—In the case of a person who is described in clause (ii) for any calendar year, subparagraph (A) shall be applied with respect to returns relating to such calendar year by substituting '$100' for '$50' and '10 percent' for '5 percent'.

"(ii) SUBSTANTIAL NONCOMPLIANCE.—For purposes of this subparagraph, a person is described in this clause if, with respect to such person, the sum of the number of failures under this paragraph and section 6652(a)(3) for any calendar year exceeds the lesser of—

"(I) 10,000, or

"(II) 15 percent of the number of returns required to be filed under section 6042, 6044, or 6049 by such person with respect to such calendar year.

"(C) NO PENALTY IN CERTAIN CASES.—No penalty shall be imposed under this paragraph—

"(i) if the taxpayer identification number included on the return is the number provided after December 31, 1982, under penalty of perjury, by the person with respect to whom such return relates unless, under regulations prescribed by the Secretary, such number is obviously incorrect, or

"(ii) for any period during which a person is waiting for receipt of a taxpayer identification number from the Secretary.".

"(b) FAILURE TO FILE STATEMENTS.—Subsection (a) of section 6652 (relating to returns relating to information at source, payments of dividends, etc., and certain transfers of stock) is amended—

(1) in paragraph (1)(A)—

(A) by striking out clauses (ii), (iii), and (iv) and by redesignating clauses (v) and (vi) as clauses (ii) and (iii), and

(B) by striking out "6042(e), 6044(f), 6049(e), or" in clause (iii), as so redesignated, and

(2) by adding at the end thereof the following new paragraph:

"(3) FAILURE TO FILE CERTAIN STATEMENTS.—

"(A) IN GENERAL.—In the case of any person who fails to file one or more returns or statements under section 6042, 6044, or 6049 on the date prescribed therefor (determined with regard to any extension of time for filing), such person shall pay (upon notice and demand by the Secretary and in the same manner as a tax) for each such failure an amount equal to the greater of—

"(i) $100, or

"(ii) 7.5 percent of the amount required to be reported on the statement.

"(B) INCREASED PENALTY FOR SUBSTANTIAL NONCOMPLIANCE.—In the case of a person who is described in section 6676(a)(2)(B)(ii), subparagraph (A) shall be applied by substituting '$200' for '$100' and '15 percent' for '7.5 percent'.".

SEC. 206. DUPLICATE STATEMENTS REQUIRED TO BE FURNISHED ON RETURN.

(a) INTEREST.—

(1) DUPLICATE STATEMENT REQUIRED ON RETURN.—Section 6049(c) (relating to statements regarding payment of interest) is amended by adding at the end thereof the following new paragraph:

"(4) DUPLICATE STATEMENT TO BE INCLUDED IN RETURN OF PERSON WITH RESPECT TO WHOM INFORMATION IS FURNISHED.—A duplicate of the statement required to be furnished to a person under paragraph (1) shall be included with the return of the person receiving such statement for the taxable year which ends with or within the calendar year to which the statement relates.".

(2) FORM AND METHOD OF MAILING STATEMENT.—Section 6049(c)(2) (relating to time statement must be furnished) is amended to read as follows:

"(2) TIME AND FORM OF STATEMENT.—The written statement under paragraph (1) shall—

"(A) be furnished (either in person or by first-class mail) to the person on or before January 31 of the year following the calendar year for which the return under subsection (a) was made, and

"(B) shall, under regulations prescribed by the Secretary, be in a form similar to the form of statements required under section 6041(d).".

(b) DIVIDENDS.—

(1) DUPLICATE STATEMENT REQUIRED ON RETURN.—Section 6042 of such Code (relating to returns regarding payments of dividends) is amended by adding at the end thereof the following new subsection:

"(e) DUPLICATE STATEMENT TO BE INCLUDED IN RETURN OF PERSON WITH RESPECT TO WHOM INFORMATION IS FURNISHED.—A duplicate of the statement required to be furnished to a person under subsection (c) shall be included with the return of the person receiving such statement for the taxable year which ends with or within the calendar year to which the statement relates.".

(2) FORM AND METHOD OF MAILING STATEMENT.—The second sentence of section 6042(c) (relating to time statement must be furnished) is amended to read as follows: "The written statement required under the preceding sentence shall be furnished (either in person or by first-class mail) to the person on or before January 31 of the year following the calendar year for which the return under subsection (a) was made, and shall, under regulations prescribed by the Secretary, be in a form similar to the form of statements required under section 6041(d).".

(c) PATRONAGE DIVIDENDS.—

(1) DUPLICATE STATEMENT REQUIRED ON RETURN.—Section 6044 of such Code (relating to returns regarding payment of patronage dividends) is amended by adding at the end thereof the following new subsection:

"(f) DUPLICATE STATEMENT TO BE INCLUDED IN RETURN OF PERSON WITH RESPECT TO WHOM INFORMATION IS FURNISHED.—A duplicate of the statement required to be furnished to a person under subsection (e) shall be included with the return of the person receiving such statement for the taxable year which ends with or within the calendar year to which the statement relates.".

(2) FORM AND METHOD OF MAILING STATEMENT.—The second sentence of section 6044 (e) (relating to time statement must be furnished) is amended to read as follows: "The written statement required under the preceding sentence shall be furnished (either in person or by first-class mail) to the person on or before January 31 of the year following the calendar year for which the return under subsection (a) was made, and shall, under regulations prescribed by the Secretary, be in a form similar to the form of statements required under section 6041(d).".

(d) PENALTIES FOR FAILURE TO INCLUDE STATEMENT ON RETURN.—

(1) IN GENERAL.—Section 6678 (relating to failure to furnish certain statements) is amended—

(A) by inserting "(a) IN GENERAL.—" before "In the case of".

(B) by adding at the end thereof the following new subsection:

"(b) FAILURE TO ATTACH STATEMENT TO A RETURN.—In the case of each failure to attach a statement to a return under section 2042(e), 6044(f), or 6049(c)(4), unless it is shown that such failure is due to reasonable cause and not to willful neglect, there shall be paid (upon notice and demand by the Secretary and in the same manner as tax) by the person failing to attach such statement $50 for each such failure, but the total amount imposed for all such failures during such calendar year with respect to any person shall not exceed $50,000.", and

(C) by inserting "or attach" after "furnish" in the heading thereof.

(2) CONFORMING AMENDMENT.—The table of sections for subchapter B of chapter 68 is amended by inserting "or attach" after "furnish" in the item relating to section 6678.

SEC. 207. PENALTY ON PAYER FOR FAILURE TO REPORT.

(a) IN GENERAL.—Subchapter B of chapter 68 (relating to assessable penalties) is amended by adding at the end thereof the following new section:

"SEC. 6705. ADDITIONAL PENALTY ON TAXPAYERS WHO WILLFULLY ATTEMPT TO EVADE OR AVOID TAX ON INTEREST, DIVIDENDS, OR PATRONAGE DIVIDENDS.

"(a) CIVIL PENALTY.—If, for any taxable year—

"(1) any taxpayer fails to include on a return of tax the amount of any interest, dividends, or patronage dividends required to be included in such return, and

"(2) the Secretary establishes that the taxpayer willfully attempted to evade or avoid Federal tax on such interest, dividends, or patronage dividends,

Then there is imposed on such taxpayer for such taxable year a penalty of $1,000.

"(b) PENALTY IN ADDITION TO OTHER PENALTIES.—The penalty imposed by subsection (a) shall be in addition to any other penalty imposed by law.".

(b) CONFORMING AMENDMENT.—The table of sections for subchapter B of chapter 68 is amended by adding at the end thereof the following new item:

"Sec. 6705. Additional penalty on taxpayers who willfully attempt to evade or avoid tax on interest, dividends, or patronage dividends.".

SEC. 208. MATCHING OF RETURNS BY THE SECRETARY OF THE TREASURY.

It is the sense of the Congress that—

(1) with respect to taxable years beginning after December 31, 1982, the Secretary of the Treasury or his delegate should implement a program which matches—

(A) information received by the Secretary under section 6042, 6044, or 6049 of the Internal Revenue Code of 1954 with respect to any person for any calendar year, with

(B) the return of the tax imposed by such Code on such person in which the information described in subparagraph (A) is required to be included, and

(2) except in the case of taxpayers whose taxable year is not a calendar year, the Secretary of the Treasury or his delegate should, under any program implemented

under paragraph (1), complete the matching of any information described in paragraph (1)(A) which is received for any calendar year within 10 months of the close of such calendar year.

SEC. 209. REPORT; AUTHORIZATION OF APPROPRIATIONS.

(a) SENSE OF SENATE WITH RESPECT TO REPORTING ON AVAILABILITY OF RESOURCES.—It is the sense of the Senate that not later than June 15, 1983, the Secretary of the Treasury or his delegate shall report to the Congress on the availability of resources to carry out any program implementing the amendments made by, or the provisions of, title II of this Act.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated such sums as may be necessary to carry out any program implementing the amendments made by, or the provisions of, title II of this Act and it is the sense of the Congress that such sums be appropriated.

SEC. 210. EFFECTIVE DATES.

(a) IN GENERAL.—Except as provided in this section, the amendments made by this title shall apply to taxable years beginning after December 31, 1982, and before the termination date.

(b) SPECIAL RULE FOR REPORTING PROVISIONS.—

(1) The amendments made by section 203 shall apply to payments made after June 30, 1983, and before the termination date.

(2) The amendments made by section 204 shall apply to returns for calendar years beginning after December 31, 1982, and before the termination date, except that the Secretary of the Treasury or his delegate may provide that such amendments shall not apply to any person for calendar year 1983 in any case where application of such amendments would cause undue hardship to such person.

(3) The amendments made by sections 205 and 206 shall apply to returns or statements the due date for which (without regard to extensions) is after December 31, 1982, and before the termination date.

(c) TERMINATION DATE DEFINED.—For purposes of this section, the term "termination date" means the date (if any) on which the amendments made by subtitle A of title III of the Tax Equity and Fiscal Responsibility Act of 1982 apply to interest, dividends, and patronage dividends under section 308 of such Act.

Mr. DOLE. Mr. President, I am happy to explain the amendment.

Mr. President, let me suggest to all Senators what we have done obviously is to shut off other amendments. The Senator from Louisiana is correct. The first motion to recommit, the first one sent up, provided notice of 40 days before backup withholding would start. That was changed to 42 days by Senator KASTEN, and I just changed it to 45 days.

Mr. President, a parliamentary inquiry.

As I understand it now, that motion is not subject to further amendment.

The PRESIDING OFFICER. It is not subject to further amendment.

Mr. DOLE. There are probably a lot of people who wish to repeal interest and dividend withholding. That was a clear indication this Senator had when he started counting up those who did not support repeal. I found after a number of counts, little notes I wrote to some of my colleagues and calling the White House and others for help that there were not too many rushing over to line up and volunteer for duty. We did have 28, 25, plus 3 who were probable supporters, 2 others who were leaning our way, plus several others who were just flat out not saying.

A number of Members did want to compromise. That is the one message the Senator from Kansas picked up in the Chamber and elsewhere. I think many felt that withholding was entirely proper but the Senator from Louisiana is correct. Members had received a great deal of mail, if you go in and talk to the Rotary Club and ask, "How many of you are for withholding?" I guess most people would say no, particularly if they already heard it was a new tax, particularly if they had not paid the taxes on interest and dividend income. Why start now?

Withholding was an imposition on people who had not been paying their taxes. Every Rotary Club or similar club has a banker or two in it, and they generally will be there first and they spread a lot of information, some of it accurate, some of it inaccurate.

But is seemed to this Senator, and I know the Senator from Louisiana has been in the same spot, that when you do not have the votes, you have to do something else. We had several choices. None of them were good. One was just to admit defeat and go ahead and vote on the amendment itself. The repealer probably would have been adopted, indeed probably by a good margin. Another was to offer 400 or 500 amendments and incur the wrath of nearly every Senator, delay the Senate a couple of weeks and hope you might make a deal in that period of time. The other was to go to the principal sponsors of the amendment and seek to work a compromise out. In this case the principal was the Senator from Wisconsin (Mr. KASTEN) although the Senator from Montana (Mr. MELCHER) and others played a very prominent role in an effort to delay or repeal withholding.

That was the course the Senator from Kansas chose. We could at least indicate that we did not give up all the revenues. And we satisfied the bankers, the credit unions, the S&L's who kept saying, "We do not want anyone to not pay his taxes; we just do not want withholding."

We believe we came up with a program that will satisfy a lot of people with backup withholding, with stiffer penalties. We have asked the IRS to indicate what additional personnel they will need to do a better job of matching and the other jobs we impose on the IRS. This Senator said earlier I know that not one single Senator wants people to avoid their taxes. There is no one who has indicated by his vote or his statement that he supports those who do not pay their taxes.

So we offered this compromise. It is done, I hope, in the proper spirit. It is not perfect. It is not what this Senator wants. I want withholding. If in fact we get a chance to vote on withholding, the Senator from Kansas is going to vote aye. If the President should veto any bill that goes to his desk later, I will vote to sustain the veto and help work to sustain the veto.

So I do not want to be misunderstood.

Faced with the fact that we did not have the votes to preserve withholding, it seemed to this Senator we should try to preserve as much compliance as we could and as much revenue as we could. We believe we have accomplished that.

I would hope that we would have a strong vote for the compromise.

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

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

Mr. DECONCINI. Mr. President, I say that the questions from the Senator from Louisiana are very much in mind. I have supported the repeal and opposed it when we put in the economic enhancement package the last Congress, and I regret that the compromise did not involve more of us, but I understand the rules of the game here. When you offer the amendment, you get to cave in or compromise or do whatever you want to do.

I am very disappointed that we are not going to first have an opportunity to vote to repeal up or down. That is what this body should be willing to face, including the Senator from Kansas, because I have heard many, many times Senator articulate the importance of let us just have a vote.

We are not going to get a vote up or down.

But differing from the Senator from Louisiana, I am going to vote for the compromise. It is better than nothing because it puts off withholding for a few years, but I think it is somewhat of a disgrace that we have gone through this exercise to win men and women of good will who would like to just have a vote. That is all we profess we want to do, that is, have a vote up or down, unless it is our particular problem, and then we find rationalizations and we come to a conclusion that we should compromise or put it off or do something else.

I believe the compromise is better than nothing. It is not much. I do not think it is going to go any place, and I think we have been playing games here for some time.

I thank the Senator.

Mr. DOLE. Mr. President, I wish to respond to the Senator from Arizona.

What we had in the repealer amendment was a complete revenue loss. It did not raise any revenue, and it did not bring about any compliance.

We had a lot of debate in this Chamber and a lot of support for the Melcher amendment on the social security bill which would have delayed withholding for 6 months.

This amendment delays withholding for 4 years. But it also goes after tax cheaters, and I think from the standpoint of being a compromise it does a couple of things that many Senators want, not this Senator, but others who want to delay withholding. It does that.

I guess everyone wants everyone to pay his taxes. We do not want people to cheat on their taxes and raise taxes on honest taxpayers.

So I do not think this amendment is a disgrace. I think the disgrace was all the mail that was flooded into our offices, but we could not help that, when the opponents orchestrate a multimillion dollar campaign. We did our best to withstand all that impact, but it was not possible. At least I did not believe that it was possible.

We have a compromise that would, in effect, bring about compliance from a lot of tax cheaters and also give that delay a lot of good, honest bankers, S&L managers, and credit union managers wanted.

We would rather have pure withholding—this Senator would—but I think we have made some progress. We have satisfied a lot of people in my State. I can say that the bankers are enthusiastic about this. The S&L's are enthusiastic about this. I am not certain they are enthusiastic about me, but they are enthusiastic about this. So it seems to me that I hope this is half a loaf. I cannot predict what the House will do. I do not try to tell the chairman of the House Ways and Means Committee how to run his committee and he has never told me how to run my committee. I have never tried to tell the Speaker how to run the House. They do have different rules in the House.

I frankly hope we end up with withholding. I am not going to hide behind my view but, at the same time, I think we presented a compromise that would satisfy the real concerns of a lot of people out there who are distressed about withholding because of misinformation that has been supplied in great quantities over the past several months.

If anyone has any questions I would be happy to respond.

I do want to put in the RECORD, in response to a question from the Senator from Wisconsin, how much mail was sent out by the different Government agencies and how many stuffers were printed to go into social security checks and tax refund checks; 25 million notices were sent out in April social security checks; 52 million notices had been sent out in refund checks since March 1; an additional 11 million notices will be sent out in refund checks by June; 3.5 million notices have been sent out by service centers on specific requests; 11 million notices will be sent out by computer-generated notice.

When asked what the Treasury thinks the total number of exemption certificates will be, the answer is "We do not have a reliable estimate at this time," which is a good Government response. They may have a more reliable estimate later on. But they probably sent out almost as much mail as we got from the credit unions and S&L's and banks. The only saving grace is that the Government did not ask everybody to send it in to their Senator or Member of Congress.

I ask unanimous consent to include in the RECORD a number of editorials which I think would underscore what I really believe is happening. There is a change of opinion going on in the country about withholding. Once the people had an opportunity to look at withholding, once they get away from the propaganda which has been circulating, many support withholding; 5 or 10 years from now someone may be looking through the RECORD, with nothing else to do, and might want to read these fine comments by Sylvia Porter and others who have indicated that much of the information about withholding has been false.

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

[From the Parsons (Kans.) Sun, Apr. 14, 1983]

COMMENTS BY SYLVIA PORTER

Friday the entire Senate will vote on repeal of a new law that mandates withholding 10 percent of the interest and/or dividends you receive from banks, corporations, other financial institutions. The repeal is tucked into an amendment attached to an export reciprocity trade bill sponsored by Sen. Bob Kasten, R.-Wis.

This repeal vote is a disgrace from start to finish.

And as of now, all that can be predicted is a nasty fight, an even more messy finish, with neither side giving up gracefully. The opposing sides are the most powerful in our nation. President Reagan, leaders of both houses of Congress and the 1982 Congress itself for withholding; the banks, savings and loans and other institutions with all their money to spend on lobbying and campaigning against withholding.

Not in memory have I seen a drive by the bankers and savings institutions of the United States based on such deliberate spreading of lies.

The financial institutions have tried—and with great success—to convince you that withholding is a new tax. False!

They have spent a fortune telling you that the Treasury is burdening you with extra paperwork and robbing you of money that is rightfully yours (particularly the poor among us). False!

The financial institutions are the ones who don't want the burden of withholding; they don't want to help uncover the tax cheaters so the honest taxpayer can pay less; they are so shamefully wrong in this instance that it makes me cringe.

But they may well win. Here are the facts:

Interest on savings and dividends is taxable income, and has long been subject to tax. (My accountant pays my tax automatically.)

Withholding in no way represents a new tax! Rather, it is a cost-effective way to get revenues lost from the estimated 19 million among us who fail to report interest or dividends on their tax returns and the 5 million who illegally don't file taxes at all.

That, in sum, was and is the purpose of this law, scheduled to be effective July 1, unless this misinformed Congress repeals it.

On the poor among us, the fact is, too, that accounts of small savers can be exempt (at the financial institution's option). If you have an interest-bearing account that earns less than $150, your account might not be touched, if your bank exercises this choice. Low-income people, plus moderate-income elderly are exempt. You need sign only a simple form available at your local institution. Once you sign, nothing will be withheld.

The financial institutions suggest that the IRS fails to match up the 1099 forms, sent by banks and others, with returns. But the problem is less failure to match the forms than to ensure that taxpayers actually pay. To follow up on that scale, the Treasury estimates it would cost $1 billion to $2 billion a year to recover $3 billion to $4 billion annually.

Some in the finance industry have estimated that start-up costs will approach $3 billion, but Treasury estimates put the one-time start-up costs at $600 million to $700 million—another yawning gap. What's more, the costs won't be borne fully by the institutions.

They get a deduction on their taxes and a 30-day float on the money withheld, the duration of which is determined according to the institution's size. The smaller institutions can keep the 30-day float for a longer term to compensate for start-up costs. And Treasury Secretary Donald Regan has pledged to adjust if any of the terms turn out to be a hardship for the institution.

Incidentally, estimates of what will be withheld on a $1,000 account range from 25 cents to 50 cents, depending on interest rates.

The law will improve tax compliance—good for all of us who are honest taxpayers. There are other provisions in the law to minimize loss of any of our interest earnings and to exert real pressure on the financial institutions to become more competitive.

I'm not known, I fear, for my devotion to President Reagan. But this one he deserves to win and win big. If he loses, I, an honest taxpayer, lose, too. The tax cheaters gain.

How could the bankers and savings institutions get into so disgraceful a campaign against us?

DON'T LET BANKERS LASSO THE TAX LAW

A herd of cattle is stampeding through the halls of Congress. With a mindless moo and a clatter of hooves, the men and women you elected are being driven by a gang of cowboys in pinstripes—America's bankers.

The banking lobby has ridden roughshod over members of Congress to persuade them

to repeal a new law requiring banks to withhold taxes on interest and dividend income.

It's a good law. It would force the 20 million tax cheaters who neglected to report this income to cough up nearly $23 billion over the next six years.

It's a fair law. Ordinary wage-earners have taxes withheld from their paychecks; so should people who make money from stocks, bonds and savings accounts.

When cheaters don't pay, honest taxpayers must foot the bill instead. So you'd think popular support for the withholding law would be strong—right?

Wrong. The banking gang made sure to corral public opinion before it rounded up public servants. First it scared people with phony slogans: "Warning: 10 percent of the money you earn in interest is going to disappear"; "the government will be picking the taxpayers' pockets"; it will "loot your savings account."

Then it obligingly supplied customers with 80 million printed post cards to express their new-found outrage. Every member of Congress was deluged with paper. By the time President Reagan and congressional leaders could mobilize a counterattack, repeal efforts had spread through Congress like a prairie fire.

How could the co-sponsors of the repeal legislation—52 senators and 320 representatives—have been so easily lassoed, hogtied and branded by the banking lobby?

Perhaps because so many feed at the bankers' trough. In the past two years, the 414 political action committees of the banking lobby gave $4.3 million. Nine out of every 10 congressmen shared the wealth; some got more than $40,000 apiece.

That money talks. If you want to run for office and need a loan to do it, who do you ask? Why, your friendly neighborhood banker, who naturally wants friendship in return.

Yesterday's maneuvering in the Senate showed that many in Congress lack enthusiasm for the bankers' cause, and would rather stand on two legs than four. The same is true in the House. Nevertheless, a compromise to delay it seems likely.

President Reagan should stick to his guns and veto any attempt to change the law. Even if it's high noon in Congress and the cattle are stampeding, it's the taxpayers who, thanks to the bankers, are about to get milked.

[From USA Today, Apr. 20, 1983]

BANKS OUGHT TO ASK HOW THEY CAN HELP

(By Donald C. Lubick)

BUFFALO, N.Y.—If you are evading tax by deliberately or forgetfully omitting interest or dividends from your income tax return, don't read further. We can't convince you that withholding won't worsen your situation. You're already doing in your taxpaying neighbors by not paying taxes you owe. Withholding will, as it has done for workers' wages, make sure that tax is paid on your income.

If you do report your interest or dividend income, read on. You'll be better off if withholding is instituted. Over the next five years withholding will add $23 billion to U.S. receipts that otherwise would have to come from new taxes. That may be half the true unreported income gap.

Why not raise the money we need from those who aren't paying their share now, before going after new taxes from complying taxpayers?

It's a shame that the point needs to be made—withholding is not a tax on anyone's savings account. But the bankers this year, as they did in 1962, 1976 and 1980, have cultivated the false impression among the uninformed and the elderly that withholding means a new tax on savings.

If you do believe people should pay taxes they owe on interest and dividends, but your income is so low that you don't owe tax, you're exempt from withholding altogether. You file an exemption certificate with your bank and remain exempt. You don't need to be a CPA to complete it.

If you are over 65, or your spouse is, you are exempt if your joint tax liability is $2,500 or less—that means income up to $24,000 for a joint return. Eighty percent of those over 65 are not subject to withholding.

No honest recipient of dividends or interest is hurt by withholding. If that's so, why have the banks placed post cards on their counters, provided stamps for protests and generated fear among their depositors, especially the elderly?

There will be a start-up cost, but the banks have exaggerated it; the Treasury has allowed the banks a "float" use of the withheld money for some time to offset costs.

We must conclude that the banks simply would rather let people get away with avoiding billions in taxes than take a chance that savers will not replace in their accounts the tax money withheld on the interest credited to their accounts.

The banks say, let the IRS collect all the taxes based on information returns. Do we want to add 20,000 to 40,000 employes to the IRS, going after $100 and $200 tax liabilities? That's absurd; it would cost as much as the money collected.

Let the freeloaders—the evaders and avoiders—do their share now. To the banks that are withholding a rather easy and small answer to John Kennedy's old question, we say—ask what you can do for your country.

[From the Washington Post, Apr. 15, 1983]

DAY OF RECKONING . . .

There is a nice—though not coincidental—symbolism in the fact that on this, our national day of tax reckoning, the Senate will return to the question of withholding taxes owed on interest and dividend payments. Last month, when opponents of the new law were holding jobs and Social Security legislation hostage to their repeal efforts, Senate leaders agreed to take up the repeal amendment with a trade measure scheduled for floor action today.

Opponents of withholding, led by Sen. Robert Kasten, like the timing because they claim that the general taxpayer—now presumably at peak irritation with the IRS—regards interest and dividend withholding as yet another unwarranted intrusion by the Treasury. In fact, for the vast majority of honest taxpayers, withholding of taxes owed on interest and dividends promises a great benefit—relief from part of the enormous burden of paying the taxes rightfully owed by tax evaders. That point was made with great force yesterday by an extraordinary array of consumer-minded groups brought together by Sens. Dole, Kennedy, Danforth, Metzenbaum and Durenberger. Included were labor unions, civil rights, retail trade, consumer advocacy, women's and senior citizens' organizations—the last being none too flattered by the bankers' allegations that withholding was too complicated for even the well-off elderly to cope with.

The point that these groups made was simple. Dispite all the hysteria stirred up by the bankers and savings institutions, withholding is at most a minor inconvenience. Most taxpayers will gladly endure it since it means that their own tax bills can be lighter by the $20 billion or more in unpaid taxes that the Treasury will be able to collect over the next five years. Withholding will allow the IRS to collect that money far more cheaply and unintrusively than would be the case if it were required to track down and litigate with each of the many taxpayers who now fail to pay taxes they owe on interest and divident receipts.

True the bankers will find themselves dealing with some angry customers. That's because many people have been led by the banks' own propaganda to believe that a new tax is being imposed. Sen. Kasten himself has contributed to this misunderstanding by mailing out a flier to his constitutents boldly labeled "How to Stop the New Tax on Your Savings." Withholding is not a new tax. It is simply a fair and efficient way to begin collecting some of the $90 billion or so in taxes that goes uncollected each year—the bill for which is ultimately footed by honest taxpayers. Much more needs to be done to get every citizen to pay his fair share of the tax burden. But if Congress balks at this important step, it is likely, as Sen. Dole remarked yesterday, that tax reform will be stopped "dead in its tracks for 20 years."

WARNING: 10 PERCENT OF LAST YEAR'S TAX ACT IS GOING TO DISAPPEAR

(By Jeremy Rosner and Karen Pollitz)

The financial industry's campaign to repeal withholding on interest and dividends, a provision in last year's tax act, makes it sound as if its customers are about to lose big. "Warning," shouts one of their newspaper ads, "10% of the money you earn in interest is going to disappear."

In a heated battle that pits them against the chairmen of the two congressional tax committees, Treasury Secretary Donald Regan, and President Reagan, the industry has launched an attack of unprecedented proportions on the new provision. It has mailed millions of "statement stuffers," commissioned studies, and splashed its ads around the nation's newspapers, all to convince banking customers that withholding is bad news and should be repealed.

But withholding is actually good tax policy, and will cost most taxpayers next to nothing. What savers should really be worrying about is that they stand to lose one of the best features of last year's tax act if the banks' million-dollar effort succeeds.

WHAT'S AT STAKE

The battle is over the provision in last year's tax act that requires financial institutions—banks, savings and loans, credit unions, and some stockbrokers—to withhold 10 percent of customers' interest and dividend income for taxes already owed, and pass it on directly to Uncle Sam. Already, these institutions are required to tell the IRS how much each customer earned in interest and dividends during the year. But until the new law passed, it was up to customers to make sure they paid what they owed in taxes.

But too many savers and investors don't pay. The IRS estimates that taxpayers fail to pay 11 to 15 percent of the taxes owed on interest and dividends. By comparison, noncompliance on wage income—already subject to withholding—is less than 1 percent.

That's why Senator Robert Dole (R-KS) and the Senate Finance Committee he chairs included the new provision in the 1982 tax act, which raised revenue primarily by cracking-down on the few who benefit from loopholes, tax cheating and underpayment, rather than by increasing tax rates for everybody.

BENEFITS OF WITHHOLDING

Congress approved withholding for some very good reasons:

Revenue.—With deficits pushing $200 billion, withholding will net a badly-needed $22.7 billion over the next six years, according to Treasury estimates. Withholding was the largest single revenue raiser in the 1982 act, and accounts for about 10 percent of the revenue the act is expected to yield in its first three years.

Fairness.—Not only does withholding help catch those who pay too little or no taxes on their interest and dividends, but it also improves fairness along the income scale, since it is wealthier taxpayers who receive a disproportionately high share of dividend and interest income.

Low-cost.—Contrary to the implications in the banks' ads, the cost to most of their customers will be trivial. Savers who were faithfully paying their taxes all along will lose only a few months of compounded interest. A saver with $2,000 in an account earning 9 percent interest, for example, will lose only about one dollar. Moreover, the new withholding law exempts all elderly with low or moderate incomes, and all taxpayers who earn less than $150 in interest or who pay little in taxes.

ONLY HALF THE STORY

In their highly-visible campaign to repeal the measure, however, the financial industry portrays itself as being chiefly concerned about the law's impact on the average saver. But in its dealings with Members of Congress, the banks have demonstrated that they're at least as concerned about how the provision will affect the industry itself. Let's take a close look at their key arguments:

Too costly to administer.—The banks claim that it will cost them upwards of $1.5 billion to set up the necessary computer systems and paperwork for withholding, and another $1.1 billion annually for operating expenses. Industry spokesmen claim that the financial burden will be especially heavy for smaller institutions.

While that's mostly true, it's only half the story. Congress anticipated these costs and decided to help defray the banks' extra expenses by allowing them a 30-day grace period, during which they may reinvest the money withheld from their customers—and keep the investment earnings—before turning the withheld tax money over to the Treasury. And while larger institutions may use this 30-day "Float" only during the first year of withholding, Congress is allowing medium and small institutions to use it for two and three years respectively.

One government analyst has privately estimated that the banks' start-up costs will actually be far less than industry estimates—closer to $500 million, with even smaller on-going costs. Finally, it is important to remember that all of the banks' administrative costs are fully deductible on their tax returns as a business expense.

Too difficult to administer.—Many banks are complaining that they can't possibly set up the necessary systems by the July 1 starting date, and others complain that the necessary paperwork will be an administrative nightmare. "It's just one huge, huge job," the Wall Street Journal quoted one bank executive as saying.

While it may be a big job, that's a strange complaint coming from an industry whose livelihood and reputation depends on handling billions of transactions, receipts and dollars accurately and reliably. Moreover, some of the administrative problems seem to stem from heel-dragging by banks who still hope for repeal.

The Journal reports that the Security Pacific National Bank of Los Angeles, which gave up hoping for repeal back in September, now has withholding for its savings accounts 95 percent in place. And while nobody enjoys playing the role of tax collector, most retailers and employers have successfully shouldered that responsibility for decades though sales taxes and withholding on wages.

Not necessary.—Banks also charge that the IRS already has all the tools it needs to improve compliance on interest and dividends.

True, financial institutions do file "1099" forms, which report almost all interest and dividend payments to both customers and the IRS. But it is far more difficult to improve compliance through information reporting than through withholding, says IRS Commissioner Roscoe Egger and other veteran tax collectors. Not only must the IRS match 1099s against taxpayers' 1040s, but then they must locate, contact, seek judgement against, and collect from all who paid too little. These costly, timeconsuming steps are especially impractical when the amount of underpayment is small, as is often the case.

Harmful to the economy.—Financial institutions also argue that withholding will drain capital and reduce savings at a time when the economy most needs new investment.

But withholding is not a new tax—it's just a new method for collecting existing taxes. Eighty percent of the revenue that the new provisions will raise is from taxes already owed the government. In addition, any new money transferred from the private sector to the government—mostly for speeded-up tax collection—will help to reduce deficits. It is deficits, argue many economists, that really hurt investment.

A MASSIVE CAMPAIGN

While there are plenty of compelling arguments favoring the withholding provision, they may rapidly become academic—thanks to the strength of the banks' well-orchestrated and rather shrill appeal to customers to oppose the measure. In their effort to turn depositors against the provision, five of the largest industry groups—the American Bankers Association, the U.S. League of Savings Institutions, the National Association of Mutual Savings Banks, the Savings and Loan Foundation, and the Credit Union National Association—have sold or given away more than 50 million statement stuffers and distributed some 5,000 media kits—complete with speeches targeted for elderly and unemployed audiences—to their member banks. All together, these associations and their members have spent more than $1.25 million to "educate" depositors, conversations with executives from the five groups reveal.

The banks' anti-withholding campaign has helped generate over 1,000,000 letters and postcards to Capitol Hill. Repeal legislation has been introduced in both chambers—by Robert Kasten in the Senate with more than 50 cosponsors, and by Norman D'Amours in the House with more than 320 co-sponsors.

Withholding supporters have mounted a political offensive of their own. Senator Dole has responded by re-examining the tax provisions that enable banks to pay among the lowest effective tax rates of all U.S. industries.

A recent Joint Committee on Taxation study revealed that the largest 20 commercial banks paid an effective tax rate of only 2.7 percent in 1980. At a Senate Finance Committee hearing on March 11, Dole implied that he might seek higher taxes for the industry if its repeal campaign continues.

TAX REFORM LESSON

Win or lose, the repeal effort offers an important lesson for tax reform. It shows that if good tax policy is hard to get, it is just as hard to keep. The financial industry successfully opposed withholding in 1962 and 1980.

The passage of withholding in 1982 did not end the industry's opposition. Like other powerful and entrenched special interests, the financial institutions have spent a good deal of effort—and in this case millions of dollars—to shape the nation's tax laws at the expense of the broader public good.

Tax reformers who want to close loopholes, restrict tax preferences, or boost compliance in other ways should take note and learn that passing the reform is only half the battle. The other half is convincing the public that the reform is justified, and keeping special interests from weakening or repealing it. In the case of withholding, that second half of the battle remains to be won.

[From the Washington Post, Sept. 20, 1982]

WITHHOLDING ON INTEREST AND DIVIDENDS AIMED AT TAX CHEATERS

(By Jane Bryant Quinn)

NEW YORK.—It will look like a tax, and feel like a tax and quack like a tax, but it's not a tax. That is, unless you've been cheating the government by not paying it.

I'm talking about the new 10 percent withholding on interest and dividend payments. Starting July 1, 1983, taxes must be withheld from these payments, just as they're now withheld from your paychecks. Only low-income people and most of the elderly will be exempt.

Behind this change in tax procedure lies a growing incidence of tax cheating. In a 1981 study, the Internal Revenue Service estimated that only 89 percent of interest income was being reported to the government and only 85 percent of dividends. The Treasury lost at least $7.7 billion on those two items alone.

By contrast, 99 percent of wages were reported, chiefly due to the compelling presence of tax withholding.

The tax publisher, Prentice-Hall, foresees three misunderstandings arising from the new system:

1. You might think that you're paying a new tax. You're not. You are simply prepaying a tax that you probably owe. If it turns out that you owe no tax, you can file for a refund.

2. You might think that your bank or corporation is suddenly paying you less. When you've been getting a $200 dividend check, and suddenly the amount drops to $180, the company seems to have cut the dividend. In fact, it's paying what it always did. The

company simply deducted $20 for taxes and sent it on to the federal government.

3. You might think that you're obliged to withhold taxes, if you borrowed money from another person and are paying interest on the loan. You're not. In most cases, only companies and financial institutions are charged with tax withholding.

As a general rule, the tax will be withheld at the time when the interest or dividend is paid to you or credited to your account. So there's no change in the timing of you payment, only in the net amount that you receive.

To simplify their lives, banking institutions will be allowed to defer tax withholding until that last day of the year on checking and savings accounts. But they have to keep enough money on the account to meet your 10 percent tax obligation. If you try to close the account, the institution must retain 10 percent of the interest paid, to send to Uncle Sam. If you write a check for the total sum in the account the check might bounce, because part of the balance might be pledged to the government.

No tax need be withheld, however, on interest or dividend payments that will equal no more than $150 for the year as a whole.

Tax withholding will reduce the amount of money building up in your savings account, although in most cases the loss will probably be small. Say, for example, that you're due a $200 interest payment, that you plan to leave it in the bank to compound. When the bank starts withholding 10 percent for taxes, only $180 will remain for interest compounding. So there's less to build on.

Not everyone has to undergo tax withholding.

You can be excluded if you owed less than $600 in federal taxes in the previous year (or $1,000, if you filed a joint return).

You can be excluded if you're 65 or over and owed no more than $1,500 in tax the previous year ($2,500 on a joint return). Only one member of a married couple has to meet the age requirement in order to avoid withholding. The Treasury estimates that this loophole exempts 86.7 percent of the people over 65.

But—and this is extremely important—these exemptions are not automatic. You have to file for the right to be excused from tax withholding. The procedure for getting an exemption has not yet been determined. You might have to request an exemption form yourself. Or every bank and S&L, insurance company, brokerage house, mutual fund and other payer might have to send you an exemption certificate before the 1983 deadline for you to fill out if you think you qualify.

It's important that you not throw out any mail from these payers, or from the IRS, or neglect any notices they send you. If you qualify for the exemption and don't fill out the form, you'll subject yourself to unnecessary tax withholding. If you don't owe any taxes, you'll have to file a tax return to get your 10 percent interest and dividend withholding back.

[From the Washington Times, Feb. 16, 1983]

NEW INTEREST BITE IS NOT A NEW TAX

(By William Doyle)

Q. I read that some members of Congress want to repeal the new 10 percent withholding tax on interest and dividends, scheduled to go into effect July 1. Do you think they will be successful? I hope so. I have a bank savings certificate, paying exactly 10 percent interest. If my bank has to withhold 10 percent, I won't get anything.

A. Yes, you will. The bank will be required to withhold 10 percent of your interest—not the whole thing. Let's say you have a $10,000 certificate. At 10 percent interest, that gives you $1,000 a year. The bank will withhold $100—10 percent of your $1,000 interest—each year and send it to the Internal Revenue Service.

The mailbag shows the planned withholding of federal income tax on interest and dividends to be greatly misunderstood. Many people evidently think this is a "new tax." It's not. The government's bite out of taxable interest and dividends won't change.

Withholding will simply deliver the taxes to the IRS faster. It will also help the revenooers catch people who haven't been reporting taxable interest and dividends, as they should have been doing all along.

Will Congress stop this withholding before it starts? That's anybody's guess. Some of our lawgivers are hot to trot on this subject, claiming withholding will destroy the advantages of compounding reinvested interest and dividends.

That argument gets knocked into a cocked hat by IRS regulations allowing the withholding tax to be paid from a source other than the account on which the interest or dividend is paid.

In our example above, you could instruct your bank to pay the $100 tax on your savings certificate interest out of your checking or savings account. Then, your $1,000 certificate interest would stay in the certificate, to earn more interest.

Q. When the 10 percent withholding tax on interest and dividends begins, will it apply to earnings on my individual retirement account? If so, it will greatly reduce the value of my IRA, from which I don't plan to start making withdrawals for a number of years.

A. Don't fret. There will be no tax withheld on interest or dividends building up in IRAs Keogh plans for the self-employed and other tax-deferred investments.

Withholding will come into play, when you start making withdrawals from your IRA. At that point, 10 percent of the money you take out of your IRA will be withheld as tax—unless your income is so low you are entitled to file an exemption certificate.

Q. My wife and I will need about 20 exemption certificates, so that no tax will be withheld from the interest on our bank accounts, savings certificates and bonds and the dividends on our stocks. Where can we get those certificates and where must we file them? We asked at our bank and they knew nothing about this.

A. Somebody at your bank must know. The Internal Revenue Service issued regulations covering this subject on Dec. 13. The IRS designed a standard exemption certificate Form W-6. Banks and other payers of interest and dividends are allowed to design their own W-6s.

If your banks and other places from which you receive interest and dividends don't provide you with W-6s, go to the nearest IRS office and get a handful.

If you're entitled to use them, you must file an exemption certificate with each bank, corporation, etc., paying you interest or dividends.

But, because you say you need "about 20," I somehow doubt you're entitled to file W-6s.

Those exemption certificates are supposed to be used only by people whose federal income tax for the previous year was no more than $600—$1,000 for a married couple filing a joint return. For people 65 or older, those numbers are $1,500—$2,500 on a joint return.

So, unless you received relatively small amounts of interest and dividends from each of those "about 20" sources, your 1982 income tax most likely was too high for you to file W-6s.

Q. I can't convince my brother that the high interest account he opened at his bank recently is not truly a money market mutual fund. He showed me bank literature, which calls his account a "money market fund" and is "FDIC insured." I still say it's not a money market mutual fund. Am I right?

A. Yes. It's clear your brother has a money market deposit account. Banks can give those accounts almost any names they please. But, those accounts are not money market mutual funds, which are investment companies.

Money market mutual funds are not insured. Money market deposit accounts are.

[From the Los Angeles Times, Mar. 7, 1983]

WITHHOLDING: THE BANKERS ARE WRONG

IT'S ONLY FAIR TO HOLD OUT TAXES ON INTEREST AND DIVIDENDS

(By Ernest Conine)

Last summer, Congress, in an admirable burst of responsible lawmaking, enacted legislation providing for automatic tax withholding on income from interest and dividend payments.

Now many members of the House and Senate have repented of their good work, and are supporting legislation to repeal it. To be specific, well over half of the House membership and 47 of the Senate's 100 members are listed as co-sponsors of repeal measures.

It's interesting to note that, according to data compiled by Congress Watch, a public-interest group, the political arms of major financial institutions have made sizable contributions to the vast majority of the congressmen who are supporting the repeal drive.

Backers of repeal say that this is just a coincidence, that their change of heart is really due to the logic of objections from the bank lobby and to the mountains of mail that they have received from worried constituents.

There is no doubt that the grass-roots public-relations campaign by the financial institutions has been impressively successful—which just goes to show that, to rephrase the old quote from Abraham Lincoln, you can't fool all of the people all of the time, but you can sure as shootin' fool enough of them to make the effort worthwhile.

The iron determination of the bank lobby to win repeal is a bit perplexing. Here is an industry that itself pays subnormal federal taxes, and that is currently in need of government help to get out from under loans to countries in the Third World that it shouldn't have made in the first place?

Maybe Chairman Robert Dole (R-Kan.) of the Senate Finance Committee went a bit far in threatening to review the banks' tax advantages if they persisted in their propaganda blitz. But his impatience is understandable.

The new law, it should be understood, is not a tax on savings but on income from savings. It doesn't require anybody to pay one cent more in federal income taxes than

they would owe anyway. All that it does is provide for extension of the system under which, for many years now, employers have withheld income taxes from their employees' paychecks.

Once the law takes effect later this year, banks, savings and loan associations, credit unions and dividend-paying corporations will be required to deduct 10% from interest and dividend payments to savers and investors and forward the money to the Internal Revenue Service.

What's wrong with that? Why should your paycheck be subject to withholding, but not the check to the fellow who gets significant quantities of income from interest and dividends?

It's true enough that, without the withholding system, the taxpayer could collect additional interest on his interest income while waiting to settle up with the IRS on April 15. Under the new system, the federal government gets the free use of our money. But of course the same is true of the money that is withheld from your weekly paycheck.

It's a matter of simple justice to treat both kinds of income the same.

But wait, you say, it isn't just the affluent investing class that will be affected. Many ordinary citizens, including widows and pensioners, also have savings. In many cases, they owe little or no federal income tax because their overall incomes are low. Why should they have to file for refunds to get back money that they never really owed in the first place?

Contrary to what a lot of people have been frightened into believing, the answer is that they don't.

No taxes will be deducted on accounts earning $150 a year or less. Exemptions also are available to persons certifying that their income was below $8,000 for an individual or $15,300 for a couple. In the case of people who are 65 or older, they qualify for exemption from withholding if their 1982 income was under $14,450 for individuals and $22,214 for couples.

The Treasury figures that, as a result, six of every 10 Americans who receive interest or dividend payments will be able to avoid the withholding provision entirely. For Americans over 65, about 85% will qualify for exemption.

So why the screams of pain from the banking lobby? Spokesmen for financial institutions protest that the law creates a lot of expensive new paperwork, perhaps as much as $1.5 billion worth a year. They also object that the new law will somehow act to discourage savings—this at a time when national policy is to encourage the creation of a larger savings pool from which job-creating business loans can be made.

Maybe experience will prove the bank lobby right. If so, the law can be changed. So far, though, the objections are not persuasive enough to justify the repeal of the withholding provision before it even goes into effect.

The Treasury is convinced that the administrative costs will be much lower than the financial institutions say, but in any event has softened the effect by easing the rules to allow once-a-year instead of quarterly withholding on new money-market accounts or regular savings and checking accounts.

And why should withholding discourage savings among honest people who pay their taxes? A skeptic is entitled to wonder if the real source of the financial institutions' unhappiness over withholding is precisely because they know that a lot of tax cheating has been going on, and they fear that the chiselers will now look for other places to put their money in order to continue evading payment of their fair share of the tax burden.

Such a concern, narrowly viewed, may be justified. But the solution is to uncover and root out the other forms of tax evasion, not to perpetuate the cheating that has been going on with income from interest and dividends.

The Internal Revenue Service estimates that the evasion of taxes due on dividend and interest payments cost the Treasury $8.2 billion last year. The withholding law won't solve the problem entirely, but it is expected to bring in about $4 billion a year in extra revenues despite the exemptions that are provided for elderly and low-income Americans.

Nobody enjoys paying taxes. But, to the degree that we know that other people are paying their share, too, the pain is tolerable. Any honest taxpayer who supports the bank lobby's campaigning for repeal of the withholding provision is working against his own interests.

[From the Washington Post, Apr. 5, 1983]

THE NEW WITHHOLDING LAW MAKES SENSE

(By Mortimer M. Caplin)

Recently my bank sent me an "Important Notice." It said that, because of the 1982 tax act, it would be withholding a 10 percent federal income tax from my interest and dividends—beginning July 1, 1983. On my next year's income tax return, I can claim this amount as an offsetting credit or refund.

The bank also was good enough to enclose a certificate—Form W-6—telling me how I could be exempt from this withholding for any of the listed reasons. All I have to do is check a box, give my name, address and account number, and return the certificate in the enclosed envelope. Of course, there are penalties if the certificate is false.

I see this as a helpful letter, and I want to thank my banker. Actually, all of my adult life I have been declaring and paying taxes on my dividends and interest. So does the overwhelming bulk of my fellow Americans.

But there is a minority who cheats on dividends and interest. This minority costs the government billions in lost revenue each year. And when they don't pay their taxes, someone else does—you and me (IRS Commissioner Egger puts this tax loss at $8.2 billion for 1981 alone.)

Regrettably misinformation is being circulated as part of a campaign to repeal the 1982 withholding law. It should first be absolutely clear that withholding is not another tax. Withholding merely changes the way the tax is collected—to ensure that all pay what they owe.

To avoid hardships for those not subject to tax, generous exemptions are given to senior citizens, lower income individuals and small savings accounts earning interest of $150 or less. The Treasury, in turn, is accommodating to almost every concern of banks and others.

The Treasury estimates that, with withholding, the yield on an individual account earning 9 percent is reduced by only 5/100ths of 1 percent—from 9 percent to 8.95 percent. For example, on a $1,000 deposit earning 9 percent interest, the loss of yield due to withholding is about 50 cents a year. Not a bad price to pay for recapturing billions of dollars of lost revenue. The government projects that, over five years, it will regain at least $20 billion of these losses.

Underreporting of dividends and interest is a highly visible part of the tax gap. President Kennedy deplored this in his 1961 tax message, stating: "This is patently unfair to those who must as a result bear a larger share of the tax burden. . . ." (His proposed withholding legislation was passed by the House in 1962, but defeated in the Senate later that year.) President Reagan struck the same note when writing recently to Sen. Dole.

In a mass, nationwide income tax operation such as ours, withholding is crucial. It is the backbone of our self-assessment system, amounting to over 75 percent of all that the IRS collected from individuals in 1982—$267.5 billion out of $353 billion gross individual income tax collections.

Tax withholding on dividends and interest was first introduced over 100 years ago—in 1862 during the Civil War. It applied first at a 3 percent rate and then at 5 percent to interest and dividends paid by banks, trust companies, railroads and various insurance companies.

Also subject to withholding then were salaries of government employees only. In a non-computer age it evidently was too difficult to extend withholding to the salaries of nongovernment employees. Withholding on dividends and interest was practical and workable, but withholding on salaries of nongovernmental employees was not!

In 1943, when "pay-as-you-go" taxation—the Ruml plan—became a permanent part of our tax law, withholding on wages and quarterly payments of estimated taxes helped to finance World War II and to provide a basic framework for our present system.

Information reporting is no substitute. It merely identifies potential discrepancies; withholding actually collects the taxes due. While the IRS continues to improve its matching program, the task is monumental and extremely costly. In 1981, the IRS received some 660 million information documents.

As a whole, the corporate community seems to accept the new rules with good grace. Instead of distributing 100 percent of dividends to shareholders, corporations will distribute only 90 percent after July 1, with the balance going to the government. They will incur additional computer and bookkeeping costs, but from a cash-flow and asset standpoint corporations distributing dividends will remain substantially unaffected.

Banks, however, do face a change. They will now have to remit periodically 10 percent of the interest added to customers accounts. In the past, most of this interest was credited to accounts but retained by the banks for use in making additional loans and investments. It is this practice that the 1982 legislation brings to an end.

Beginning July 1, as withholding payments are deposited with the Treasury, the funds available to banks will be reduced on a regular basis—which is one of the underlying reasons for the current outcry. Not the burden on the depositors, but rather the loss in deposit base, is the real issue for many.

To help banks offset their costs in starting up withholding, the Treasury's recent regulations make a number of important concessions. For one thing, banks have the absolute right to elect to withhold annually, rather than monthly or quarterly, on a variety of savings and NOW checking accounts.

Also, they may ask for a complete wavier up to six months if compliance with the new rules will cause them undue hardship. The Treasury recently issued guidelines on what is "undue hardship", and it is anticipated that relief will be granted on a very liberal basis.

Finally, the banks are being allowed to retain the withholding dollars for a much longer period than is allowed for wage withholding—roughly a 30-day "float", in contrast to about eight days for wage withholding. This will give them more time to use your withheld tax before having to turn it over to the government. Large banks will be given this 30-day grace period for one year, middle-sized, two years; and small, three.

Everyone surely wants economic recovery. To this end, collecting taxes owed but not paid is certainly better than piling new taxes on those who do pay. In adopting withholding in 1982, Congress made a major improvement in our tax collection system.

Americans must not be misled by a barrage of misinformation and misunderstanding inspired by some with a special axe to grind. The Senate will be showing its mettle if it stands fast this week and next against the intense lobbying for repeal of these much-needed withholding rules.

[From the New York Times, Apr. 7, 1983]

WITHHOLD INTEREST

(By Joseph A. Pechman)

WASHINGTON.—If Congress, under heavy lobbying pressure by banks and savings and loan institutions, repeals the law it enacted last year to withhold taxes from dividends and interest, honest taxpayers will foot the bill for unreported dividends and interest by paying higher taxes.

Needing revenues to reduce the soaring Federal deficits, Congress preferred to raise some of the revenues from people who under-report their income rather than to take back part of the 1981 tax rate cuts from those who already report honestly. Accordingly, Congress extended the withholding system beyond wages and salaries. The new law mandates the deduction, beginning July 1, of 10-percent from interest and dividend payments made by banks, corporations and other financial institutions.

Millions of depositors and shareholders fail to report about $25 billion—or about 10 percent of their interest and dividends—each year. The tax on the unreported interest and dividends would amount to $8 billion a year, about half of which would be recovered through withholding. By contrast, essentially 100 percent of the taxes on wages subject to withholding are collected because withholding compels honest reporting.

Every effort has been made to avoid placing undue burdens on savers and on financial institutions. Interest and dividends paid to the elderly in 1984 will be exempt for the 80 percent whose income is less than $14,000 ($24,000 for married couples) and who fill out a simple form requesting exemption. People who paid no tax in the preceding year or whose income is less than $8,000 ($13,000 if married) are also exempt. Financial institutions are not required to withhold taxes on payments of less than $150 a year and are allowed to defer withholding on savings accounts until the end of the year. In addition, withholding agents will be permitted to delay paying the withheld amounts to the Treasury to compensate for start-up costs.

Interest and dividends have by law always been subject to tax, so the withholding provision is not a new tax—except for the dishonest or negligent. To suggest that withholding on saving deposits is a new tax, as some of the financial industry's propaganda does, is deliberate distortion.

Like wage and salary workers, recipients of interest and dividends will have tax withheld and will receive credit for the withheld amounts when they settle up with the Internal Revenue Service. If overwithholding occurs, the taxpayer will receive a full refund a few weeks after filing a tax return. About 70 million taxpayers now receive refunds for overwithheld taxes on wages and salaries or overpayments on their estimated tax, and there are few complaints. Recipients of interest and dividends are already familiar with this system and can easily adjust quarterly payments to compensate for any newly withheld amounts or wait for a refund.

The amount to be withheld is merely 10 percent of interest and dividends, not a percentage of bank deposits or the value of securities. For example, suppose you have a bank deposit of $10,000 earning 10 percent a year. The interest is $1,000 and the tax withheld would be $100. The interest forgone on this $100 would amount to 10 cents a week at most. If taxpayers reduced their estimated tax, as they would be entitled to do, they would lose no interest at all.

Opponents of withholding keep repeating that it should be possible to enforce the tax on interest and dividends by matching the information return—form 1099—with the tax return. But there are billions of pieces of paper to be matched and even the most modern computers cannot do the job at reasonable cost. The simple fact is that the choice is between withholding and continued evasion.

It is alleged that interest and dividend withholding would discourage saving. Since honest taxpayers would find that they pay no more tax than they do now, only saving by those who fail to report interest and dividends would be reduced. Those who inadvertently fail to report are hardly likely to reduce their saving when they realize that withholding is not a new tax. For the rest, it is surely odd to argue for repeal of withholding on the ground that the best way to increase saving is by encouraging continued tax cheating.

President Reagan, leaders of both houses of Congress, the chairmen of the tax-writing committees and last year's Congress all concluded that withholding taxes on interest and dividends was needed to reduce the large deficits in the Federal budget in the fairest way possible for honest taxpayers. The banks and savings and loan associations are trying to intimidate the public and the new Congress by their campaign of misrepresentation. Let's hope that our Senators and Congressmen can see through the false arguments and vote right on withholding.

[From the Washington Post, Aug. 1, 1982]

WITHHOLDING WON'T HURT

One of the most controversial provisions of the Senate Finance Committee's tax bill would require withholding of taxes owed on interest and dividends. Why is there such resistance to this proposal? After all, every dime of hard-earned wages is subject to both income tax and payroll tax withholding. Unearned income is accorded other sorts of favored treatment by the tax system, so why shouldn't taxes owing on it at least be paid as promptly and fully as taxes on wages?

The polite case against withholding on interest and dividends is that—as Sen. Robert Kasten said on the opposite page Friday—it would "discourage savings and investment, penalize the elderly and create an administrative nightmare." Let's inspect each of those arguments.

The first misconception is that 10 percent withholding drains money from the country's pool of savings. This is false on two counts. One is that the Treasury is not collecting anything it isn't already owed. It's simply collecting it a little sooner. In any case, when the Treasury collects more money, this reduces the public debt—which is financed by private investors who buy government bonds—and this frees up more money for private investment. In the short run, it's a wash. In the long run, reducing the debt increases private savings, since the cost of paying interest on the public debt is lower.

As for the impact on individual savers, it is completely negligible—unless you weren't planning to pay the taxes you owe at all. The honest investor would lose only the tiny bit of interest that would have accrued on the amount withheld during the course of the year. To give you an idea of what that means: an investment of $1,000 at a 10 percent annual interest rate yields $100. Over the course of the year—not at the beginning of the year—the Treasury would collect $10 in withholding. The interest lost on that withholding would be about 50 cents. At the end of the year, if the taxpayer doesn't owe that much, he gets the $10 back. Otherwise it offsets the taxes he would have to pay anyway. Anyone who thinks that an effective reduction in yield of five one-hundreths of 1 percent is going to cause people to withdraw their savings and go on a spending spree is living in some strange world.

As for the elderly, the proposed rule would allow all old people except those with substantial taxable incomes (in which Social Security isn't counted) to apply for an exemption. Many probably wouldn't claim the exemption since they would prefer having the tax withheld gradually to paying a lump sum at the end of the year. But filing an exemption form would certainly not be an intolerable burden for either the elderly or their banks, brokers or savings institutions.

These institutions must already file information reports with the Treasury listing all interest and dividends paid to each investor. All that will have to be added is an indication of whether or not an exemption from withholding is claimed. Nor, in this age of electronic banking, is it credible to claim that financial institutions can't handle the task. Sure, there will be start-up costs and a certain amount of grumbling, but the nation managed to survive the much bigger job of implementing withholding on wages in the early 1940s, and in those days there weren't computers on hand to help out.

Since the polite case for opposing withholding doesn't hold much water, what can be the source of Congressional resistance? Can it be that those taxpayers who now conceal almost $50 billion a year in investment income from the Treasury have gotten organized as a lobby? Doesn't seem likely, but the idea is so eminently reasonable that the opposition is baffling.

BALONEY FROM THE BANKS

It has been 40 years since Uncle Sam started taking his piece of every pay check. Had fairness been the guide, that's how long income taxes would have been withheld from bank interest and stock dividends also.

However money is earned, it ought to be treated alike.

It takes more than fairness, unfortunately, to make Washington tick; in this case, it took the lengthening shadows of $200-billion budget deficits. The reforms that Congress passed last year, when fully effective, will mean some $4-billion a year in new revenue—nearly all of it representing taxes that are presently being evaded by people who "forget" their dividend and interest income when filing their 1040s.

But the treasury won't get that money if the banking industry has its way. The banks, the savings and loans and the credit unions are waging an all-out lobbying campaign, complete with full-page advertisements, to persuade the Congress to repeal interest and dividend withholding before it takes effect July 1. Their claims are largely so much baloney, starting with the assertion that the law in question was passed "quietly"—as if to say on the sly. In fact, it was one of the noisiest debates of the year, and the provision got through the Senate with only three votes to spare.

The bankers, it seems, are not good losers. Sympathy would come more readily for their valid points, such as the extra paperwork they face, if they were candid about their real stake in the issue. Corporations and pension plans are also newly subject to withholding, but few are protesting. Why the banks? The conspicuous difference is that corporations are accustomed to paying out dividends quarterly while the banks are accustomed to retaining and using the interest they credit to their depositors.

Savings deposits, money market funds, time deposits and other interest-bearing accounts pay household depositors some $220-billion a year, using the industry's own figures. Most of it is credited directly to those accounts, where it remains on deposit, enlarging the banks' own portfolios, raising their lending reserves and increasing their potential profits. At the uniform 10 percent quarterly withholding rate, that's an average of $11-billion a year less on the banks' books, with a corresponding increase in the government's accounts. Much of that, of course, eventually would be paid by depositors who are honest with the IRS regarding their interest income. But if wage-earners have no choice in the matter of withholding, why should anyone else?

The assumptions above don't take into account three facts that will reduce substantially the amounts withheld. The banks can choose to deduct annually, rather than quarterly, from such standard accounts as regular savings and interest-bearing checking deposits. They do not need to withhold in any case from accounts that pay less than $150 in interest. And there are liberal exemption provisions for depositors who are poor or elderly. Individuals can claim exemption from withholding if their prior year's tax liability was $600 or less or $1,500 for someone 65 or older. For couples who filed joint returns, the comparable tax thresholds are $1,000 and $2,500. According to the House Ways and Means Committee, 86 percent of America's elderly will be entitled to the exemption, which can be claimed annually by submitting a simple, easy-to-read form, known as the W-6, to the bank or savings institution that pays interest. And once filed, the form remains in effect until revoked by the taxpayer. Congress bent over backwards on that score.

The banking industry has enjoyed exceptional congressional generosity. According to the authoritative journal Tax Notes, banks are dead last among all industries in the average tax rate paid on domestic income. For all industries, it's 20.5 percent. But for banks, it's a negative 12.6 percent, thanks largely to liberal provisions for offshore accounts and bad debt reserves.

Some 86 members of the House—including Florida's William Chappell, Don Fuqua and Earl Hutto—have already fallen for the industry's disingenuous, self-serving arguments against interest withholding. Let the rest have better sense and a keener appreciation of fairness.

[From the Washington Post, Feb. 8, 1983]

A MESSAGE FROM THE BANKS

Chances are that the statement you received last month from your bank or savings institution brought with it a special message of concern. The flier suggests that you, the customer, may wish to write your elected representative expressing your opposition to the new requirement that, starting next July, financial institutions withhold part of the taxes owed on interest and dividends.

Perhaps you overlooked this message because it arrived in an envelope stuffed with other communications trumpeting the many new services that your bank can now provide. Thanks to modern electronics, banks will not be pleased to shift your money back and forth among different types of accounts, calculate your accrued interest or account balance at a moment's notice and meet your banking needs day and night through automated tellers.

You might think that all this automation would make it easy for financial institutions to give Uncle Sam a helping hand in collecting the taxes he is owed. After all, employers have long been performing the far more complicated job of withholding taxes on wages paid, and you don't hear either companies or workers complaining. But to hear the banks tell it, this new requirement will impose a crushing burden on their operations and will discourage needed investment.

Your suspicions about these claims will be increased when you realize that, to help cover the cost of introducing withholding, banks will be allowed to retain withheld taxes for 30 days. This amounts to an interest-free loan of billions of taxpayer dollars. As for the impact on savings, most honest investors won't be affected at all.

No withholding is required on accounts earning less than $150 in interest or on those held by elderly people without substantial taxable income. People with substantial investment income are already supposed to be filing quarterly tax returns so that the new system will simply pay part of their taxes for them. And if you hadn't been paying the taxes you owed on interest and dividends until the end of the year, gradual tax withholding will still reduce your effective annual interest yield by less than five one-hundredths of one percent.

This is not a new tax. It is simply a way for the Treasury to collect taxes more promptly and more completely. It will impose no intolerable inconvenience on either you or your bank, and it will help the economy by reducing the annual budget deficit by several billion dollars.

All of this being so, you may wonder what the bank or savings institution is really saying in its message. Could it be suggesting that the only reason you entrust it with your savings is that you think you can hide that interest you earn from the tax collector? We trust that isn't so. And we hope that if you write your elected representative it will be to say that you support this way of making sure that everyone pays his fair share of taxes.

[From the Baltimore Sun, Feb. 11, 1983]

ALARM OVER WITHHOLDING

A great alarm has been sounded over the law enacted last year requiring banks and other financial institutions to withhold taxes on interest and dividends owed to the government by their customers. The banks say it will be a nightmare to administer (mostly because of exemptions that protect old and poor people). They say their computers will have to be reprogrammed and that their employees will be forced to use expensive time explaining this whole business to savers. Some individual taxpayers complain that the law is unfair and it will cost them money to have their taxes withheld. Much of the alarm, we suspect, is exaggerated.

Those people who think it is wrong for banks to act as tax collectors need look no further than the millions of employers who withhold taxes for the government. Or, the gas stations that collect taxes on gasoline, or the retail stores that collect sales taxes. That's been going on for decades, and it has proved an efficient method of making sure the taxes are paid.

Some people are afraid they will be deprived of interest earnings by paying the government quarterly rather than at the end of the tax year. The Treasury Department has prepared a chart showing exactly how much a citizen might lose. If he has $10,000 in a savings account earning 12 percent interest on December 31, 1983, he would lose a little over $5 in compounded interest by the end of 1984. That's a loss of 50 cents on every thousand. Treasury Secretary Donald Regan says that 85 percent of the elderly will be exempt, and won't even lose the 50 cents. They just have to fill out a simple form.

The banking industry has a different complaint. It is true the banks must program their computers to withhold the 10 percent; they will also have to modify their computers to exempt certain people. But a computer firm in Pikesville says the software is available that will allow banks to perform this function with no great difficulty. That firm, DISC, Inc., is already selling the stuff, and it says banks could pay for it in a couple of months with the earnings they will make on a special provision included in last year's law. The provision allows them to hold on to the withheld taxes for 19 business days, and invest it to pay for their trouble. Employers can't do that.

The issue underlying this law is that of noncompliance with the tax laws. Having studied the question for a decade or more, the IRS says the problem is sufficient to require a change. It estimates that the government, over the next five years, will retrieve up to $20 billion that would be lost without this measure. And, the more the government retrieves in taxes (not new taxes but taxes already owed), the less it will turn to massive borrowing that crowds out important private investments in the national economy.

[From the Boston Globe, Feb. 14, 1983]

THE BANKERS' CRUSADE

America's "full service" banking institutions don't want to be tax collectors for Uncle Sam. They have mobilized their considerable lobbying clout in Washington to repeal a measure that would withhold 10

percent of interest and dividends paid to customers.

The banks have one persuasive point: nobody likes to pay taxes. Their propaganda juggernaut on Congress, fueled by hysteria and false claims, provides "full service" to demagoguery. More than 200 congressmen have been stampeded into calling for the repeal of the provision, passed last year as part of a $98 billion tax measure.

The banks have been astonishingly successful at depicting themselves as hapless, helpless and technologically ill-equipped to withhold 10 percent of investment income. They have told customers they will be "penalized" by the withholding provision and have asked depositors to lobby legislators with bank-provided postcards.

The tactics have been particularly effective among older bank customers, even though the current law specifically exempts most taxpayers over 65. According to the Treasury Department, 86.7 percent of the elderly population will be exempt. It is true that over-65 taxpayers must file for exemptions, but to suggest that they are unable or unwilling to do so demeans older Americans.

Another significant statistic is that the 2.7 million elderly taxpayers subject to withholding earn $48 billion in interest and dividends each year. Large depositors share with banks an antipathy toward giving Uncle Sam "a float" each quarter. Salaried workers provide the government such a "float" each week through withholding.

The tactics have worked. In the Massachusetts delegation, for instance, Reps. Barney Frank, Edward Markey, Nicholas Mavroules, Joe Moakley and Gerry Studds have all enlisted in the bankers' crusade against the Treasury. The five have cosponsored the repeal legislation filed by Rep. Norman D'Amours of New Hampshire.

Congress passed the measure last year, convinced that the $16.5 billion in revenues withholding will generate in the next five years was important for closing future deficits. The legislation addressed the fact that many people don't report such income and the Internal Revenue Service doesn't pursue each case.

Since 1942, most companies have been ordered by law to withhold Uncle Sam's portion of workers' salaries. The companies don't like it. The workers don't like it. Nobody likes taxes.

The banks, starting a blizzard of postcards, want special treatment. Members of Congress should not be intimidated. They should tell banks and other investment institutions that they, too, have a duty to Uncle Sam.

THE BANKS DISCREDIT THEMSELVES

The nation's banks have generated a nasty political confrontation by attacking the plan to withhold some taxes from dividend and interest payments. Even if they win the battle they have damaged themselves and confidence in government.

The American Bankers Association has whipped up fear and anger among small depositors and investors, in a campaign all too reminiscent of the campaign against measures to re-balance the Social Security system last year. Local bankers, commonly the most trusted figures in any community, have implied that Government is going to steal money to which it has no right. The facts are otherwise: the withholding would collect taxes that are being illegally evaded.

The A.B.A.'s distortions have inspired an angry, anguished protest from depositors. This in turn has provoked a counterattack, some phases of which may be equally unfair and damaging.

President Reagan, well within his rights, has abandoned his customary reticence and vowed to veto any bill that blocks the withholding. He fortified the threat by again hitting the banks for charging excessive interest rates.

The Senate Finance Committee's chairman, Bob Dole, reacted with his own bucket of mud. He arranged for a quick study and public hearing to publicize the low rate of income taxes paid by banks. He tarnished the effort to expand the International Monetary Fund by implying that it was merely a favor to overextended banks justifying a further increase in their taxes. Other legislator proposed stiffer bank regulation. Whatever the merits of these critiques, they hardly gain credibility when raised in such bitter fashion.

Reporters looking for the source of the banks' apparent strength in Congress have focused, naturally enough, on the $3 million in political contributions by banks and other financial institutions to most members of Congress over the last two years. And a staff report is being readied by the Senate's Permanent Subcommittee on Investigations to highlight the financial risks that banks are running with their offshore activities in regulation havens like Panama and the Cayman Islands.

Win or lose the battle over withholding, the banks are unlikely to escape unscathed. The proper regulation and taxing of them ought to be discussed in a calmer atmosphere, but they will have only themselves to blame that they are not. And if the banks should win, all taxpayers will lose. If those who owe taxes on investments cannot be made to pay the more than $3 billion they're evading each year, all others will have to pay more in their stead.

[From the Sun, Thursday, Mar. 17, 1983]

HOLDING THE JOBLESS HOSTAGE

Senator Robert Kasten could hardly have chosen a worse vehicle for his amendment to free bankers from the chore of collecting taxes. He could hardly have given the public a less attractive picture of the bankers, and he could hardly have created an atmosphere more likely to produce close scrutiny of the relatively low taxes now paid by banks.

Mr. Kasten (R, Wis.) has become the banking industry's Senate point man in the effort to repeal a new law requiring banks and other institutions to withhold 10 percent of the taxes due on interest and dividend payments. But he is winning few points with the White House or with Senate Republican leaders. Mr. Kasten attached his repeal amendment to an administration-backed bill to help the unemployed. President Reagan has threatened to veto it, and the fight on the Senate floor has delayed passage of the jobs bill and jeopardized the continued payment of benefits in 27 states. What a fine picture that makes! Unemployment benefits held hostage by a measure to benefit bankers.

Even before the issue hit the Senate floor, Finance Committee Chairman Robert Dole, author of the withholding provision, began to talk about the low taxes banks now pay. It is clear he will look more closely if the repeal effort succeeds. The bankers, and their numerous congressional allies, may be buying more trouble than this effort is worth. They have pitted themselves against a pro-business president, whose coattails probably helped Mr. Kasten get elected in 1980, and against a powerful committee chairman with a revenue-raising job to do—and important turf to protect.

Of course, Mr. Kasten does not present this as a bankers' issue, although banks have launched an expensive lobbying campaign against withholding. Mr. Kasten says he is concerned for savers. But the Treasury Department has calculated that there would be virtually no loss of compound interest or, at worst, it would be negligible. Federal Reserve Chairman Paul Volcker also says he doesn't think the measure will affect the savings rate. So, the issue really does seem to be the banks and their unhappiness over the tax collection job they must perform if they don't get the law repealed before July 1.

Mr. Kasten has a chance of winning in the Senate eventually, but his repeal measure may never get out of the House. If it does, Mr. Reagan won't sign it. So supporters of repeal are going to a lot of trouble for what may be a hollow victory. They also are creating the impression of wealthy bankers willing to throw their weight and money around regardless of who gets hurt.

THE BANKERS' CURIOUS STRATEGY

The banking industry has been going out of its way to give substance to every left-wing caricature of bankers put in print since the days of William Jennings Bryan. Here is old moneybags jingling his way through the halls of Congress, not giving a hoot for the jobless or homeless, but simply intent upon preserving his God-given right to do business in the way he sees fit.

The banks' latest gambit—holding urgently needed money for unemployment benefits and emergency relief hostage to the repeal of withholding on interest and dividends—earned them a well-deserved rebuke from President Reagan. Noting that the banks' campaign has greatly distorted the withholding issue, the president suggested that "the banking industry would do a lot better to think about lowering interest rates."

We can think of other more substantial matters for the banks to pursue as well. The banks do not have a large stake in the withholding measure, but they have a very large stake in the expansion of International Monetary Fund quotas. This measure has been in trouble because it has been widely—but incorrectly—perceived as a bail-out for the banks. If the banks really want to do some useful lobbying, this should be their target.

What can be motivating this misdirected campaign? If you press the bankers on the subject, you'll get a lot of grossly inflated estimates of overhead costs. How can it be that the banks—which can provide 24-hour automated teller service, give you an instant reading on, or switch money between, any of your several accounts, and provide a daily statement of transactions arrayed in several dimensions—can't deduct 10 percent from your accumulated interest when they send the IRS the already-required notice of that interest? If it's so hard, why aren't the brokers complaining?

It is true that the banks have sown terror and confusion in the minds of many of their depositors. But that's their own fault, and they had best set about trying to reeducate their customers to the fact that withholding will impose no new tax or serious inconvenience on anyone.

About the only useful thing that has come out of this debate is the drawing of attention to the fact that the banks hardly pay any taxes at all. That piece of information

will surely be useful to the people who make tax policy, but you may wonder whether the banks' stockholders feel that their interests have been well served by its prominent disclosure.

Nor can those stockholders be pleased that the banks have now managed to unite against themselves a coalition of right and left prominently led by President Reagan and Finance Committee Chairman Bob Dole. Is there no one one in the industry with enough wit to see what the banks are doing to themselves?

[From the Christian Science Monitor, Mar. 16, 1983]

A TAX REFORM WORTH KEEPING

If there was ever any doubt about the political clout of the American banking community, it should be quickly put to rest by the remarkable political drama now taking place in Washington. In mounting a massive public campaign against the measure enacted by Congress last year requiring 10 percent withholding on interest and dividends beginning July 1, the industry has delayed enactment of a much-needed jobs bill, risked higher federal deficits, and directly challenged the authority of a conservative President who under most circumstances would be a logical ally of financial institutions.

The withholding provision was passed into law last year as part of the $100 billion tax reform measure designed to reduce future budget deficits.

Withholding was but a small part of that package. But it was seen as fair and useful because it addressed the issue of tax cheating: by targeting individuals who underreport interest and dividend income. The US Treasury contends that in 1981 alone the government lost $8.2 billion in taxes that should have been collected on dividends and interest but was not collected because the income was never reported. By requiring financial institutions to withhold automatically 10 percent on such income, it was felt, much greater compliance would be enforced.

Proponents of repeal argue that the withholding measure would injure millions of individuals, discourage savings and investment, and create added costs for banks. But are such claims valid? Withholding is hardly a novel concept. The government has been withholding tax dollars on wages and salaries since World War II.

Further, thanks to a wide-ranging number of exemptions, most people who have special need for the interest or dividend income would be exempt from withholding. To mention just a few exemptions: persons over 65 years of age; persons whose interest is less than $150; persons whose prior year's tax bill was less than $600. Claiming an exemption is also easy. A person would merely file a W-6 form once for each institution—filling in name, address, social security number, and account number.

In regard to operating costs for the financial institutions, the Treasury has said that it would allow such institutions the option of withholding taxes on money market accounts and "super" NOW accounts only once a year, rather than monthly or quarterly. That option already applies to passbook savings accounts and interest-bearing checking accounts. Banks, it might be recalled, already file 1099 forms on persons earning interest payments.

Only time will tell whether the withholding measure creates more problems than it is intended to solve. But since its objective is to help bring about greater compliance with the tax code, and to reduce deficits, lawmakers would do well to go ahead with the plan as scheduled. If withholding proves too unwieldy or wasteful, it can be revoked at a later time.

[From the Washington Post, Thursday, Mar. 17, 1983]

THE BANKS WIN THE WRONG ONE

The bankers' lobby scored a significant victory—judged by whatever peculiar standards guide its own calculation of self-interest—by delaying further progress on the emergency relief and jobs bill. It hopes to get the Senate to tack on an amendment repealing tax withholding on interest and dividends. The president has said he will veto the bill if the amendment is included, and this might cause unemployment benefits to be cut off temporarily in 27 states.

The plight of the unemployed may not be of major concern to the bankers. But you might have expected that many of the Democrats who helped to derail the jobs measure would have given swift passage of job relief clear priority over the dubious claims of the bankers. The Democrats will assure you that their action had nothing to do with trying to embarrass the president by making him veto a jobs bill. No, they, like the Republicans who joined them, are simply responding to the outpouring of "grass-roots" concern over the withholding rule.

The senators, it seems, are pretty naive. They are apparently unable to distinguish between a thoughtful letter of concern written by a constituent with full understanding of the facts and the barrage of form letters preprinted (and frequently mailed) by the banks. Perhaps they have neglected to study the type of misinformation that the banks used to get their customers to sign the forms. "Congress wants a piece of your savings," reads one representative sample.

They should ask themselves what sort of reaction they would have gotten if the banks had sent out a more accurate notice. One, perhaps, that assured the customer—truthfully—that no new tax was involved, only an effort to help the government collect its taxes efficiently. The notice might also have observed that, in most cases, the banks already had all the necessary information from the forms they now file with the IRS, and that withholding would save billions of dollars for the government and, hence, for the honest taxpayer.

Other fair points should have been that depositors with relatively large accounts would suffer no loss of interest because they must already file taxes quarterly, and that for small depositors the compound interest loss from withholding—if any—would be much smaller than the banks' typical service charge. Finally, the banks might have assured the elderly and people with low incomes that they would be glad to help them fill out the simple exemption forms.

Unfortunately, the banks sent out quite a different kind of letter. Rather than helping the government and the public by preparing for withholding, they invested their time and money in trying to prevent it from happening. If the president is forced to veto the jobs bill—or any other important measure—over the withholding issue, it is not he but the banks and their Senate supporters who will, deservedly, bear the blame.

Mr. DOLE. But I would also suggest that we have a pretty good compromise and I do not want to get off the positive here, but we do delay until 1987 withholding on interest and dividends, we do have backup withholding; we do require that the institution send out the form 1099 in first-class mail; we do ask the IRS to do a better job of matching. We recognize we are going to require supplemental appropriations for the IRS, and they are to submit a report by June 15 on a necessary supplemental. There will be stricter pay or penalties and those are outlined, and there is a fraud penalty of $1,000, civil fraud penalty applying to individuals who willfully attempt to evade or avoid income tax on interest or dividends or patronage dividends. I ask unanimous consent that a brief description of the compromise prepared by the staff of the Finance Committee be made a part of the RECORD. Mr. President, I am prepared to yield the floor.

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

PROPOSAL TO DELAY WITHHOLDING DURING TEST PERIOD FOR ALTERNATIVE COMPLIANCE MEASURES

1. Delay Until 1987. Mandatory withholding on interest, dividends, and patronage dividends will commence on July 1, 1987 if 1985 compliance rate for individuals is certified by GAO as being less than 95 percent, and Congress approves resolution agreeing with GAO findings. If GAO report is not approved by April 1, 1987, GAO will continue to study 1985 compliance data and submit second report one year later. If Congress approves the second report by April 1, 1988, mandatory withholding will commence on July 1, 1988.

2. Back-up Withholding. Present law back-up withholding will be expanded to apply to interest, dividends, and patronage dividends at a 20 percent rate and to include the following cases: unlawful failure to file prior year return or unlawful prior year underreporting of interest, dividend, or patronage dividend income by a at least $50.

IRS will provide notice and opportunity to correct or clear up, prior to commencement of back-up withholding. Back-up withholding will stop when taxpayer corrects, or in hardship cases where IRS determines taxpayer misconduct is not likely to be repeated. Treasury may require payors to validate taxpayer identification numbers against an IRS list to insure that the numbers are correct, and to notify payors of cases where back-up withholding is required.

3. Return Format. Copies of 1099 information reports will be required to be delivered to the taxpayer by first class mail in official form and attached by the taxpayer to his tax return. Magnetic tape filing will be required, with one-year waiver authority for hardship.

4. IRS Matching. The IRS will be required to implement a faster program for matching interest information returns with tax returns in order to have current information for the back-up withholding system.

5. IRS Supplemental Appropriations. Treasury will submit a report by June 15, 1983, on necessary supplemental appropriations to accelerate the matching program, set up a taxpayer identification number validation procedure, implement back-up withholding, and enforce payor penalties.

6. Stricter Payor Penalties:

a. A negligence penalty (the greater of $50 or 5 percent of the amount required to be reported) will apply to payors who do not provide a correct taxpayer identification number. The penalty will not be imposed if the reported taxpayer identification number is the same as that provided to payor by account holder in sworn statement. Increased penalties (the greater of $100 or 10 percent of the amount required to be reported) will apply in cases of gross negligence.

b. A no-fault penalty (the greater of $100 or 7.5 percent of the amount required to be reported) will apply to payors who do not file an information return, with penalties doubled in cases where the payor fails to file a large number or percentage of information returns.

c. A minimum penalty ($100) will apply to payors who do not impose back-up withholding when required.

7. Fraud Penalty. A $1,000 civil fraud penalty will apply to individuals who willingfully attempt to evade or avoid income tax on interest, dividends, or patronage dividends.

SEVERAL SENATORS addressed the Chair.

Mr. DANFORTH. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. DANFORTH. Mr. President, does the motion to recommit violate section 311 of Public Law 93-344 of the Congressional Budget Act because it breaches the established revenue floor.

Mr. BAKER. Mr. President, before the Chair rules——

Mr. DANFORTH. I have not asked for a ruling, I have made an inquiry.

The PRESIDING OFFICER. The majority leader.

Mr. BAKER. Mr. President, has the Senator asked for a ruling of the Chair?

The PRESIDING OFFICER. It is just a parliamentary inquiry.

Mr. BAKER. I do not now seek recognition.

The PRESIDING OFFICER. It does.

Mr. DANFORTH. Mr. President, if I were to raise the point of order, subsequent to raising the point of order and before the Chair rules, would it be in order for another Senator to move to waive the application of the Budget Act?

The PRESIDING OFFICER. It would.

Mr. DANFORTH. Would that motion be debatable?

The PRESIDING OFFICER. It would.

Mr. DANFORTH. Mr. President, it is my understanding that such a motion would be made and I would intend to debate that motion and then ask for the yeas and nays on that motion.

At this point I raise the point of order that the motion to recommit violates section 311 of Public Law 93-344 of the Congressional Budget Act because it breaches the established revenue floor.

Mr. BAKER. Mr. President, the Senator from Missouri indicated to me that he intended to make this point. Indeed I have indicated to him that I will make the motion I am about to make. I have also advised the minority leader of this situation so I hope no Senator is taken by surprise.

Indeed I believe the Chair is correct in response to the parliamentary inquiry that absent a waiver this would violate the provisions of the Budget Act but the Budget Act makes a provision for the Senate's dealing with these matters notwithstanding. Mr. President, I believe this is such an occasion and in order to effectuate what is the clear will and desire of this Senate I now move to waive any provision of titles III and IV of Public Law 93-344 with regard to all the pending motions and amendments.

Mr. DANFORTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. DANFORTH. Mr. President, before the Chair puts that motion to the Senate I would like to speak relative to the motion—not for long, but simply to present to the Senate my views of the seriousness of what has been going on for the last 2 days in the Senate. Indeed, I believe, Mr. President, that these have been 2 black days for the Senate.

First of all, let me say that, unlike the Senator from Louisiana, I would view the so-called compromise as being pretty close to a total victory for the Senator from Wisconsin, and I compliment the Senator from Wisconsin on his victory. He has fought this battle very long and very hard, and he has prevailed against tremendous opposition. He has prevailed against opposition of the White House and the opposition of the leadership of the Senate. He has prevailed to the point of even winning by a substantial margin on defeating a motion to adjourn yesterday which traditionally, I think, would be viewed as simply a leadership prerogative. He prevailed. He won. This is a major victory for the Senator from Wisconsin and it is a major victory for the American Bankers Association and it is a major victory for other organizations which were mobilized very effectively for the repeal of withholding on interest and dividends.

During the past number of weeks while this issue has raged on the floor of the Senate, it has been clear that there has been a great amount of animosity and bitterness that has been directed back and forth from one group to another. I have felt very strongly on this issue, as I am about to explain, but I do want to assure the Senate and anyone else who cares to know that I bear no animosity whatever toward the American Bankers Association or individual banks or individual bankers. My hope is that once we dispose of this issue we can put it behind us and let any talk of retaliation, any talk of vindictiveness, be forgotten. We are going to have to work together for the health of this country, and if we decide that this has to be the time to take it out on the banks, either in tax legislation or anything else, I would hope we would recognize that many of our banks are in trouble right now. For the good of the country, we must make it possible for them to survive.

Furthermore, Senator KASTEN and the banks and everyone else who has participated in this great effort have simply exercised their right and ability to speak out. It is no crime in this country to lobby the Congress or to run ads in newspapers—even if those ads are not as accurate or as fair as some of us would hope they would have been. So I would hope we could put the animosity and the bitterness behind us and move on to other things once we resolve this issue.

Mr. President, I would like to talk about what I really think is a big issue and the big issue is related to whether or not we waive the budget. The big issue is whether or not we and the Congress of the United States have the will to fight the battle of the budget.

I had an interesting experience in the city of St. Louis maybe a month ago. I was driving along in the car listening to the radio and some representatives of the savings and loan industry were on the radio in a call-in program. They spent maybe 20 minutes talking about withholding and presenting their views of why withholding was a terrible thing and why they were for repeal of withholding.

Then a question came in that had to do with the future of the economy and the future of interest rates and the future of inflation. The same people who were talking about repealing withholding then went on to say, "Well, the answer to that question, the answer to the question about the future of the economy is whether or not the Congress of the United States has the will to fight the battle of the budget."

I thought to myself: what a ridiculous irony this is, to spend 20 minutes attacking withholding on interest and individuals and dividends and then to talk about the will of the Congress and whether or not we have the will to fight the battle of the budget.

Mr. President, the answer to the question of whether we have the will to fight the battle of the budget is being answered. It is about to be answered. And the answer that we are giving in a resounding fashion from the floor of the Senate is, "No, we do not have the will. No, we do not have the will to fight the battle of the budget. When push comes to shove, we will not do it. We cannot do it."

And that is what this issue is all about. Why do we have withholding? Why was it passed into law? Why was it included in the Tax Act which we passed last year? Because any of us like it? Because any of us are enthusiastic about it? No. Nobody really likes withholding or wants withholding, but we had a job to do last year. We had a job to do in response to a budget resolution which was passed by the Congress in order to reduce the size of the deficit. Part of reducing the deficit was a requirement that the Finance Committee and the Ways and Means Committee had to come up with $98 billion of revenue savings.

We reasoned in the Finance Committee that instead of raising taxes we preferred to go the route of better compliance. And the heart of that was withholding. The biggest single item in last year's tax bill was withholding on interest and dividends. Withholding was part of the budget process. It was part of the major reduction in the size of the deficit which we agreed to just last summer. And now we are shooting a hole in it. Yes, the hole is smaller with the proposed modification to the Kasten amendment than it would have been with the original Kasten amendment, but the principle is still there.

We are losing, over a 5-year period of time, $5.2 billion of revenue. And who are we losing it to, Mr. President? We are losing it to people who cheat on their taxes—$5.2 billion over a 5-year period of time to tax cheats.

Mr. President, the reason we are losing it is that an enormously effective campaign has been waged by the banks, an enormously effective campaign of writing letters and ginning up public opposition to withholding with newspaper ads. And it was very, very successful.

What we are seeing in the Senate of the United States and what we will see in the House is when a letter writing campaign is ginned up, when a newspaper ad campaign is ginned up, Members of the Congress of the United States crumble like cookies. And that is what we are doing. We are crumbling like cookies. We are saying, "We just cannot face that pressure. We just cannot deal with that pressure. We have received too much mail on the subject."

Now, what we do when we put together budget resolutions is to package a lot of unpopular specific measures. We put together in a package each of the items that we know are probably going to be unpopular and lose in and of themselves, but we put them together because a larger job has to be done.

What we are seeing now is that if interest groups target each component part of an unpopular package, they can destroy the package. And that is exactly what is happening right now.

This is a model, Mr. President, this is a model of how other interest groups can handle the Congress of the United States effectively. If we do it in this case—and we are going to do it in this case, give in to the banks—then who is next? Waiters and waitresses? That is unpopular. Waitresses in Springfield, Mo., have already presented my office with petitions to do away with reporting of tips. That is a very unpopular thing. All right, should we take that on now? Send in the mail. Get your customers to present coupons. When you present them with their bill, present them with a little coupon to send in. That would be a tremendous campaign with thousands of pieces of correspondence coming in.

Mr. DECONCINI. Will the Senator from Missouri yield?

Mr. DANFORTH. Not yet.

(Mr. CHAFEE assumed the chair.)

Mr. DANFORTH. Mr. President, another way of characterizing the issue before us is, what is our threshold of pain? What is the threshold of pain of the people of the United States in dealing with the problem of the budget? I submit that the best measure of that threshold of pain is the repeal of withholding on interest and dividends. And when we repeal it, or virtually repeal it in the modified Kasten amendment, the effect of that is to demonstrate that our threshold of pain as a people for dealing with the problem of the budget is very, very low indeed.

We say that the American people are up in arms because they would suffer pain from withholding. The average person, we say, would be hurt by withholding on interest and dividends. How so? How much? the compounding effect on interest. It was said they would lose the compounding effect on interest. That was in the original form of the bill. That has been changed. Now there is virtually no effect on compounding of interest.

But even in the hey day of withholding on interest and dividends, here was the argument as I understand it. If you have a hypothetical case of $10,000 deposited at 10-percent interest, that produces a thousand dollars of income. Ten percent withholding of the thousand dollars is $100, if it would occur over the whole period of the year. But it does not. It occurs spread over the year. So that might equal $50 of withholding, paying 10-percent interest, 5 bucks before taxes; after taxes, maybe $3 of lost income.

And people, said, "Isn't that terrible? What a sacrifice—$3. How could we expect people to do that? It is not fair."

Then we said, "Why, it is a terrible paperwork burden to thrust that on the American people." Paperwork burden—the W-6 form. A half a page long: name, address, social security number, bank account number, and date. Paperwork burden. And on the compounding issue, we even fixed that—year-end withholding.

Mr. President, if the people of the United States are not willing to file a half a page form because their country is in trouble, what are they willing to do? If they are not willing to part with a few pennies because their country is in trouble, what are they willing to do? I remember that great famous statement of President Kennedy at his inauguration about asking what you can do for your country. By golly, if anybody asks you to do anything at all, the response is, "Oh, that is an inconvenience; oh, that is too much pain. I want mine and I want it now." And that is the kind of pressure we have been feeling.

The level of pain is zero. The will to fight the battle of the budget is zero. Let us face up to reality right now.

Mr. President, what we have in this country is a Congress of the United States listening too attentively to the voice of the public.

Somebody once told me that in the first Nixon administration, there were two priorities. The first priority was to win reelection and the second priority was not to let anything stand in the way of the first priority. [Laughter.]

Can that not be said about the Congress of the United States?

This is government by applause meter—every issue and every subissue being applauded or booed. How do we save our skins?

Mr. President, I just ask the question, Is that what we want of America? Is that what we want of our politicians? Is that what we want of the Congress of the United States? That kind of timidity, that kind of hypersensitivity? The horror of doing anything unpopular, the horror of inflicting any pain at all? Is that what we want? Because if it is, let us just resign ourselves to the fact that we are facing a $200 billion deficit this year and next year and on and on and on. If we cannot solve this problem, how are we going to take on medicare, for example?

We think we are great statesmen. Social security? Oh, how hard that was! It sure was. This is one Senator who almost lost an election because he said, "We have a problem in social security." People did not want to hear that. For 6 months we put off the COLA adjustment. Great statesmen?

Mr. President, in a few weeks, that talk show in St. Louis will be heard again and it will be heard throughout the country. You will hear it from those in our financial institutions. I want to say again I bear them no ill-will. There is not a trace of vindictiveness in me, there truly is not. But what do you think those in the financial community who have fought withholding on interest and dividends will

say when asked, "Why are interest rates high?" They will say, "Interest rates depend on the will of Congress." All I can say to those people is, "Please spare us the sermons."

Mr. President, we will have high interest rates because we will have the deficits. We will have big deficits because we lack the will to do otherwise.

Mr. President, I ask for the yeas and nays on the motion to waive the Budget Act.

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

The yeas and nays were ordered.

Mr. DECONCINI. Mr. President, I want to compliment the Senator from Missouri for bringing out something that I think is appropriate in this debate and, as we have seen, in many issues that are brought before this body.

I probably will not vote to waive the Budget Act, but I am afraid it may not be for the same reason. I think that a little history is important here. Why are we under the pressure we are under to repeal this? Why are we going to be under the pressure we may be under, as the Senator from Missouri points out, to change the withholding on the tips of waitresses and waiters and other things that were passed in the last Congress?

I look at it a little differently. I think that what has happened is that the Economic Recovery Act that this Senator happened to vote for in the first year of this administration has not proven to be very successful.

If we look at President Carter's last year, I think the deficit was somewhere in the neighborhood of $60 billion, which was intolerable, we were told, and this Senator agreed.

Then we came along with this new approach, the Kemp-Roth approach, and that is going to save us all and we are going to have lower deficits. We are going to have a balanced budget by 1983. Remember? Then it slipped to 1984.

This Senator said, "Sure, give the new President and the administration the opportunity to see if this program works."

We adopted it but it has not worked. Some of us have tried hard to meet that threshold the Senator from Missouri talked about and we voted for not going through with that total tax program, particularly in the third year.

It seems to me that some have come forward and said, "Maybe it is time," as the Senator from Missouri has said, "to pay the pain and the suffering." It is always difficult to vote to take away a tax cut that is already part of the law.

But that is where the mistake is, not this effort, because this body and this type of government is always going to be subject to those pressures. We all know that, and I do not think it is quite so bad. It always depends on which side of the pressure you are on. But you have to have a stomach for this job, there is no question about that. What really is too bad is that we do not have the stomach to admit when an economic program is not working and make modifications to attempt to make it work.

That is what I wish we could still do before we really endorse and put our arms around the next 10 years of deficits over $100 billion a year, and that is what this Senator believes is in the future for this country if we do not do something about this economic program we are faced with today.

Mr. MELCHER addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. MELCHER. Mr. President, the questions raised by the Senator from Missouri was a very thoughtful presentation to the Senate.

Concerning high interest rates and the booming deficits is very pertinent and there is no reason why it should not be addressed in terms of this proposal of repealing the withholding tax on dividends and interest. But it ought to be done in a logical way.

If we are going to talk about the deficit of $200 billion for the current fiscal year and perhaps $200 billion if we do not take some decisive action in Congress, perhaps $200 billion for the next fiscal year, it is certainly a staggering sum, but what we are talking about. Apparently, from the last suggestions or estimates of the Treasury Department is about $1 billion in this fiscal year of lost revenue and about $1.8 billion in lost revenue for each of the succeeding 5 fiscal years.

That is a big enough amount. I am not saying those are small amounts. They are pretty large amounts.

But I think what we ought to recognize is, first of all, that the estimate of the Treasury Department when they gave their estimate for OMB and the President's budget had that figure at about $27 billion over the next 5 fiscal years. Then they revised it again and have revised it again. The last revision of their estimate that I have seen was as of April 12, and they said, instead of about $27 billion, because of changes in the procedures of collection and because of the proposal in the Senate for the repeal being different than they had anticipated, it would be $10 billion. It is down from $27 billion to $10 billion for the 5 fiscal years.

Really, more than that, it is for the remainder of this fiscal year and then for the next 5 fiscal years.

That is a rather dramatic shift. What we should know first of all is that probably their figure of $10 billion is not accurate anyway.

Their first estimate was not accurate, the second one was not accurate and, probably, this one is not accurate.

Why? Because in the law that passed as part of the 1982 tax act, in the glow of thinking, we are going to raise that $90 billion of additional revenue that we set as our goal, we got some inflated figures from the Treasury Department of what revenue would actually be raised.

In this particular instance, raising additional revenue for the Treasury by this provision of withholding the taxes due on interest and dividends has never really taken into consideration what individual taxpayers will do; 75 percent of the taxpayers that are on withholding from their wages and salaries, as all of us are, overpay. That information comes from the Department of the Treasury; 75 percent pay more than is due. So they file to get it back.

What is an individual taxpayer, who is already on withholding from salary or wages, going to do with this provision in effect, if it were in effect on July 1? They should readjust the tax that is being withheld. Why would that not happen? I guess the Treasury would contemplate that people are happy to have more withheld than is due and so they would just have another chunk withheld. The Treasury would get that collected early and then, presumably, people will file to get it back.

I think also Treasury knows that would happen: That some of the money that is withheld, even though it should not really be withheld and the taxpayer does not owe it, would not be filed for. Maybe our children would not fill out the form to exempt them, or their savings accounts, from being taxed, or taxes withheld on it. Since it was a small amount, probably they would not file to get it back. Well, we pick up some revenue we would not have gotten otherwise.

We have had presented as the argument for this in the Senate during the past several weeks, for the withholding of taxes on savings and interest, that we are going to catch the cheaters. There are a lot of them, Treasury tells us. So, if we withhold 10 percent from somebody who is cheating, the chances are—they have a psychological term for it that does not ring a bell with me, but they use it. The chances are, they say, that that will cause a cheater then to fill out his tax return honestly.

I am all for the Treasury Department conceiving ways, psychologically, of catching cheaters. I would not hold my breath until I see that that really happens, because I think somebody who is deliberately cheating will have the 10 percent withheld on the savings and dividends and then will cheat on the rest of it, if that is their intention. So it does not really ring true with me that this is likely to bring in additional revenue that would not otherwise have been received.

It causes me and, I suspect, every one of us to think, well, why not use the 1099 forms, which are, after all, the forms required by IRS for the filing by the savings institutions—the banks or the savings and loans or the credit unions. This form shows how much interest was paid to an individual taxpayer. Why not use those, check those and then, checking those against the tax returns, see who did not pay any taxes?

Look at them, those who did not file a return—look at them in particular, because they have a social security number and we can look them up.

Then, second, if they did file a tax return but are not paying their full obligation in taxes, see whether they paid those on interest and dividends. That thought has occurred to every one of us, I am sure. I think it has occurred to all the taxpayers, too.

I think that thought has occurred to all the taxpayers who are paying their legitimate taxes and now they are informed, through these notices they get from their savings institutions or from the IRS itself, that there are going to be taxes withheld on their savings account. They think, oh, my gosh, another procedure that we shall have to follow and another method of collecting taxes.

What they are saying to us in their letters is that they object to it because they do not believe that it is going to catch anybody. They believe that mechanism is already there in the 1099 form and that the Internal Revenue Service has that available to them and why not use them to collect those who are not paying their just taxes?

What is going to happen with this bill that we are working on today? It is going to go to the House of Representatives after it is passed here. Then it is going to be referred to the House Ways and Means Committee. The bill has already been declared by members of the House Ways and Means Committee as being a bill that they have grave doubts about the content of and need of. I am speaking of the reciprocity bill. After all, that is what we are passing. So they are wondering whether they should be taking up this bill.

The chairman of the House Ways and Means Committee has stated to the chairman of the Senate Finance Committee and to others that, indeed, he will hold hearings on the bill. That is on the reciprocity bill. He has also stated that he does not particularly like the bill. Others on the House Ways and Means Committee are wondering what the Senate is doing in this trade reciprocity bill and why the Senate is even originating it and sending it over to the House.

On the withholding tax provision of this amendment, what is going to happen to that in the House? There have been no hearings on it in the House. The chairman of the House Ways and Means Committee will hold hearings if he cares to. He has not cared to so far. He may not want to hold hearings. What does that mean to us, then? Of the various hearings held on this question of withholding, I think it is fair to say that the chairman of the House Ways and Means Committee and the entire membership will say, let us hold a hearing on a bill that originates in the House. That is the usual procedure, the one the Constitution calls for. So what action we take here on this bill and on this amendment may have little consequence in the long run as far as the House is concerned.

Certainly, it will be an expression of what the Senate thinks. It will be an expression of what the Senate thinks not only on trade reciprocity but on withholding. So it is worth something. It does not allow us to have the firm belief that definitive action by the House will be taken by July 1.

There is another procedure that the House can follow. The House, of course, can discharge the proposal from the committee. Such a discharge petition has been started and has a number of signatures on it. If a majority of the House of Representatives will sign that discharge petition, then a time would be set for House consideration of possible repeal or delay the withholding tax on dividends and interest prior to July 1.

But a discharge petition in the House is not often successful. It takes a lot of action, a lot of interest, and a lot of determination by those who sign the discharge petition because the House attempts to maintain the committee system and let the committee that has jurisdiction over the matter make the determination as to when a bill concerning that matter will be coming to the House floor.

I think that it behooves us to consider this very seriously. It is a serious matter in my judgment and one that warrants us acting in such a way in the Senate that we gain acceptance in the House for consideration of the matter. Perhaps this vehicle will do it. I hope that it will, but there is no assurance that it will. If it does not gain that consideration in the House, I think that I for one, and I would hope a majority of the Senate, would want to do what we could to make sure that the House did consider it. Of course, the procedure to do that would be attaching such a provision as this amendment to a bill that the House had already passed and it would go to conference.

That will probably happen before July 1. If it is on no other bill, it is likely that we will have a bill before us passed by the House to raise the national debt, and, if so, such an amendment as this perhaps will be offered in the Senate. I would want to do so. I would want to see that action taken and a decision made by the Senate if there had been no action and no passage of this provision in the House, so that the withholding provision involved in this amendment could be delayed prior to July 1.

Now, do I think there is grave reason for doing this? I think what the taxpayers are saying in asking us to repeal this method of collecting taxes is that the method is bad—not that they do not want the additional taxes collected. Of course, they want those collected, but they think this method is bad. And so they write to us. They have spotted this particular provision in that 1982 tax act as being one that is not worth it.

How do they make that conclusion? I repeat. They, first of all, think of the 1099 forms that they receive listing the amounts of dividends or interest they get, they think of how they fill out their tax form, and they realize that just cross-checking the 1099's with the tax returns will identify the cheaters. And so I believe it is fair to interpret what their letters are saying to us is, "Be reasonable, use some common sense, collect the additional revenue but do not go at it through a method that creates more havoc and, yes, more paperwork, than is justified."

I think it does a disservice to the rights of taxpayers of this country, to the citizens of this country to just in a very casual way say:

> Well, they are writing to us because the banks or the savings and loans or the credit unions have stirred them up with mislabeling or misrepresenting what this provision is about.

I think that does a disservice to the good judgment and right of citizens to petition their Government, particularly Congress, on a matter they feel strongly about. I ask all Senators who believe sincerely that this provision should not be repealed or delayed to spare us a continuation of dragging out this myth that this is all motivated by banks or other savings institutions.

I think it is a putdown to the citizens who write us. I think it ignores the fact that by and large the American people have the commonsense to recognize a bad piece of tax legislation. They have the commonsense to recognize that the method is not straightforward; that the method does not really get at the point of catching cheaters; that the method is sort of ignoring what is already available in information through the 1099's, and that logically there is a better way of collecting tax revenue on savings and interest than is provided for here.

The citizens who write to us as taxpayers recognize that there is paperwork cost to themselves. I know the Senator from Missouri, whom I greatly admire, gave a very eloquent presen-

tation, part of which touched upon this matter:

Well, after all, if this is a method of stopping cheaters and getting people to pay their just taxes, it is not asking the individual taxpayer to fill out another form or be exempt if they could be exempt.

Not too many can be exempt but there are a number of taxpayers, a percentage of taxpayers who fill out a form that will be exempt from this provision. And the Senator from Missouri also pointed out:

Well, if this is a method of catching cheaters, it is not too much to ask the taxpayers to also take into account that they may have to readjust their own taxes that are withheld or to file after the year is over to get the portion of their money that was withheld in a refund.

I do not doubt at all the sincerity of the Senator from Missouri in presenting that argument, but let me point out that individual taxpayers and individual citizens relate it to themselves directly and then think, Well, yes, I can do that but what does it accomplish?

That is where this thing falls apart. What does this method accomplish in catching the cheaters? They go back to the 1099 form again and say, Well, all that information is available. They should zero in on that. They, meaning the Internal Revenue Service, should zero in on that. And then, after cross-checking, go after those who have not paid enough and, as a matter of fact, go after those who have not paid anything except the little bit that is withheld if this law went into effect. This law does not need to go into effect to go after them in the first place because they can take that 1099 form and then compare it based on the social security number of that person and see whether they actually filed any income tax form, any 1099 form and reported their income for the preceding year.

So what they are saying to themselves, first of all, these taxpayers and citizens, is:

Well, is this going to do any good? If so, how much paperwork and how much bother is it going to cost us as individual taxpayers, ordinary taxpayers, who pay all our taxes? And just what good is it?

The second point they think of is that there is a paperwork cost to the Treasury. It comes in two ways. First of all, the taxpayers, 36 million or 40 million, I am told, received a slip with a social security check or a payment from the Government within the past 30 days that is a sort of list of what this tax would do when it goes into effect on July 1, or they read one of the brochures handed out by the thousands by the Treasury Department, describing the merits—or the demerits, I should say, the shortcomings—of this provision. They know that is a cost.

Then they think about all the taxpayers who may have to file for a refund. They add that into the costs to the Treasury, and the taxpayers know they pay that cost, too. We do not have that figure from the Treasury Department. We have not been able to get it from the Treasury Department, but it will be available sometime during the next several weeks, and we will find that it is a substantial cost. The taxpayers already have spotted that. They do not know how much, but they know it is there, and it is an item the taxpayers will have to pay.

Then we get to another cost: The taxpayers, the savers who have their savings accounts in banks or savings and loan institutions or credit unions, are well aware that any additional cost in paper that is paid by those savings institutions is going to be paid by the savers. So they get back to a third cost that this particular provision will cost them.

Meanwhile, they get back to the original point: Why not just go after the cheaters? Save all this paperwork and spend what all this paperwork is costing on zeroing in on the cheaters, using the 1099 form.

Finally, these savers, these taxpayers, these citizens who write to us, also understand that there will be some savings because the amount that is withheld for taxes and paid out by the savings institutions will not be drawing interest.

I know a lot of people say that is a small amount. When it is somebody else's money, it really does not do for any of us to say to them, "It is a small amount." They rather resent that. That has been said over and over in the discussion of this issue, emanating from the Treasury Department and from those who believe we should retain the provision in the law.

What we have before us, Mr. President, is the motion to waive the relevant sections of the Budget Act. That motion is absolutely essential for this amendment to be considered by the Senate.

Senators will recall that during the debate on the amendment I offered to the social security amendments dealing with this subject, the motion for a budget waiver was a key vote on the amendment itself. My amendment would simply have delayed until January 1 the implementation of this withholding provision.

We had sought from the Treasury how much that would cost, and we were told at that time it would be somewhere around $1.1 billion for this fiscal year.

So I made the motion to waive the Budget Act provisions so that my amendment would be in order. The vote on it, the decision of the Senate, was not to waive the Budget Act provisions, and the amendment fell on that technicality. But I am not decrying that method used by the leadership in getting to a method of disposing of my amendment. It was in order. The vote that occurred on that motion was, in effect, the decision of the Senate at that time not to consider the proposal further.

I accepted that, and I urge now that we face foursquare this budget waiver and vote for it on this amendment. I think it is proper that the Senate questions the cost involved here, and by debating this motion, we draw attention at that cost.

As the Senator from Missouri eloquently said just a few moments ago, it is a question that should be considered along with the rest of the revenue we raise for the Treasury and the money we expend from that Treasury.

I repeat: While the Treasury tells us that there would be a revenue loss of $1.1 billion for this fiscal year, their estimate probably is overexaggerated. Maybe that is a double positive—overexaggerated. I have no faith in their estimate of this particular provision, because they do not believe they can take into consideration adequately what individual taxpayers are going to do in adjusting the amount of withholding tax on their individual salaries and wages; because if they feel this is coming on, they will make that adjustment. Seventy-five percent of the taxpayers are overwithheld on their wages and salaries and have to file at the end of the year for a refund. In making their adjustments, if this provision goes into effect, they may decide that they have been overwithheld quite a bit and may make their adjustments downward quite a bit.

So I do not think this is any real revenue gain, and I doubt that if it were to go into effect, much would be gained for the Treasury.

In the long weeks we have attempted to resolve the issue of withholding, we have had a lot of consideration and a lot of debate. It is my intention, if it is in order, to amend this motion so that in the event of the lack of a budget waiver on the next bill to which we might have to attach such an amendment, we will not be denied the opportunity for debate, on the technical question of whether there is a budget waiver for the amendment.

That seems to me not only fair, not only good commonsense but also very meritorious in conserving the time and the efforts in the floor debate here in this Senate.

If it is proper to waive the budget provisions on this amendment for this bill, it seems to me that it is proper and meritorious to waive it on any subsequent bill we may have to attach this type of amendment to and not have to go through this type of debate and possible parliamentary maneuver.

Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. MELCHER. Is an amendment to the motion in order?

The PRESIDING OFFICER. It is. The Senator's motion to amend is in order.

AMENDMENT NO. 1181

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

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Montana (Mr. MELCHER) proposes an amendment numbered 1181.

At the end of the motion add: Further under section 904(b) I move to waive the relevant sections contained in titles 3 or 4 of the Budget Act for this amendment on this bill or any other bill considered by the Senate in this session of Congress.

Mr. MELCHER. Mr. President, there are all sorts of ways to take up time in the Senate, and there are all sorts of ways to go through an exercise in futility.

On my amendment which would only have delayed implementation of withholding provisions until January 1, the device was used to get at the amendment in such a way that it would seem like we were not voting on the issue. We were voting on the issue because when you use a technique such as this to defeat an amendment you are truly voting on the issue, but sometimes it does not seem so bad to those who would like to vote one way and then have a technicality be raised against the amendment by the leadership and they feel free to vote to uphold the leadership or to uphold the Chair or some technicality that seems to say you really were not voting on the true issue.

Nevertheless, these motions are debatable and rather than go through this procedure again, if it is necessary to add to some other bill this type of amendment, I would hope we could resolve it right now and clear the path and let the Senate work its will, let individual Senators vote on the issue that confronts them at the time.

I offer the amendment to this motion for a budget waiver in good faith and an honest effort to make the judgment of the Senate on the issue come through loud and clear and without further debate on whether another amendment of this nature which may become necessary on a subsequent bill will indeed have a budget waiver and not be subject to an adverse ruling by the Chair or by a motion that is made to waive it be voted down.

It is the same amount of money, whether it is on this bill or some other bill. It is the same issue whether it is on this bill or some other bill. It is the same July 1 and only one July 1 of this year that we are talking about, and if we are going to work our will in the majority votes here on the Senate floor and on the House floor, it is necessary that action be taken on this matter prior to July 1.

I hope that the leadership on the other side of the aisle will find merit in my amendment to the motion.

Mr. DOLE. Mr. President, as I understand the amendment it says in effect that "* * * section contained in titles 3 and 4 of this Budget Act for this amendment on this bill or any other bill considered by the Senate in this Congress." A parliamentary inquiry?

The PRESIDING OFFICER. The Senator will state it.

Mr. DOLE. Mr. President, as I understand, it would be this identical amendment. Is that correct?

The PRESIDING OFFICER. That is the way the motion is written.

Mr. DOLE. So we could change something in the amendment and then this would have no application.

So, I do not have any quarrel with this. It might be something we want to debate 2 or 3 days if it is a matter of great moment. We could certainly understand. We have not notified the chairman of the Budget Committee and I know they have some concerns. We are ready to proceed. We know a number of Senators have pressing engagements this evening. We do not want to delay this too long this evening.

I first indicate that as is customary, the Senator from Missouri (Mr. DANFORTH) hit the nail on the head. He addressed this problem in the broad sense as so many of us have failed to do over the past few weeks. If we cannot stand the pressure of this special interest group, whatever the group may be, what will be the next issue on which the Senate will stand firm. I must say it was a most effective speech.

It indicates the determination and commitment the Senator from Montana has and will continue to have as we try to approach some of the serious budget problems.

Mr. President, I know of no further requests on this side for time. Have the yeas and nays been ordered?

The PRESIDING OFFICER. They have not been ordered on the amendment of the Senator from Montana.

Mr. MELCHER. I ask for the yeas and nays.

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

The yeas and nays were ordered.

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

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

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment of the Senator from Montana.

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. STEVENS. I announce that the Senator from Alabama (Mr. DENTON) and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

Mr. CRANSTON. I announce that the Senator from Colorado (Mr. HART) is necessarily absent.

The PRESIDING OFFICER (Mr. COHEN). Are there any other Senators in the Chamber who have not voted who wish to vote?

The result was announced—yeas 60, nays 37, as follows:

[Rollcall Vote No. 59 Leg.]

YEAS—60

Abdnor	Grassley	Metzenbaum
Andrews	Hatch	Murkowski
Armstrong	Hatfield	Nickles
Baker	Hawkins	Packwood
Boschwitz	Hecht	Percy
Chafee	Heinz	Pressler
Cochran	Helms	Quayle
Cohen	Huddleston	Roth
Cranston	Humphrey	Rudman
D'Amato	Jepsen	Simpson
Danforth	Kassebaum	Specter
Dodd	Kasten	Stafford
Dole	Kennedy	Stevens
Domenici	Lautenberg	Symms
Durenberger	Laxalt	Thurmond
Eagleton	Levin	Tower
East	Lugar	Trible
Garn	Mathias	Wallop
Goldwater	Mattingly	Warner
Gorton	McClure	Wilson

NAYS—37

Baucus	Ford	Nunn
Bentsen	Glenn	Pell
Biden	Heflin	Proxmire
Bingaman	Hollings	Pryor
Boren	Inouye	Randolph
Bradley	Jackson	Riegle
Bumpers	Johnston	Sarbanes
Burdick	Leahy	Sasser
Byrd	Long	Stennis
Chiles	Matsunaga	Tsongas
DeConcini	Melcher	Zorinsky
Dixon	Mitchell	
Exon	Moynihan	

NOT VOTING—3

Denton	Hart	Weicker

So the motion to lay on the table Mr. MELCHER's amendment was agreed to.

Mr. BAKER. Mr. President, could we have order in the Senate?

The PRESIDING OFFICER. Let us have order in the Senate.

Mr. RANDOLPH. Mr. President, we could not even hear the report of the vote.

The PRESIDING OFFICER. The majority leader has called for order. Those standing in the aisles please take your seats. Will former Senators please take their seats? [Laughter.]

The majority leader is recognized.

Mr. BAKER. Mr. President, the state of affairs now is—I believe the pending question before the Senate is the motion to waive titles III and IV

of the Budget Act, made by me. The yeas and nays have been ordered on that motion. I wonder if Senators would be agreeable to vitiating the order for the yeas and nays and voting on the motion by voice vote. Then, because of other commitments that Senators have, it would be my intention to ask the Senate to go over until tomorrow.

Mr. LONG. Mr. President, reserving the right to object, this Senator wants to get out as much as anybody does, but I wonder why we cannot just have a rollcall vote.

Mr. BAKER. It would be quicker to do that than to argue about it.

Mr. President, I have nothing further. I ask the Chair to put the question.

VOTE ON MOTION TO WAIVE TITLES III AND IV OF THE BUDGET ACT

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Tennessee. The year 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 Alabama (Mr. DENTON) and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

Mr. CRANSTON. I announce that the Senator from Colorado (Mr. HART) is necessarily absent.

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

The result was announced—yeas 94, nays 3, as follows:

[Rollcall Vote No. 60 Leg.]

YEAS—94

Abdnor	Gorton	Murkowski
Andrews	Grassley	Nickles
Armstrong	Hatch	Nunn
Baker	Hatfield	Packwood
Baucus	Hawkins	Pell
Bentsen	Hecht	Percy
Biden	Heflin	Pressler
Bingaman	Heinz	Proxmire
Boren	Helms	Pryor
Boschwitz	Hollings	Quayle
Bradley	Huddleston	Randolph
Bumpers	Humphrey	Riegle
Burdick	Inouye	Roth
Byrd	Jackson	Rudman
Chafee	Jepsen	Sarbanes
Chiles	Johnston	Sasser
Cochran	Kassebaum	Simpson
Cohen	Kasten	Specter
D'Amato	Kennedy	Stafford
DeConcini	Laxalt	Stennis
Dixon	Leahy	Stevens
Dodd	Levin	Symms
Dole	Long	Thurmond
Domenici	Lugar	Tower
Durenberger	Mathias	Trible
Eagleton	Matsunaga	Tsongas
East	Mattingly	Wallop
Exon	McClure	Warner
Ford	Melcher	Wilson
Garn	Metzenbaum	Zorinsky
Glenn	Mitchell	
Goldwater	Moynihan	

NAYS—3

Cranston	Danforth	Lautenberg

NOT VOTING—3

Denton	Hart	Weicker

So the motion to waive titles III and IV of the Budget Act was agreed to.

Mr. BAKER addressed the Chair.

Mr. LONG addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. LONG. May I just get recognition and yield to the Senator?

Mr. BAKER. Mr. President, I yield.

Mr. LONG addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. LONG. I ask that I might yield to the majority leader without losing my right to the floor.

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

Mr. BAKER. Mr. President, I prefer to forgo recognition until the Senator from Louisiana has finished. I would like to seek recognition in my own right for the purpose of taking the Senate into executive session, confirm one nominee which has been cleared by the minority, to establish a time for the Senate to convene tomorrow, and then, assuming there is no further business, to ask the Senate to recess over until tomorrow. Those are routine housekeeping matters. I will not ask the Senator now to yield to me but, rather, will wait my turn.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

Mr. LONG. Mr. President, the Senator from Louisiana feels that those of us who favor the outright repeal of withholding on interest and dividends should be privileged, at some point in the consideration of this measure, to have a direct up-or-down vote on our position.

I am not here to challenge the integrity, the hard work, or the sincerity of the junior Senator from Wisconsin. There is no doubt, in my judgment, that he is doing the best he can to further the same cause the Senator from Louisiana is interested in on this particular item. I am satisfied that he has put forth as a courageous and noble soldier for the position I hold about the matter, in seeking to prevail for that position and in negotiating to do the best he can for those who agree with him.

However, even so, there are some of us who are not going to have the opportunity to prevail in our position, I fear. If that is the case, we think we should at least have the opportunity to have a direct vote for our position. If we do not get that, we will be compelled to settle for something less than that, perhaps on a motion to table some measure. But on some basis, we should be able to vote for our position.

We are not talking about something that involves the fate of the Nation. We are talking about a tax measure. It would be unprecedented in the history of the Senate if we were not permitted to have a record vote at some point to indicate who in the Senate really did want to repeal completely withholding on interest and dividends.

I understand that the Senator from Wisconsin is not going to be able to vote for such an amendment. In good faith, he made an agreement with those of his party who counseled and some of whom put a great deal of pressure on him, I suspect, to reach an agreement with them; and he has worked for what he believes is the best that can be achieved at this time.

However, I point out that the Senator from Wisconsin, in complete sincerity, just as now, made this statement on March 17, at page S. 3231 of the RECORD:

> I believe that this agreement will give us that opportunity to vote up or down on this issue in a place where Senators frankly will be able to vote on this issue and this issue alone . . .

I do not think it violates the context to stop the quotation at that point. I ask the Senator if that is what he had in mind, that we should be privileged to vote directly on this issue. I support him in that position, and I think he is right about it.

I understand that the Senator from Wisconsin cannot vote for that position now, but I still believe that he and others should accord those of us who want to vote that way the opportunity to vote that way if we can. It may be that by the time it is all over, we cannot have anything but a motion to table—it may be the most we can get—or it may be a vote on some other basis.

Mr. President, I do not believe there is any way the Senate can act on this measure without, at some point, according those of us who want to vote to repeal withholding to go on record in a way to show clearly that if we had prevailed, that would have been the judgment of the Senate.

That being the case, Mr. President, I would seek to inquire of the Parliamentarian whether this pending proposal can be amended in such a fashion that those who agree with the Senator from Louisiana, and those who have responded to all the mail they received by saying that they were going to vote to repeal the withholding on interest and dividends, will have the opportunity to vote that way and to be on record in that fashion.

AMENDMENT NO. 1193

Mr. President, I have been handed an amendment prepared for me by the staff, a perfecting amendment proposed by me, to the language proposed to be substituted by Mr. KASTEN, in amendment 1179, in lieu of the matter proposed to be added by clause (2) of the recommittal motion of Mr. DOLE.

This is the amendment:

> On page 16, lines 7 through 32, in lieu of section 210, insert the following:
>
> "SEC. 210. Effective Dates and Repeal of Withholding on Interest and Dividends.
>
> "(a) Notwithstanding any other provision of this title, sections 201 through 209 of this title are hereby null and void.

"(b) Subtitle A of title III of the Tax Equity and Fiscal Responsibility Act of 1982 (relating to withholding on interest and dividends) is hereby repealed, and the Internal Revenue Code of 1954 shall be applied as if Subtitle A of title III of such Act (and the amendments made thereby) had not been enacted."

I submit that amendment, Mr. President, and I send it to the desk.

The PRESIDING OFFICER. The amendment will be stated.

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

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

Mr. BAKER addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. LONG. Mr. President, I am not going to insist on a vote on that amendment tonight. I simply would like to have the opportunity at some point to vote on my proposal.

Mr. BAKER. I can assure the Senator that we are not going to vote on it tonight. I have already represented to the minority leader, on the Senator's side, and to other Senators that there will be no more votes tonight. I am sure he understands why I wish to see that we abide by that.

Mr. LONG. I agree.

Mr. BAKER. I think the Senator is perhaps within his rights to offer this amendment. At the same time, we are not in a position to deal with it tonight.

Mr. LONG. I agree.

Mr. BAKER. I will oppose it.

I did not think so much of this compromise until I heard that the Senator was opposed to it. I am thinking more of it all the time. It may be that the Senator from Wisconsin has turned up a pretty good deal here and that I was late in recognizing it.

In any event, the Senator is within his rights to offer the amendment, but he will understand why I do what I am about to do.

Mr. LAUTENBERG. Mr. President, there has been a lengthy debate, and lengthy discussion, on the question of whether or not to repeal the provision—now a part of our tax law—which calls on corporations and financial institutions to withhold, at source, 10 percent of interest and dividend income.

There are legitimate and competing factors to be considered on both sides of this question. I have done my best to weigh the arguments pro and con; to consider carefully costs and equities. I did not lightly reach a conclusion. I did not give short shrift to the views of those who urged me to vote to repeal the withholding provision.

But, most respectfully, I must disagree. I do not think it is unfair, when $270 billion in earned income is withheld every year from the paychecks of working Americans, to withhold a small percentage of unearned income on interest and dividends. I do not think it is unfair, and I do think that it makes eminent good sense, for the Government to devise an efficient system for collecting taxes which are due under existing law. Withholding is a method of tax collection, it is a method of reducing tax avoidance—it is not a newly enacted tax burden on anyone.

Nor do I think it is unfair to ask financial institutions to bear some responsibility for tax compliance with respect to dividend and interest income—not when you consider that American businesses, down to and including the smallest of businesses, have been bearing the cost of wage and salary withholding since 1943.

I do find it unfair that small savers and many of the elderly have been put in fear, and have been misled, as to the effects of the withholding law on their savings. The law contains a number of safeguards designed to exempt totally low-income and elderly persons. A new form must be filed in order for the exemption to be obtained. But the form is simple, it is short. And it need not be filed every year; it need only be filed once. The Treasury Department estimates that 87 percent of all elderly taxpayers will qualify for this exemption.

Nor is it true that withholding will substantially reduce yield on investment because the advantages of compounding will be reduced. In fact, banks may defer withholding until year's end on regular savings accounts, interest-bearing checking accounts, money market accounts and super-NOW checking accounts. Even where the bank elects to withhold quarterly, the effects will be small. According to both the Treasury Department and the Joint Tax Committee of the Congress, withholding will cost about 50 cents a year on each 1,000 dollars' worth of savings assuming an interest rate of 9 percent—or $5 a year on 10,000 dollars' worth of savings.

Finally, a good deal of misunderstanding exists as to alternatives for collecting these taxes. It has been argued that the Internal Revenue Service has the means to match income tax returns with information documents—the 1099 forms—and thus to collect all revenue due. Many people are asking, "If this is the case, why not do it?" That is a good question. There must be a good answer. And there is. An efficient computer matching system within IRS is only the first step in a collection process: it can only identify discrepancies between tax returns and 1099's. Hundreds of thousands, and probably millions, of letters, telephone calls and visits would be required to attempt to collect the taxes due. The costs of collection would far exceed the moneys collected. Indeed, by one estimate, some 30,000 to 40,000 new IRS agents would have to be hired to track down and collect unreported dividend and interest income.

The cost to the Government would be prohibitive. It would far exceed the costs to the banks and other financial institutions of withholding—which is a tax-deductible cost to these institutions.

It is important to remember that the withholding law does not alter or increase the tax base in any way. It is intended only to collect taxes owed but not paid—an amount which may total as much as $20 billion over the next 5 years. This revenue is sorely needed to reduce the out-of-control growth of oversized Federal deficits.

The solution which the Congress and the administration devised in enacting the withholding provision is not perfect. But I am convinced that it makes sense, that it is the most efficient system which present technology permits, and that it is equitable.

PERSONAL EXPLANATION OF VOTE

● Mr. SASSER. Mr. President, I rise today to state that if I had been present and voting, I would have voted "yea" on rollcall vote No. 57, the cloture vote that debate on the Kasten amendment numbered 522 to S. 144 should be brought to a close.●

EXECUTIVE SESSION

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate go into executive session to consider nomination No. 92 on today's Executive Calendar. I have cleared this with the minority leader. He is aware of the action to be taken.

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

The PRESIDING OFFICER. The amendment will be stated.

NAVY

The assistant legislative clerk read the nomination of Vice Adm. Ronald J. Hays, U.S. Navy, for appointment as Vice Chief of Naval Operations pursuant to title 10, United States Code, section 5085 and admiral while so serving.

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

Mr. BAKER. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

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

The motion to lay on the table was agreed to.

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

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

LEGISLATIVE SESSION

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

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

INTERNATIONAL TRADE AND INVESTMENT ACT—S. 144

The Senate resumed consideration of the bill.

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

Mr. BAKER. I yield.

ORDER TO PRINT AMENDMENT NO. 1193

Mr. LONG. Mr. President, I ask unanimous consent that the Secretary of the Senate and those who have responsibility in connection with this make every effort to see to it that the amendment that I have offered will be printed and will be at Senators' desks, because tomorrow this will be an amendment that we will vote on, even if there should be a motion to table.

Mr. BAKER. Mr. President, if the Senator will withhold for one moment, I say to the Senator from Louisiana there is a new rule in effect that Senators have been made aware of that amendments are not routinely printed except on order of the Senate and except as they are referred to the committee and they will be made available, however, at the desk.

However, I agree with the Senator that it is an important amendment and should be printed.

I ask unanimous consent that the amendment be printed.

Mr. LONG. Mr. President, I only hope that we can understand that every effort will be made to see that it is on the Senators' desks tomorrow.

As the Senator so well knows, the way the rule change was explained to me, and I am sure he explained it to others this way when the Senator proposed this modification of the rule, it was done on the basis that most amendments are never voted on, and so if an amendment is not going to be voted on, I agree with the Senator that it is fine just to print it in the RECORD.

This is one amendment that might be a subject of considerable controversy and debate, and if it is going to be voted on, it will be well that Senators may have an opportunity to have it in front of them.

Mr. BAKER. Mr. President, I have no objection to that. The Senator is right.

Last year there were 5,000 amendments offered for printing and less than 4 percent of those amendments were ever called up, and the cost to the Senate of printing those amendments that were never used was over $1 million. So that was the reason for this change.

However, in these circumstances, I agree with the Senator that it would be entirely appropriate to print them in sufficient numbers for their distribution to Senators, and I make that request at this time.

Mr. LONG. I thank the Senator.

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

ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I ask unanimous consent that there be a brief period for the transaction of routine morning business in which Senators may speak.

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

WILLIAM H. McINTYRE

Mr. HATFIELD. Mr. President, the terrorist attack on the American Embassy in Beirut on Monday was an unconscionable, abhorrent, and tragic act.

Today I would like to make a few comments about one of the dedicated American officials who was killed in that bombing. Bill McIntyre, the Deputy Mission Director of the Agency for International Development in Lebanon, was for a period of about 2 years in the Congressional Liaison Office of AID here in Washington, and as such worked closely with the Appropriations Committee. Those of us who serve on the Foreign Operations Subcommittee got to know Bill McIntyre as a reliable and hard-working AID official who had a long and distinguished career in the service of his country. He joined the Agency for International Development in 1963 as a TV-radio films officer, worked on the food for peace program, the social development program, the population planning program, in the Compliance Operations Appraisal Office, and in the Congressional Liaison Office before accepting an assignment as AID representative in Lebanon. During his career he received the Meritorious Honor Award, the Superior Honor Award, and the Performance Pay Award.

It is not surprising to those who knew Bill McIntyre that even though his successor in Lebanon had been named, he wanted to stay on longer than necessary to finish his work. To compound this personal tragedy, his wife, Mary Lee McIntyre, was also in the Embassy at the time of the attack, and was injured. I am informed that she is now in stable condition, and my prayers are with her and with her three children, who are here in the United States.

The United States owes a debt to Bill and Mary Lee McIntyre, a debt that obviously cannot be repaid. My heartfelt sympathy goes out to Mrs. McIntyre and her children.

He was a fine, dedicated man, and a credit to his country.

WILLIAM R. McINTYRE

Mr. KASTEN. Mr. President, as the names of those killed in the Beirut Embassy bombing become known, that tragedy takes on a much more personal and sorrowful tone. Mothers, fathers, sons, daughters, and spouses are grieving over their loss and making those final and painful plans required of them. These many personal tragedies now going on will be lost in the larger tragedy of the bombing and of continued lack of peaceful solutions to the problems of Lebanon and the entire region.

I would like to spend a few moments talking about one of those personal tragedies—the death of William R. McIntyre, Deputy Mission Director, Agency for International Development/Lebanon.

For almost 2 years, beginning in 1979, until he accepted an assignment to Lebanon in March 1981, Bill McIntyre worked very closely with the Foreign Operations Appropriations Subcommittee, which I chair. During that time he was Chief, Program Presentation and Legislative Project Division, Congressional Liaison Staff for AID here in Washington. He had almost daily contact with the subcommittee, and developed, from our point of view, a very solid reputation as a hard-working, credible, and reliable professional. And he was well liked.

In so many ways Bill was typically American—hard-working, sympathetic to the problems of others, possessed of a good sense of humor, and always optimistic. Those are the qualities that we got to know well, the qualities he took with him to Lebanon, and the qualities we, his family, his Government, and the people he sought to help will so sorely miss.

Mr. President, I express my personal heartfelt and sincere sympathy to Bill McIntyre's wife, Mary Lee, and to his children, Julie, Andrew, and Margaret. I know that some day the knowledge that Bill McIntyre was the type of man he was will be a comfort to his family. America has lost a good and decent son, and she is in his debt.

ACID RAIN

Mr. FORD. Mr. President, it is no secret that Canada, our neighbor to the north, has been highly critical of the United States failure to control its sulfur dioxide emissions and thus its alleged contribution to the acid rain phenomenon. The question notwithstanding of whether or not controls on sulfur dioxide would actually reduce acid deposition, Canada is calling for United States. action when it has done

very little to deal with its own emissions.

Last fall, I placed a statement in the RECORD pointing out this anomaly, and I am not pleased to report that over half of a year later the situation remains unchanged. Canada has nothing comparable to the stringent restrictions on sulfur emissions that we have under the Clean Air Act. Furthermore, Canada does not have a single operating scrubber on a utility plant, while the United States has almost 100 operating scrubbers with dozens more under construction.

A second facet of Canada's tactics is its apparent attempt to keep dissenting views about acid rain within Canada from being well publicized. One very important divergent opinion has just come to my attention and I would like to share it with my colleagues. In remarks made to the Canadian section of the World Energy Conference in February, Deputy Minister E. L. L. Rowe of the Nova Scotia Department of the Environment questioned whether acid rain is a problem, at least in Nova Scotia. Mr. Rowe's statement echoes thoughts previously expressed by both Nova Scotia's Premier and its Minister of Environment, and indicates agreement with the U.S. position that there is no clear scientific evidence that sulfur emissions are the cause of damage from acid rain.

I should like to read the most significant part of Mr. Rowe's statement:

> There are no well-defined cause/effect relationships which can be used as examples of damage from acid rain, notwithstanding that some point to the dearth of salmon in some rivers. The high acidity of our waters can be attributed just as easily to the acidity of the soils and minerals, thin soil lenses, and the type of forest cover. The scarcity of salmon, as an example, can be just as readily due to old hydro developments, stream driving which was practiced up until the mid-60's, fertilizer run off, other types of pollution and so on.

In other words, Mr. President, a man who is intimately connected with and responsible for the condition of the environment of his province is blaming the acidity of water there on both natural causes and industrial practices that are over 20 years old.

Finally, I wish that all those in the Senate who want to impose a politically motivated, scientifically unfounded sulfur dioxide control strategy on ostensibly 31—but really only six States would pay heed to this startling discovery of Mr. Rowe's:

> Indeed, in my department's investigation, evidence has been uncovered from a consideration of lake bottom sediment analyses that during the period of roughly 1680 to 1850, conditions were more acid than today.

I ask unanimous consent that Mr. Rowe's address be printed in full in the RECORD, and hope that my colleagues will soon realize that scientific evidence and public opinion by no means conclusively point to sulfur dioxide as the root cause of damage from acid deposition.

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

ADDRESS BY DEPUTY MINISTER E. L. L. ROWE

Mr. Chairman, ladies and gentlemen, I am honoured to be asked to come here today to make a few comments about energy and the environment in the context of the Atlantic region perspective. I am perhaps a little apprehensive about presenting a truly Atlantic perspective because of my relatively recent return to environment and a "line" position after a hiatus of several years in staff positions and, mainly, relating to matters other than environment.

Indeed, it seems likely that my comments may remind you of the old-time Texas longhorn steer—a point here, a point there, and a lot of "bull" in between.

I propose to review briefly the outstanding environmental issues in respect to the various sources of energy as these relate generally to the Atlantic provinces.

These separate sources may be grouped in a way which have common environmental effects such as:

1. Oil, gas and coal
2. Hydro and tidal power
3. Nuclear

To this list, I want to add one more feature which in a sense, common to all and, very specifically, I want to direct attention to the problem of activism or activists as distinct from public information or public relations.

The role of oil, gas and coal in supplying energy is the combustion of these fossil fuels, or their derivatives, in mainly thermal generating plants. The main environmental issue accruing from this operation is the production of acid gases in the oxidation of carbon, or sulphur, or nitrogen. Through a further series of chemical reactions and adsorption by the ever-present water vapour in the atmosphere, the acids carbonic, sulphuric and nitric are produced which are delivered back to ground level in natural precipitation as dilute solutions of the acids. The deposition may be manifested close at hand to the source or at varying distances up to thousands of miles.

Sensibly, it can be reasoned that these acids can or will have effects on plants, animals and, indeed, even structures and there is some evidence of damage in various places in the world in the form of barren lakes and streams. As an aside, it might be noted that overall natural forces produce substantially more of these materials than man and his activities. Indeed, with all the horror stories one hears about the effects of acid rain, it might be conjectured how this poor Earth survived when it is recalled that at one time, all the sulphur and carbon imparted to the environment from fossil fuels were in the environment and incorporated in the sources of the fossil fuels in the first instance.

In the Atlantic Provinces, while there are significant emissions of acid gases from the production of energy, most of our acid rain is imported. Moreover, there are no well-defined cause/effect relationships which can be used as example of damage from acid rain; notwithstanding that some point to the dearth of salmon in some rivers. The high acidity of our waters can be attributed just as easily to the acidity of the soils and minerals, thin soil lense, and the type of forest cover. The scarcity of salmon, as an example, can be just as readily due to old hydro developments, stream driving which was practiced up until the mid-60's, fertilizer runoff, other types of pollution and so on. Indeed, in my Department's investigations, evidence has been uncovered from a consideration of lake bottom sediment analyses that during the period roughly 1680 to 1850 conditions were more acid than today.

The usual, or most frequently mentioned, solution to acid gas emissions is flue gas scrubbing. This is a very costly technique. Both in capital and operating expense, to say nothing of energy consumption and, in some respects, it poses an alternative problem of disposal of the residues from such an operation. Although circumstances within the Atlantic Provinces vary to some degree, the situation in Nova Scotia affords a reasonable example of the dilemma. If we installed flue gas scrubbing at, say, our Lingan power station, the cost would be in excess of $200 million. The benefits to Nova Scotia as a whole, or for that matter Canada, would be questionable if not negligible.

Coals in the Atlantic Provinces tend to have relatively high sulphur content on the average and in exploiting these, we are interested in reducing these values. To this end, all coal in the thermal production of energy is washed. While this reduces the sulphur content by about 40%, other measures of this type costing a relatively modest amount and with lesser penalties in operating costs can disposal of residues would be of interest.

In particular reference to offshore oil and gas, we do not foresee an insurmountable environmental problem in bringing these materials to the mainland. It can be anticipated and, perhaps on a personal note, hoped for, that development of petro-chemical complexes to make more efficient use of these valuable substances may be realized. In that respect, again, we do not anticipate environmental problems which cannot be entertained.

In regard to hydro and tidal power development, the negative environmental effects are mainly those pertaining to the encroachment of water on land and on wild life. This kind of power generation is clean, it is essentially an indefinitely renewable resource, and it is a non-consumptive use of water. (Indeed, one of my former colleagues remarked that in charging for permits, we are really selling gravity.)

There are, and were, the detailed assessment procedures to determine the effects on the environment, to describe the new environment, and to provide some insight into the mitigating measures which must be undertaken.

Generally, hydro developments and the like tend to be more or less unique, one compared to the other so that the problems which arise are different although certain features are common. For example, fish passage will be maintained in the most practical way possible. Where lands are flooded and where forest cover exists, whether for hydro developments, or otherwise, the forest cover will be removed first before flooding.

Probably the greatest issue in hydro and tidal power development is creating an understanding with, and acceptance by, the public.

Recent developments in low-head turbines and the continually increasing costs of thermal generation of energy have renewed interest in hydro developments and re-examination of old opportunities. We anticipate, therefore, the possibility that these will re-

quire a more formal approach in dealing with environmental matters.

Perhaps in digression, it should be mentioned that old abandoned hydro sites and other similar installations now cause some concern which, no doubt, will increase with time. These sites at the former head ponds in some instances have promoted a cottage and generally recreation development. With the abandonment of the dams and consequent deterioration of these structures, these areas become less attractive and, so, there is concern and pressure to restore the works. While these are problems from the past practices, they can constitute a warning for the future.

In respect to nuclear power or the entire nuclear industry which encompasses uranium exploration, mining and milling, there are a number of sensitive environmental issues.

In the Atlantic Provinces there is one nuclear reactor at the present time. There is concern in the public for two issues principally—one for nuclear accidents and mitigating measures, and the second for the permanent disposal of high-level radioactive waste from the reactor itself. In regard to the former, the apprehension is significant in New Brunswick and the adjacent Province of Nova Scotia. Thus far, efforts in supplying detailed information and coaching on a selective basis have tended to create an understanding and, indeed, acceptance by the public.

In respect to the second concern, while it has not yet excited the public, there are certain apprehensions that will really only be satisfied when a permanent solution is found for the disposal of these wastes.

Exploration, mining and milling of uranium has received considerable attention from the public in Nova Scotia to the extent that Government has recently assembled a Commission of inquiry, and this is in operation at present. The technical solutions are known to a large degree for the disposal of low-level radioactive waste from, principally, the milling operation. There is, however, what might be termed an institutional problem in providing for the long-range maintenance of the waste disposal sites.

Overall, whether it be the reactor itself or the auxiliary activities of mining and milling of uranium, there is the question of public perceptions and concern which are being agitated by activists. This brings me to the problem which, I believe, is the most serious especially as it may relate to the newest and latest development, that is, offshore exploration and development.

Few will argue that it is not the responsibility of the proponent of a large project and Government as the regulator to satisfy public requests for information and, indeed, allow appropriate contributions to the decision-making process.

Jurisdictions in Canada and the United States, and specifically in the Atlantic Provinces, have a variety of techniques. While these have a common goal to accommodate public participation, the mechanisms and, in some instances, the policy pursued vary. Quite probably, all techniques enjoy success in varying degrees and, presumably, since these techniques were developed in different circumstances to entertain different conditions, they are not interchangeable, nor is one necessarily better than the other. So, in the Atlantic Provinces, there are a variety of methods, and not to dwell on the details of each Province's methods, it can be noted that Nova Scotia pursues probably the most formal approach which is manifested ultimately in a rather rigid public hearing process.

Continuing with specific reference to offshore oil and gas exploration and development, an agreement exists between the Government of Canada and the Government of Nova Scotia which, among other things, provides for the general mechanism for environmental assessment and protection. This mechanism encompasses a hearing process for public participation. Taken separately, both jurisdictions, Canada and Nova Scotia, employ different techniques in relation to the goal of informing the public and encouraging its participation. The provisions of the agreement, however, tend to blend the viewpoints of both jurisdictions so that an effective procedure has been realized for protection of the environment. The agreement recognizes, as well, a relatively new perception that social-economic matters relate to environmental matters. The studies associated with both subjects come together during the public participation stage at the point where public hearings are conducted.

Whether accommodating public participation in decision making or simply advising the public poses difficulties. These can, and are being resolved. The greatest problem and, indeed, danger contributing to the expense and frustration of any project is the intervention and participation of activists. Activists are manifested, usually, as a relatively small group of well-organized and drilled people. Their identity is associated with a wide variety of issues ranging from construction of buildings or highways, uranium mining, the use of chemicals in forestry and agriculture, and so on.

The motives of these people purporting to be concerned for the environment have been, from time to time, attributed to particular political persuasions. In some instances, there have been suspicions that their motives are more mundane and perhaps little more than to create an opportunity to market the services of an individual or group. In any event, in a significant number of instances, there is great difficulty in ascribing the motives to a genuine concern for protection of the environment. This practice of activism had its roots in the rise and development of the so-called counterculture in the late 1960's and 70's. Until the last few years or so, these activists as a distinct well-organized group were not particularly obvious in the Atlantic Provinces and it may well be that belatedly, we are now realizing the development of this movement here.

The tactics of activists range from the simple production of literature, to protest demonstrations, to manipulation of the media, to use of court action and, in the extreme, to violence and civil disobedience. While it is often difficult to prove conclusively the direct participation of activists in this latter tactic, there is often a remarkable correlation between incidents of violence and property destruction and the association of activists with the issue. Although the Atlantic Provinces cannot compete in magnitude and frequency, we do have the modest beginnings.

Before leaving the subject of tactics, I might commend examination of handbooks produced by these people on how to protest and stop a project. I am sure that you will find these books sobering and, indeed, chilling food for thought.

There is no denying that the machinations of activists have recruited and inflamed many otherwise sincere individual citizens and groups with the ultimate result being frustration and escalation of costs of many worthwhile enterprises. Indeed, examination of the very formidable list of studies to be undertaken in connection with offshore oil and gas exploration and development suggests, at least, an anticipation of pressure and criticism from the activist segment. Certainly, I have great difficulty in being convinced of the need and worth of some of these studies.

The ability of a small group of activists to recruit, temporarily, a larger segment of the public is one of the greatest perils to rational and orderly environmental protection. It has been, thus far, difficult to counteract. However, certain recent trends in the thinking about providing for environmental protection offer encouragement that this "stop it" syndrome of the activists may be contained and the support of an informed, rational public secured.

I refer specifically to the concept of recognizing openly and frankly the probability of risk of environmental damage and that some level is acceptable and together with the linking of related socio-economic circumstances, will provide a complete package. If these ideas are promoted vigorously by a frank disclosure of information to the public, it seems reasonable that the greater part of the public will be able to make a sound, reasoned and, indeed, useful judgement and contribution.

In the matter of offshore oil and gas exploration and development, this is the intention. Although the technique, no doubt, will require polishing and perhaps some time in the future may be looked upon as somewhat crude, hoepfully we can learn and improve.

BICENTENNIAL ANNIVERSARY OF APPROVAL IN CONVENTION AND RATIFICATION OF U.S. CONSTITUTION

Mr. HATCH. Mr. President, we are fast approaching the bicentennial anniversary of the approval in convention and ratification of the Constitution of the United States. This bicentennial commemoration draws nigh at a time when it is desperately needed to reinvigorate our national understanding and commitment to the basic principles that animate our republic. Because ours is a "government of the people, by the people, for the people," its function and survival depend very directly on the capacity of those people to convert an understanding of our constitutional system into self-government and citizen participation. I feel it important that we take advantage of every available opportunity to make the citizens of the United States aware of the coming commemoration celebration as well as the events that took place directly before the actual approval and ratification of the Constitution.

The bicentennial celebration contemplated by S. 118, introduced on January 26 of this year, consists of more enduring activities than a series of pyrotechnic displays and parades. While celebrative activities are important to rekindle our national pride in the Constitution, a national reexam-

ination of our Nation's common principles and their embodiment in the language of the Constitution is perhaps more important.

With this in mind, I ask unanimous consent to include in the RECORD today remarks by Dr. Robert Higgins, president of the Center for the Study of Federalism. These remarks focus on some of the important historical events that took place directly before the final approval of the Constitution.

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

SPEECH DELIVERED BY ROB HIGGINS BEFORE THE CAPITOL HILL CHAPTER OF THE FEDERAL BAR ASSOCIATION, JANUARY 31, 1983

You are all familiar with Montesquieu, Hume, Locke, Adam Smith, Herrington, and Blackstone and their influence upon the Founding Fathers. I'm not going to talk about them.

What I want to talk about is continuity—in America, the Constitution didn't occur in a vacuum. I will speak about the period from 1987 to 1991, with a little background. Being trained in history, my concept of background is a little further back than most. I want to start with 1632.

Charles Calvert was Charles I's Principal Secretary of State. He held that position from 1619 until 1625 when he publicly proclaimed that he was a Roman Catholic. Calvert had been a member both of the Virginia Company and the Council for New England. He personally had settled a colony on Newfoundland in 1620 which did not prosper. In 1628 he visited Virginia and upon his return to England petitioned Charles I for a grant. The king agreed, and in 1632 Calvert's heir, Cecelius received the land from the western bank of the Potomac to 40° north. The tradition of setting the boundary in the middle of the channel for water barriers was violated. This caused few problems throughout the remainder of the seventeenth and eighteenth centuries under royal rule. After independence, but during the Revolution, there were still few problems. Difficulties came after 1783 with the Peace of Paris and under the Articles of Confederation. The Articles did not allow the national government to control foreign trade or collect taxes.

Virginia and Maryland had a problem. Virginia trade had to pass through Maryland waters, subject to Maryland laws and taxes. During this time most governmental taxes were upon imports and exports. There was no federal court system; there was no higher federal law; there was no provision for the national government to settle disputes between States. If this problem was to be settled, it had to be settled through the actions of the two States alone.

Late in March 1785, two years after the end of the Revolution, four Virginia delegates met with four Maryland delegates in Alexandria to consider problems related to navigation on the Chesapeake and Potomac. James Madison and George Mason were two of the Virginia delegates. Samuel Chase was one of the Maryland ones. On March 28, at Washington's invitation the eight men moved their discussions to Mount Vernon where they were able to work out their differences. They recommended to their two State legislatures three substantive matters—please note that the national government was not involved or notified—a series of mutual actions:

(1) Uniform commerce and imposts.

(2) Uniform currency.

(3) Annual commercial conferences between the two States.

The eight delegates also recommended that Pennsylvania be included in the next meeting so that trade between the Chesapeake and the Ohio River could be discussed.

The Maryland legislature endorsed the plan in December and voted to include Delaware in the upcoming meeting—Delaware being the only other state with which Maryland shared a border, thus solving al matters at once. In 1783, Maryland and South Carolina had imposed discriminatory taxes on foreign goods. Pennsylvania, New York and North Carolina followed the next year, 1784. To circumvent this the Congress in 1784 asked the States for a fifteen year grant of power to regulate foreign commerce. It was unsuccessful. The State impost movement went on in 1785—Massachusetts, New Hampshire, and Rhode Island adding discriminatory duties, making it eight of thirteen states which had such duties.

Madison urged Virginia to approve the work of the Mt. Vernon Conference and in late January 1786, the aseembly did and invited all of the American States to come to the next meeting in Annapolis in September of that year. Georgia, South Carolina, Connecticut, and Maryland took no action on the 1786 meeting. Nine States accepted Virginia's invitation to Annapolis, however. There were problems of distance—only 15 miles could be covered by carriage a day, and ships were dependent upon the wind. Delegates from New Hampshire, Massachusetts, Rhode, Island, and North Carolina arrived too late. Only New York, New Jersey, Delaware, Pennsylvania, and Virginia were represented for the four days of the meeting. John Dickinson was the chairman and Alexander Hamilton offered the primary resolution.

This resolution was to invite all of the States to send delegates to Philadelphia on the second Monday in May, 1787. The delegates who would come to Philadelphia, said the Hamilton resolution, were to be prepared to discuss all matters necessary to "render the Constitution of the Federal Government adequate to the exigencies of the Union." Virginia, New Jersey, Pennsylvania, Delaware and North Carolina all selected delegates quickly. Then the Congress issued a call (February 21, 1787) for the convention "for the sole purpose of revising the Articles of Confederation and reporting to Congress and the several legislatures such alterations and provisions therein." The Congress was behind in its actions. A movement had begun two years before oustside the national government and it could not be stopped by the Congress.

Between February and May, 1787, six other states named delegates to Philadelphia. Only Rhode Island and New Hampshire had not selected representatives by the opening of the meeting. New Hampshire sent its delegates in June but Rhode Island boycotted the meeting entirely.

The men who came to Philadelphia would not find it necessary to operate in a vacuum. The English North American colonists had been accustomed to a high degree of provincial self-rule. All local offices were elective as was membership in the Lower House of Assembly, while the governor and council were local leaders. This long experience with self-rule helped to prepare the Founding Fathers for their role during the summer of 1787.

The Delegates sent to Philadelphia were the most outstanding men available in North America. they were the great leaders of the Revolution and some bright young men. In an age when the average educational attainment was a year or two of Dame's school, 53 percent were college educated; 60 percent were trained in the law; there were merchants, planters, college professors, physicians, members of the state supreme courts . . . . Seventy four individuals were named to attend; fifty five actually sat in Philadelphia, twelve men did most of the work remaining through the summer, and thirty nine men attached their names to the Constitution. Of those thirty nine, thirty one had served in the Continental Congress, five had been or would be governor; two would become President; three hold cabinet rank; four would be college presidents; eight would be Congressmen, fourteen Senators; ten federal judges, of which four sat on the Supreme Court and two were Chief Justices.

Four men were noticeably absent from Philadelphia in the summer of 1787. John Adams was minister to England; Jefferson to France; Patrick Henry was selected by the Virginia Assembly, but did not serve; Samuel Adams excluded himself completely. Otherwise they ran from twenty six year old Jonathan Day of New Jersey to Benjamin Franklin, eighty-one, semi-cogent, but internationally the leading figure at the Convention. For the Americans, of course, the most important person in Philadelphia was George Washington, committed to the Convention because of his involvement since the Mount Vernon meeting of 1785.

James Madison, a delegate since the Alexandria Convention, was the chief force of the Convention. Madison was a lawyer and had been a member of the Virginia Convention's legislature council and of the Continental Congress. Eventually, he would coauthor The Federalist Papers, become a Representative, Secretary of State, President, and President of the University of Virginia. He put forward the Virginia Plan introduced by Edmund Randolph, and he was one of the twelve who remained throughout the Convention. When the delegates agreed to debate the Virginia Plan, they were agreeing to a new government.

The delegates in Philadelphia, like you, knew Montesquieu, Hume, Locke, Harrington, Blackstone, Smith. The older ones had experience in colonial government; all had participated in the revolution; many knew the Ancient Greek writers and several could read them in the original. Many had helped to write State Constitutions since 1776. They created a flexible document establishing a federal republic based upon the people rather than the States. As Oliver Ellsworth was later to say, "We were partly federal, partly national." They were also very speedy. In 102 days—just over three months, they created the longest lived constitution in world history. On September 8 it was turned over to the Committee on Style, whose work was accomplished by Alexander Hamilton of New York, William Samuel Johnson of Connecticut, Gouverneur Morris of Pennsylvania, and Rufus King of Massachusetts, but mainly Morris—a lawyer, member of the New York Provincial Congress, the New York Constitutional Convention, the Continental Congress, an Assistant Superintendent of Finance under Robert Morris, a minister to England, and a United States Senator. On September 17 the Constitution received final approval by the delegates and was sent to the Continental Congress in New York. The document

was received on the twentieth and after acrimonious debate, on the twenty-eighth was sent to the States for ratification. Three ratified before the end of the year, three more by the first week of February 1788, and all of the participating States but North Carolina within ten months of the final session of the Convention. The Americans had a new government and the world had a new united nation.

Thanks to the flexibility of the Constitution, it has survived. As the great old Latin American scholar, J. Fred Rippy, once said to me, "its success is its vagueness. In the South American Republics the constitutions are so rigid and specific that the only way to change them is to overthrow the government." The Founding Fathers far exceeded their expectations. They hardly envisioned that their document would last one hundred years, much less the two hundred that we will see soon. They also envisioned and created a document for a rural, agrarian, sparsely settled, semi-self sufficient nation. The Constitution has seen us through expansion, Civil War, urbanization, industrialization, and the absorption of millions of non-traditional immigrants with different languages, cultures, customs, educations, and governmental experiences and now, post-industrialization. And yet the Constitution is just as strong today at it was when those 39 men attached their names and went home to ensure its ratification.

It would seem that people who live and lived under such a beneficient document would want to commemorate its creation. Such has not been the case. On the 50th Anniversary of the Constitution, nothing was done to mark that anniversary—despite the fact that it had survived longer than any other republic.

At the time of the 100th Anniversary of the Constitution, the country was gripped by depression and the most severe weather experienced in the U.S. Chicago was preparing for the Colombian Exposition—lighted by alternating electric current. The nation was also at one of its peaks of worship for George Washington. New York planned for the anniversary of his inaugural and Congress let legislation for the Consitutional Commemoration die while it went with Benjamin Harrison to New York.

The 150th Anniversary occurred in 1937-41. The nation was rising out of another depression, the worst in the country's history, and entering World War II. This time there was a commission; a commemoration, but this was the major product—not a major piece of research, and it did not have a great impact on the country.

Now we are approaching the 200th Anniversary of the Constitution. On September 17, 1787, the Founding Fathers, meeting in Philadelphia since May, adopted the Constitution and sent it to the Constitutional Congress in New York. We have much to celebrate—we are the most free people in the world and we have the greatest individual and collective security on earth. We must recognize the opening of the third century of the document which has provided all our benefits to us. All Americans need to examine the role in its operation. The Bicentennial of the Constitution is a time for national awareness and recommitment to the seminal document of democracy.

DEFENSE INDUSTRY AWARD

Mr. THURMOND. Mr. President, on April 14, 1983, Senator JOHN TOWER, chairman of the Committee on Armed Services, was honored by the American Defense Preparedness Association by being named the 1983 recipient of that group's Defense Industry Award. This award recognizes Senator TOWER's service to the country and his conscientious and continual efforts to insure our national security.

When Senator TOWER accepted this award, he spoke most thoughtfully about certain similarities which he has observed between England in the 1930's and the United States today. I think that all Senators will find his comments interesting, and I ask unanimous consent that Senator TOWER's address be placed in the RECORD.

There being no objection, the address was oredered to be printed in the RECORD, as follows:

ADDRESS BY SENATOR TOWER

In 1935, Winston Churchill spoke these words:

"Want of foresight, unwillingness to act when action would be simple and effective, lack of clear thinking, confusion of counsel until the emergency comes, until self-preservation strikes its jarring gong, these are the features which constitute the endless repetition of history."

With these words, Churchill attempted to warn his countrymen of the impending danger posed by a rearming Germany and of the urgent need for Great Britain to take action. Churchill was in a minority in a nation that desperately wanted peace and blinded itself to the dangers of war. The prevailing British attitude permitted a deteriorated military posture and an unfavorable shift in the balance of power that allowed for the rise of Hitler's Germany and led to the very war that all in Britain wanted to avoid.

Churchill's observations on the inability to learn from history are as relevant today as they were in 1935. Just like the British in this earlier era, prevailing attitudes in America have permitted a deteriorated military posture. As America today debates defense spending and other security policies, I hear from defense critics the same smooth-sounding platitudes that dominated Britain in the 1930's. I see the same inability to come to grip with unpleasant facts and a similar failure to accept reality when it departs from the hopes of our idealism. Too many American leaders, both in the Congress and in other walks of life, are opting for popular positions, no matter how distant they may be from the real needs of the Nation.

The defense debate of the next several weeks will, unfortunately, parallel the British debates in the years prior to World War II. I fear that the outcome will be the beginning of another ignoble chapter of the endless repetition of history.

For a time, President Reagan awakened the American people, after a long and dangerous slumber, to the need for a revitalized American defense effort and for a foreign policy that makes clear our determination to defend our interests and principles. The unfavorable international security situation that led the American people in the fall of 1980 to give their mandate for such an effort has not changed. In fact, in some aspects, the situation is more serious, witness the continued Soviet deployment of SS-20's that threaten Western Europe and Asia. What has changed, however, has been the reemergence of a dangerous and unwarranted preoccupation with internal affairs and economic problems. Too many of my colleagues fail to appreciate the critical need for a national security effort which must remain independent of the fluctuations of domestic politics. We do have severe economic problems that must be addressed, but we must not jeopardize our security. The United States has the resources to provide for both the security of her people and the welfare of those who are truly unable to provide for themselves.

There is much talk about the U.S. economy. But consider the economic havoc that would result were the United States and her allies to be suddenly denied access to the energy sources and the raw materials of the Near East and Africa.

History is filled with examples of nations which faced a crossroad on national security policies similar to that now confronting the United States. Of those historical analogies to which one could look for insights to guide current policy decisions, none is more powerful and relevant than the experience of Great Britain in the period between the two world wars. The comparison of Britain in the interwar period and the United States now is particularly appropriate because each nation in these respective periods was the world leader with far-reaching international commitments and presence.

The similarities between Britain following World War I and the United States in the years since the end of the Vitenam War are remarkable and painful. The end of these wars left deep, yet similar, physical and emotional scars on both nations:

Weakened economies with high rates of unemployment and serious balance of trade problems;

Inward looking societies with a disdain for foreign entanglements;

Strong anti-military sentiments; and

A strong reliance on diplomacy and arms control agreements, as a substitute for military strength, to ensure peace.

Given these circumstances, the British leadership during these two critical decades—despite Winston Churchill's accurate and vigorous warnings—took the easy path, the same easy path that the United States followed during our retrenchment in the 1970's and the same easy path that is reflected by the Fiscal Year 1984 budget resolution passed by the House of Representatives. The British mistakenly allowed economic conditions to dictate foreign and defense policies. They allowed the British nation to continue to look inward and to imagine events on the European Continent and in East Asia to be no concern of theirs.

The British leadership denied Germany's increasing military strength and wanted to believe Hitler's professions of a desire for peace. They thought that all shared their veiw that the horrors of war had been proven to be so catastrophic that war could never happen again—no one would allow it to happen. They ignored treaty violations by Hitler's Germany, believing that to cite them would be an alarming step. They were unprepared to challenge aggression whether in Manchuria, China, the Rhineland, Ethiopia, Austria, or Czechoslovakia. They believed that an approach on conciliation and appeasement would save the world from another war. And even after they recognized the need to rearm, economic arguments were used to stretch out the rearmament programs over a long period. Does this sound familiar?

What was the result ot these unwise and careless British policies and the lack of intellectual vigor and the pathetic belief in pacifism and appeasement that fostered them? The result was the horrors, miseries, and human tragedy that Churchill called "the Unnecessary War." He used this description because, in his view, there never was a war easier to stop.

After World War II, Winston Churchill, looking back on the interwar period, summarized the confluence of mistakes that led directly to "the Unnecessary War."

"It is my purpose, as one who lived and acted in these days, first to show how easily the tragedy of the Second World War could have been prevented; how the malice of the wicked was reinforced by the weakness of the virtuous; how the structure and habits of democratic states, unless they are welded into larger organisms, lack those elements of persistence and conviction which can alone give security to humble masses; how, even in matters of self-preservation, no policy is pursued for even ten or fifteen years at a time. We shall see how the counsels of prudence and restraint may become the prime agents of mortal danger; how the middle course adopted from desires for safety and a quiet life may be found to lead direct to the bull's-eye of disaster. We shall see how absolute is the need of a broad path of international action pursued by many states in common across the years, irrespective of the ebb and flow of national politics."

During the decade of the 1970's, the United States, bearing the same physical and emotional scars as the Britain of the interwar period, pursued hauntingly similar policies:

We allowed economic conditions to dictate foreign and defense polices. To illustrate this point, between 1970 and 1982, government spending for social programs increased by 8 percent in real terms. And this at a time when the Soviet Union was arming at a rate unprecedented in peacetime.

We turned inward and saw unfavorable events in Africa, Southeast Asia, the Persian Gulf, and Latin America to be of little concern to Fortress America. Our vision of our vital interests was clouded.

We dismissed claims of growing Soviet military strength or, when it was undeniable, developed comfortable rationalizations for its existence or half-heartedly tried to counter it with rearmament programs stretched out over many years.

We wanted to believe in detente and clung to that concept long after it was clear that the Soviets were taking advantage of our idealism.

We ignored Soviet actions which appeared to have violated the spirit and in some cases the letter of the Helsinki Accords, the SALT I Treaty, agreements prohibiting the use of chemical and biological weapons, and the Threshold Test Ban Treaty. To raise them, many believed, would be an unnecesary confrontation and return to the rhetoric of the Cold War.

We were unprepared to challenge aggression or other destabilizing activities whether Cubans in Angola, Vietnamese in Kampuchea, Libyans in Chad, or Soviets in Afghanistan.

We put too much faith in arms control negotiations. Like the British in the 1920's and 1930's, we allowed the hope for effective arms control agreements to lull us into a false sense of security.

We clung to the belief that in the nuclear age, with all aware of the horrors of nuclear weapons, a war would never occur—this even after evidence became available that the Soviets were developing a serious offensive capability?

What were the results of these shortsighted policies? During the 10-year period ending in 1980, American military strength postured against that of the Soviet Union both in reality and perception eroded significantly. In this period, the United States:

Lost the superiorty of her strategic forces and faced the certain loss of essential equivalence with the Soviet Union;

Lost theater nuclear superiority in Europe;

Permitted an unfavorable shift in the overall U.S.-U.S.S.R. conventional balance as the Soviets surpassed U.S. defense spending early in the 1970's and built a sizable advantage during the remainder of the decade;

Suffered a devastating loss in Vietnam through our failure to enforce the Paris Accords causing both friend and foe to perceive flaws in America's strength and a deterioration of her commitment and resolve;

Became vulnerable to disruptions in the supply of foreign oil and experienced the use of "hostile oil" as a weapon against America's foreign policies and interests;

Suffered with the revolution in Iran the collapse of the U.S. security policy in the Persian Gulf region;

Lost the initiative in Third World affairs to a bolder, more adventuresome Soviet Union assisted by aggressive proxies; and

Lost a united front in NATO for dealing with critical East-West issues.

For a brief period in the early 1980's, America shook the shortsighted notions of the 1970's. But now, as the price—which is easily affordable by our society—of defending our interests and holding to our cherished principles has become the focus of popular attention, too many Americans in positions of leadership want to return to the old shortsighted policies of weakness, conciliation, and isolationism.

Have we learned nothing from history? The threat that we face is real and ominous. Our vacillating policies of the recent past have confused our allies and emboldened our adversaries. If we fail to provide a credible deterrent and demonstrate our resolve, vast amounts of our blood and treasure may be laid to waste in another unnecessary conflict, the horrors of which have not yet been seen by man.

The British did not realize until it was too late that diplomacy and arms control are not substitutes for armed strength. Neville Chamberlain, Britain's Prime Minister and principal architect of her ill-fated policies, came to this realization in October 1938, only after the defense policies of the previous two decades had left Britain in a dangerously weak military position. At that time, he said, "Our past experience has shown us only too clearly that weakness in armed strength means weakness in diplomacy."

I hope that the Neville Chamberlains in America today—and there are many of them—will learn this lesson in a more timely way than the Prime Minister did. I fear that they will not, but instead, will continue to mouth the words of the Parliamentary opposition in Britain in 1934, which in response to the government's planned increases in the Royal Air Force regretted that "His Majesty's Government should enter upon a policy of rearmament . . . . certain to jeopardize the prospects of international disarmament and to encourage a revival of a dangerous and wasteful competition."

The United States has followed the British interwar pattern to a frightening degree. America made a similar series of mistakes in the 1930's, and Pearl Harbor showed us how utterly unprepared we were. We must learn from the earlier British and American mistakes and take action to break the cycle. These prior cases show the dangers inherent in a government losing sight of its primary duty, that is, guaranteeing the safety of the country. Winston Churchill put it best in 1936 when he said, "The primary responsibility of any government for the public safety is absolute and requires no mandate." Ensuring national security must be the overriding concern, for if it is not guaranteed, everything else is subject to loss.

No analogy would be complete without an examination of the differences in the situations facing Britain then and the United States now. Three differences dominate this comparison: changes in the nature of warfare, absence of a Hitler confronting the United States, and the absence of a strong American military tradition.

The advent of nuclear weapons and high technology, conventional arms ushered in an era of potentially lightning fast warfare—one that would be over before an unprepared nation would have time to rearm. Great Britain did not face this situation in the 1930's.

In the 1930's, Britain was facing Adolf Hitler, an irrational, disturbed, and unpredictable leader. I do not believe that the United States is facing a Hitler in the Kremlin. We are facing, however, skillful and subtle Soviet leaders who know how to use their advantage, a willing media, and to play on the fears of peace-loving people.

Britain and the United States also differ because of the anti-militaristic tradition and the pacifist current inherent in public attitudes in the United States. Americans shun militarism and tend to wait for a crisis before adequately preparing for action.

All of these differences taken together show that the U.S. position is even more dangerous than that of Britain in the 1930's. The U.S. leadership today is faced with rising anti-confrontational sentiment at a time when the United States is facing a politically skillful adversary and a military threat more serious than we have ever known—a fatal threat if we are caught unprepared. This places a greater burden on the U.S. leadership for increased vigilance. The French proverb, "To govern is to foresee," takes on critical importance in the nuclear age.

The way to avoid the fate that befell Britain is for the United States to move vigorously to strengthen her military power and thereby signal to the Soviet Union the U.S. resolve to meet the threat. President Reagan's defense modernization program is attempting to do this.

I am proud of President Reagan for his courage on many difficult national issues, but I particularly admire the steadfastness of his position on defense spending. Compromise is easy, but this is not a business-as-usual President. He has not yielded to the pressures of popular whim. He has recognized his primary constitutional responsibility. He will not be part of those who would rather risk the security of the American people than make the difficult budgetary decisions that will, no doubt, upset favored special interest groups.

Our British-American historical analogy would be incomplete without comparing Churchill and Reagan. Churchill's warnings

to the British people fell on deaf ears. It was not until the battle was joined that the people of Britain turned to Churchill for leadership.

Like Churchill, President Reagan has bucked the tide of popular opinion to bring to the forefront the Nation's security needs. Like Churchill, President Reagan has been ridiculed for his warnings. Just last week in the Washington Post, I read reports that President Reagan's image as a "warmonger" and "cold warrior" has resurfaced. Nothing could be further from the truth.

I hope that we have the widsom and resolve to follow the necessary course that President Reagan has charted. If we do not, we will have failed to learn an invaluable lesson of history which was paid for at an enormous price. We will, furthermore, confirm the age old expression that the only lesson of history is that we learn no lessons.

STOP NUKES; THEN WHAT?

Mr. COHEN. Mr. President, I would like to call the attention of my colleagues to an editorial which appeared in yesterday's New York Times. The piece, entitled "Stop Nukes; Then What?," acknowledges the positive impact of the freeze movement, but asks if there is a way to go beyond passionate rhetoric and sloganism to harness the political energies at play in this country to promote significant arms control.

The editorial argues for a new approach along the lines of the Scowcroft Commission report and notes that two "imaginative precursors" of the proposal are now before Congress: the build-down resolution which Senator NUNN and I introduced in the Senate, and Representative GORE's detailed arms control proposal. The article goes on to note that while a number of profreeze Senators have endorsed the build-down resolution, many freeze proponents have attacked such proposals.

Mr. President, I have indicated on a number of occasions my conviction that we owe the freeze movement a debt for raising the Nation's sensitivity to the need for meaningful measures to reduce the risk of nuclear war. I believe the build-down is one such measure—a means of beginning what I hope will be an inexorable march toward the substantial reduction of nuclear weapons. I am hopeful that we can forge a consensus of freeze advocates and those who favor stabilizing military force modernization, and together work toward our shared objective.

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

[From the New York Times, Apr. 19, 1983]

"STOP NUKES"; THEN WHAT?

The nuclear freeze resolution that comes up before the House of Representatives tomorrow is a primal scream against mankind's atomic predicament. O.K., agreed: The overhanging nuclear nightmare justifies screaming. But then what? To exclaim "Stop nukes now" displays passion, but no practicality. What's the next sentence? Where is the credible arms control policy that freeze advocates have failed so far to advance?

To its credit, the movement has aroused widespread public support, undoubtedly tempering the belligerency of the Reagan Administration's statements and helping to induce the reasonable new proposal for the Euromissile negotiations in Geneva. The freeze movement has also stirred Congressional interest in arms control—probably influencing the Scowcroft commission's farsighted proposal to replace destabilizing multi-warhead missiles with small, single-warhead "Midgetman."

Yet the proposals of the freeze movement itself have barely evolved past the original, simplistic formula of "stop, now."

The House resolution still calls for an "immeditate" freeze through negotiations with Moscow. Yet such negotiations would have to take several years. The resolution still calls for a "verifiable" halt in producing nuclear arms. Nice, but infeasible.

A freeze would ban weapons modernization—thus halting improvements in weapons that would stabilize the balance of terror. The resolution calls for but fails to give useful "special attention" to destabilizing first-strike weapons. It would freeze America in a potentially vulnerable Minuteman land-missile deployment while doing nothing about the Soviet Union's potential first-strike force. The remedy, the ingenious Scowcroft proposal to create "Midgetman," would be barred.

Is there some way to harness all this political energy to constructive arms control ends? There is talk of a conference committee compromise between House and Senate resolutions, but the best that could produce is a least-common-denominator compromise. What's needed is a new approach to the arms control dilemma along the lines suggested by the Scowcroft report.

Two imaginative procursors of this proposal are already before Congress: the "build-down" proposal sponsored by Senators Nunn and Cohen would require dismantling of two older nuclear weapons for every new one deployed. Representative Gore's comprehensive plan would also move the superpowers toward the Scowcroft goal of reducing multiple-warhead missiles. Both would build on the SALT treaties, but emphasize ceilings on warheads rather than launchers and missiles.

A dozen or more pro-freeze senators have endorsed the build-down idea. Unfortunately, instead of welcoming such innovations, many freeze enthusiasts attack them. And the House Democratic leadership continues to press for the freeze resolution: stop, now. But there's still no next sentence. Where is the program to match the piety?

TRIBUTE TO FORMER CONGRESSMAN JOHN C. TAYLOR, SR.

Mr. THURMOND. Mr. President, I rise today to pay tribute to former Congressman John C. Taylor, Sr., of Honea Path, S.C., who passed away recently at the age of 93. To his wife, Evelene; his sons, Dr. John C. Taylor, Jr., and Mr. Lee Brown Taylor, I extend my deepest sympathies.

Mr. President, John Taylor was a good friend and an outstanding legislator, who served not only as a Member of the U.S. House of Representatives from 1933 to 1939, but as a State senator in South Carolina and a clerk of court for his home county of Anderson.

He was a man who dedicated a large portion of his life to the loftiest of goals—serving others. There are many South Carolinians who remember John, not only for his service as Third District Congressman, but for his honesty and openness in dealing with all people—and mourn his passing.

A farmer by trade, John Taylor was known throughout Anderson County as "Honest John," and his reputation for fairness and integrity soon spread throughout the State. After serving as clerk of court in Anderson, John was elected to Congress as Third District Representative. He served in that capacity in the 73d, 74th, and 75th Congresses.

From 1950 to 1954, he served as State senator for Anderson County, returning to that post again in 1958 after a brief respite from public service.

John Taylor, during his business and public service career, earned the respect and admiration of many people. The chairman of the Democratic Party in South Carolina, Mr. William Jennings Bryan Dorn, himself a former occupant of the Third District congressional seat, spoke for many South Carolinians when he referred to John Taylor as a "forthright, dynamic, and excellent legislator," "a man who was one of the finest Representatives in Washington."

Mr. President, John Taylor was a well-educated man, who received his law degree from the University of South Carolina in 1919. He later served as a member of the university's board of trustees from 1946 to 1959.

His public service does not stop there, however, John Taylor served his country in the U.S. Army's Quartermaster Corps and was a veteran of World War I.

In addition, he is still regarded as one of the premier developers of South Carolina's cattle industry and an outstanding agricultural leader.

At the age of 92, John Taylor set one more milestone: He became the oldest patient in the history of Emory University to undergo coronary artery bypass graft and heart-valve replacement surgery. Doctors said later that John Taylor's outstanding physical condition allowed him to undergo the risky surgical procedure.

A great deal more could be said about this man, Mr. President, but I believe that perhaps the best tribute to John Taylor was delivered shortly after his death by his friends in the South Carolina General Assembly.

"In the passing of this prominent agricultural and political leader, the people of Anderson County have lost an outstanding citizen," the com-

memorative resolution read. I want today to join with State Senators T. Ed Garrison and M. E. McDonald and State Representatives Pat Harris and Tom Ervin—who introduced that resolution in the general assembly—in paying tribute to a man who served the State of South Carolina with honor, distinction, and integrity.

A LIFETIME COMMITMENT TO ENGINEERING EXCELLENCE

Mr. MOYNIHAN. Mr. President, last Sunday it was my privilege to participate in the annual dean's day ceremonies of Columbia University's School of Engineering. An event made all the more auspicious this year by the presentation of the prestigious Pupin Medal to Dr. Kenneth A. Roe, a distinguished engineer and chairman and president of Burns & Roe, Inc.

The Pupin Medal is awarded by the Columbia Engineering School Alumni Association to outstanding engineers or scientists for service to the Nation in engineering, science, or technology. The association has, in fact, awarded only 11 medals since it began doing so in 1958, and past recipients include Adm. Hyman Rickover and Nobel Laureate Physicist Isidor Rabi.

To such a distinguished group, we now add Dr. Kenneth Roe. And well we should, for his has been a lifetime devoted to the development of new technologies in the field of electric power generation—an area of great concern to us all. Under his supervision, Burns & Roe, an architectural-engineering firm, has designed and engineered power facilities that have been on the forefront of technological development. The firm has also contributed to the growth and success of important aerospace projects such as Project Mercury, our Nation's initial man-in-space program.

In addition to these numerous professional achievements, Dr. Roe has throughout his career maintained a strong commitment to advancing the science of engineering. A founder of the American Association of Engineering Societies, he is a member or fellow of more than 20 professional organizations. Dr. Roe has also contributed his time and energies to many of our finer schools of education, allowing students to benefit from his considerable experience and technical knowledge. He is currently a member of the board of trustees of Stevens Institute of Technology and of Manhattan College as well as chairman of the Columbia Engineering Fund.

I should very much like to join the Columbia Engineering School Alumni Association in honoring Dr. Roe for his efforts to promote engineering excellence, and I congratulate him on this richly deserved award. Mr. President, I ask unanimous consent that the certificate accompanying the Pupin Medal awarded Dr. Roe, which eloquently describes his many achievements, be printed in the RECORD at this point.

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

THE COLUMBIA ENGINEERING SCHOOL ALUMNI ASSOCIATION AWARDS WITH PRIDE THE PUPIN MEDAL TO KENNETH A. ROE

A gifted engineer and leader, you have dedicated your life to the advancement of the engineering profession. Throughout your career, you have applied your engineering expertise and leadership talents to furthering our Nation's technological development and meeting our growing energy needs. At the same time you have given generously of yourself to help assure the availability of an excellent engineering education to the best men and women seeking to enter the profession. As chairman and president of Burns & Roe, Inc., you have devoted your professional life to developing the newest technologies in the field of electric power generation, as well as designing and engineering conventional power plants. Under your aegis, Burns and Roe has participated in many defense and aerospace projects of national importance.

But it is not only for your unquestionable gifts as an engineer that we honor you today. Columbia University, the engineering profession, and the Nation as a whole have long benefited from your efforts on behalf of numerous professional societies and institutions of higher learning, to which you have applied the same unstinting energy and leadership qualities so evident in your technological achievements. Through your counseling and support of many educational institutions, you have striven to assure that the quality of engineering education will keep pace with the complicated needs of a nation on the brink of a new century. Largely because of your untiring efforts, the American Association of Engineering Societies has emerged from the world of dreams into reality, bringing a sense of unity to the many disciplines within the field of engineering. You have served the Engineers Joint Council in numerous capacities, culminating in your tenure as president. In addition to your participation in numerous professional societies, you have served our nation as a director of the U.S. National Committee of the World Energy Conference and as chairman of its Investment Advisory Committee.

You are a fine example of a committed professional and a dedicated citizen. It is with great pride that the Columbia Engineering School Alumni Association bestows this honor on you in recognition of the contributions you have made, and continue to make, through service to the Nation and to the engineering profession. The tradition of excellence that the Pupin Medal represents for Columbia is vitally apparent in you, at a time in our Nation's history when we all need to be reassured how much can be achieved by one man who has the courage and the vision to make the attempt.

MICHAEL I. SOVERN,
President, Columbia University.
ROBERT A. GROSS,
Dean, School of Engineering and Applied Science.
DANIEL DICKER,
President, Columbia Engineering School Alumni Association.

Given on the occasion of Dean's Day, April 16, 1983.

THE PRESIDENT'S DECISION ON MX

Mr. CRANSTON. Mr. President, the statement by President Reagan calling for adoption of the Scowcroft Commission's recommendations is a watershed event in postwar American nuclear policy.

With this statement, the President has abandoned his reckless, partisan and misleading insistence that our Nation is imminently endangered by a window of vulnerability.

But with this statement, the President has proposed spending more than $20 billion to put MX missiles in existing ICBM silos and to begin work on still another new ICBM.

I do not believe the Congress and the American people are going to tolerate the latest manifestation of Ronald Reagan's view of arms control. We simply are not going to buy his Orwellian logic that we must build literally thousands more nuclear warheads so that someday we might have less.

This is not the only fundamental flaw in President Reagan's thinking on the MX. He has argued that we need the MX missile despite the fact that it has no legitimate mission in furtherance of nuclear deterrence and has no strategic justification. We are told that we must buy this new system simply to demonstrate our political will. But what type of political will is it that spends tens of billions of taxpayer dollars on a defense program for which there is not strategic justification? I reject the notion that it is a sign of political weakness to show commonsense on critical defense funding issues.

The American people can heave a collective sigh of relief that finally the Reagan White House and some of the leading opponents of the SALT II treaty have acknowledged that our land-based missiles have not left the United States open to a disarming first strike. Feasting on platefuls of crow, key members of the Scowcroft Commission and the Reagan White House have now acknowledged that the United States would retain devastating nuclear forces—more than two-thirds of our entire strategic nuclear arsenal in submarines and bomber aircraft, even after such an insane bolt-from-the-blue attack against our ICBM's. It should be further apparent that no rational Soviet leader would ever undertake such a suicidal attack, which the Soviets could never expect to work. And since deterrence only works against rational leaders, there is no reason to waste defense dollars to deter against an irrational attack.

Regrettably, having closed its self-created window of vulnerability with a rhetorical flourish, the Reagan administration has found itself trapped by its hyperbole. The administration has convinced itself that we must do some-

thing to show that we are tough; we must buy some new land-based missiles. What the President and his commission have recommended is that we violate SALT II terms and build two new missiles with more than a thousand warheads. They would put 100 MX missiles in existing Minuteman silos—silos which they claimed just last year were perilously vulnerable. And they would deploy a new small mobile missile on land because our land-based missiles—which they have just realized to not leave the United States vulnerable to a bolt-from-the-blue attack—might become vulnerable again. There is some merit in considering a move toward this smaller, single-warhead missile because it would further reduce the value of ICBM's as targets. It could possibly provide greater stability if it produced a gradual de-MIRV'ing of United States and Soviet land-based missiles and placed a greater emphasis in arms control counting on total nuclear warheads instead of launchers. But I see no reason why the United States should now proceed in the opposite direction with the 10-warhead MX—and push the single warhead ICBM, which does not represent any great technological breakthrough, far into the future.

Like so many of the Reagan administration's policies, today's decision on the MX looks for its justification in symbolism. Having preached the gospel that America is doing nothing to maintain its nuclear deterrent, the President is unable to accept the notion that we might not need new land-based ICBM's. He believes we must do something new and impressive with our land-based forces or we will look weak. But what about all the production moneys we are expending on other parts of our nuclear arsenal? On the B-1? Stealth? The new Trident II and the D-5 supermissile? The Pershing II missiles for Europe? The three new nuclear aircraft carriers with their new fighter aircraft? The new superaccurate Mark 12A warheads for our Minuteman III ICBM's, and on and on?

We need impress no one with our commitment to modernizing our nuclear forces.

What we need now is a more clear and genuine commitment to arms control, not arms production.

It concerns me deeply that the President's much-needed call for bipartisanship in strategic policy does not merit support. We do need bipartisanship in this field. But I do not believe we in Congress show leadership by nodding our heads in agreement when it is so painfully clear that the emperor has no clothes.

The proposal of the President to put 100 MX missiles in existing Minuteman silos was rejected last year in the Senate by a 90-4 vote. Many feared that these missiles would be an inviting target and would be put on a launch-on-warning trigger. Others felt that this system simply did not improve nuclear deterrence and thus was not cost effective. I hope that this same coalition of Senators will show the determination not to continue to waste any more taxpayer dollars on the MX—a missile without a mission.

PAUL CALLAHAN AT THE MASTERS

Mr. KENNEDY. Mr. President, there were many highlights of the Masters Golf Tournament 2 weeks ago in Augusta, Ga. But for one citizen of Massachusetts, this prestigious tournament had a very special meaning.

In 1979, Paul Callahan, from Falmouth, was paralyzed from the neck down as a result of a tragic fall. Last September he defied his doctor's best hopes for recovery and took his first step. And this year, despite so many obstacles, he traveled 350 miles to fulfill his dream of seeing the Masters in person. After his accident nearly 4 years ago, his doctors predicted that even sitting in a wheelchair might not be possible, but he has long since overcome that challenge.

As he watched the golf tournament, Paul sounded a new challenge. "Next time I come here, I'll be walking," he said. Those of us who know Paul personally and what he has already accomplished, take him at his word. We know that someday soon, he will.

Milton Richman of United Press International, wrote of Paul's trip to the Masters last week, and I ask unanimous consent that the article be reprinted in the RECORD.

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

PERSEVERANCE, PURE AND SIMPLE

(By Milton Richman)

AUGUSTA, GA.—Have you ever had one of those crazy impulses? Then you shouldn't have much trouble understanding why a young man without any inhibitions figured he was the biggest winner of them all at the Masters yesterday.

The only thing he didn't get was one of those green jackets, and it didn't matter.

"I feel just like I've got one on," Paul Callahan declared, happily shaking his head over everything that had happened to him in the last 48 hours.

Purely on impulse, the outgoing blond 25-year-old Falmouth, Mass., man who resembles baseball's George Brett decided late Saturday night he would like to attend the Masters. Fine, except there were a number of problems, none of which could be called inconsequential.

To start with, there were no tickets available. All of them had been sold, and nobody gives them up. Second, there was no place for him to stay. Every room in and around the city had been taken long in advance is always the case during Masters week.

There was yet another drawback. Paul Callahan can't walk. He's a quadriplegic.

He has one of those mechanized wheelchairs that enables him to get around quite well, but even with it he faced what looked like another insurmountable roadblock. Because of all the recent rain, the Augusta National course was still muddy and slippery in many places. More than that, it had not been laid out to accommodate wheelchairs.

None of these details discouraged Paul Callahan. He had never been to the Masters and he had made up his mind to see it in person this time. Watching it on TV is all right, but nothing beats being there. He reached that decision at a physical therapy center in southern Alabama where he has been working 15 hours a day in a determined effort to walk again some day.

Doctors had told him he might never be able to sit up in a wheelchair and also said he most certainly would never be able to walk again after he was paralyzed from the neck down in a slip on a wet floor in September 1979. He has fooled them completely. Not only is he able to sit up and move all his limbs now after months of rehabilitation, but he accomplished what was considered a medical miracle by taking his first step last September.

The center where he's doing all this work is about 350 miles from Augusta. Getting here didn't faze him in the least. He'd drive his specially adapted wheelchair van and take his therapist, Chuck Mahoney of Falmouth, Mass., and a friend, Patrick Devine of Columbus, Ohio, along with him. Getting into the Masters was quite another matter.

That's where Hord Hurdin, chairman of the Masters, came in.

Word was relayed to him that Callahan was already in Macon, Ga., without any tickets or reservations. Hurdin had plenty of problems of his own, what with the weather threatening the completion of the tournament. The last thing in the world he needed was another concern.

He was aware Callahan had no tickets and no place to stay. He also knew a muddy course certainly was no place for a wheelchair, but the Masters' boss is a compassionate man. With all his other problems, he addressed himself to this particular one.

Some tickets were turned in, and Callahan gladly paid the daily fee for them. Hurdin and others figured out the paths over which Callahan could use his wheelchair. Callahan also got a place to stay with his two companions. And to top the whole thing off, Arnold Palmer personally came over to talk with Callahan near the clubhouse before he went out to the practice tee.

"Hi, how are you?" Palmer said as he greeted Callahan, who was sitting in his wheelchair at the time.

"Fine, Mr. Palmer," replied Callahan, smiling, "I wish you an eagle on every hole."

"Thanks, I hope so, too."

"How do you stay so young looking?" Callahan wanted to know.

That made the 53-year-old Palmer really beam.

Callahan is a senior at Harvard where he is majoring in economics. He has two older brothers, Kevin, a personal and political aide to Sen. Edward Kennedy (D-Mass.), and William, a federal law enforcement officer.

Callahan was so elated over having a chance to see the golfers here that at one point he stood up.

"Next time I come here," he promised, "I'll be walking."

THE NUCLEAR "APOCALYPSE"

Mr. DENTON. Mr. President, many of our citizens are understandably fearful of the prospect, or possibility, of a nuclear war. That fear is manifest in large segments of the nuclear freeze movement which has been so much in the news. It is also manifest in fears about nuclear power, the proliferation of nuclear technology, and debates about arms control and our defense budget.

Although there are legitimate reasons to be concerned to avoid a nuclear war, many of us think that the fears have been excessively heightened by a combination of coverage in the media and a widespread lack of knowledge about the realities of nuclear science and technology. And many of us recall that there was a similar fear of the nuclear apocalypse during the 1950's.

Dr. John R. Silber, the president of Boston University, examined and analyzed the apocalypse phenomenon in a very perceptive article in the August-September 1982 issue of Public Opinion. He argues that human beings are, perhaps by nature, fascinated by the prospect of an apocalypse, and that predictions of false apocalypses have been frequent. He analyzes many of the current fears, and shows that too often subscription to theories of the apocalypse is a substitute for the effort of reasoned thought and problem solving.

Mr. President, I commend Dr. Silber's article to my colleagues, and ask that its text be printed in the RECORD.

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

APOCALYPSES THEN AND NOW: THE PEACE MOVEMENT AND THE ANTINUCLEAR CRUSADE

(By John R. Silber, president of Boston University)

An apocalypse can be a pessimistic document, as exemplified in much of recent environmentalist catastrophe-writing, and it can be fuzzily optimistic, as exemplified by Charles A. Reich's The Greening of America. The original Apocalypse, although full of great terrors, was essentially a highly optimistic document, written to comfort the persecuted Church, assuring them that Christ would return and that Caesar would finally have rendered unto him all that was his—that is, his just deserts. But most apocalypses are pessimistic, because modern apocalyptic writers claim to be beyond partisanship—they purport to tell us how bad things are, or are about to be, for everyone so as to persuade us to adopt their particular remedy. The remedy would usually be only marginally more attractive than that which they warn against, and literally intolerable if we were assumed to be well off or at least moderately safe.

From 1960 to 1975, the air was blue with apocalypses. In 1962 Bertrand Russell—having recanted his earlier advocacy of a preemptive nuclear strike against the Soviet Union—stood in Trafalgar Square and told us that nuclear war was inevitable within a few months. A few years later the Brothers Paddock taught that a large proportion of the earth would be dead by famine by 1975. At the start of the new decade, there was a burst of activity: Paul Ehrlich and his fellow population controllers claimed that the United States had an urgent need not merely to stabilize, but to reduce its population. Judson Jerome made and communicated the discovery that colleges and universities were dead, never to rise again. Alvin Toffler told us that the future was upon us and that if we tarried with the present, the future would destroy us. Charles A. Reich preached that humanity had become a new species. Not to be outdone, William Irwin Thompson, in 1971, claimed that we had come to the end of history.

In 1970, Life magazine reported to its mass audience that there was a probability that by 1980 urban dwellers would have to wear gas masks in order to survive pollution, that by the early 1980s, a smog inversion would kill thousands of people in some major city, that by 1985 the amount of sunlight reaching the earth would be reduced by half, and that new diseases humans couldn't resist would reach plague proportions. And Edwin Newman, in a 1970 NBC broadcast, predicted that by 1980 the nation's rivers would have reached the boiling point, largely because of nuclear power.

If one were to believe many political orators and writers, the United States trembled on the brink of violent revolution. This idea left its traditional home, the weekly papers of various Marxist sects, and animated the bosoms of people who ought to have known better. In this case, "ought to have known better" is more than a cliché: the plea of ignorance by the learned is never an acceptable reply. And as Granville Hicks has justly observed, ". . . It is no defense whatever for an intellectual to say that he was duped. That is what, as an intellectual, he should never allow to happen to him."

There is some evidence the humanity is simply more attracted—naturally attracted—to doom than to its alternatives. John Milton seems to have known this, and all newspaper editors do. Every so often some naive entrepreneur proposes to publish a newspaper that will print only the good news. And every so often such a naive entrepreneur gets nowhere, human nature being what it is.

THE INTELLECTUAL ATTRACTION FOR APOCALYPSE

Although the taste for apocalypse is not exclusively an intellectual one, it is largely so. As the English are said to love a lord, we intellectuals love an apocalypse. The reasons are not obscure: we intellectuals are trained to have large, interesting, and complicated thoughts. We are trained to be imaginative. There is little interest in the notion that the future will resemble the past and that life as we know it, far from being doomed, is likely to go on more or less indefinitely, evolving slowly and recognizably. And if one has been trained to study the past and to take the notion of historical period quite seriously, it is not pleasant to suggest that one is living in an age that will not attract the interest of the more sensationalizing historians. How terrible to think that our age might not have attracted the prurient attention of a Suetonius or Tacitus!

And the egotism of the intellectual—that segment of mankind for whom the sin of pride would have to have been invented if it did not already exist—naturally demands that each period be either the best or the worst. Since few ages can credibly be called golden, we intellectuals tend to regard our own as at best of iron if not of merely plastic.

APOCALYPTICISM: A SUNSET INDUSTRY

If we look around us today, we will see that the level of apocalypticism is markedly down and the number of practing apocalypticians reduced. The principal home of apocalypticism is the newly resurgent "peace" movement. The movement against nuclear power is another, although it appears to be on the wane. Many of its members may be following the example of Dr. Helen Caldicott who, after several years of opposition to nuclear power punctuated with asides about nuclear war, seems now to have dropped nuclear power entirely in her speeches and concentrates exclusively on nuclear war.

But apocalypticism is a sunset industry. This should not be surprising. The examples cited above do not merely pass the test of nonsense so bad that the man in the street would reject them out of hand; they pass George Orwell's more demanding standard of nonsense, nonsense so bad that only an intellectual would believe it. (You will note that Orwell, pessimist that he was, did not talk about "nonsense so bad that even an intellectual would reject it.")

Eventually nearly all apocalypticians are laughed out of existence. Few survive for long. Most are discredited by their survival beyond the date of their predicted demise, and their numbers and diversity prevent any one school from developing a critical mass. Because their apocalypses are usually in flagrant conflict, they obviously cannot all be true, and if they are not all true perhaps none is. St. John himself has preserved his credibility by sedulously leaving unspecified the date by which the Beast and the Four Horsemen will make their appearance. Generations of his commentators have tried to nail down the time, and have themselves become discredited, but his record is unblemished. Indeed, in the eighteenth and nineteenth centuries, those who tried to unravel the mystery of the time at which the Beast and the Four Horsemen would appear, became something of an international fad. The Beast may make his appearance at any mement, but as yet, the time is not known. Is the decline of apocalypticism a good thing?

The answer to that question depends on what one believes about our present situation. One presumes that the original apocalyptician, St. John of Patmos, would applaud the demise of incompentent secular imitators such as Charles Reich; but presumably he would be as convinced as ever of the world's need to harken to his own apocalypse. He would probably regard his emulators as proclaimers of false apocalypses, and himself as the proclaimer of a true one.

This is a useful distinction: the boy who cried "Wolf!" dispensed a series of false apocalypses followed by a true one. His repeated exposure as a false apocalyptician prevented his being believed when he became a true one, with results that can hardly have been pleasant for him and perhaps for others.

The most striking false apocalyptician of our day was of course Adolf Hilter: his grandiose vision of a Thousand Year Reich was literally chiliastic, and it was founded on a series of revelatory pronouncements that were unfailingly false. Thus, it was the generals, not the politicians, who crumpled in 1918; compared to the Treaty of Brest-Li-

tovsk that the Germans had imposed on Russia, the Treaty of Versailles was a lenient document; the Weimar Republic was an advanced welfare state whose troubles grew heavily out of the Nazis' own irresponsible opposition; and finally Hitler's vision of the Jews was built of falsehood from start to finish. Yet he was believed, first by the fanatics of the party and eventually by many Germans.

And yet imagine that in late January 1933, someone had told the power brokers who were about to put Hitler in power, "This man will destory the Republic, launch a war in which Germany will be crushed and its cities bombed into rubble, undo the work of Bismarck by causing Germany to be divided once again and accomplish the near extermination of European Jewry." Such a true prophet would have been dismissed as an insane dispenser of apocalyptic nonsense. Moreover, when, in 1942 and 1943, people began to report on what was going on in the death camps, they were dismissed as alarmists and liars.

The case of Hitler is one in which a false apocalypse was believed, inexorably causing a true apocalypse. This is often the relation between false and true apocalypses: they exist in a kind of dialectic, and happy endings depend on a timely belief in the true apocalypse, which serves as a prophylaxis against the false one. If the true apocalypse is not believed, the false apocalypse becomes the harbinger of a dreadful truth that is different from what it preached, but one no less harrowing.

TODAY'S APOCALYPSES: NUCLEAR ENERGY AND THE NUCLEAR FREEZE

Two pairs of apocalypses are increasingly common today. The first relates to energy. The false apocalypse has at its heart the claim that nuclear energy, besides being unnecessary, is an intolerable threat to our health and safety. The related true apocalypse has at its heart the statement that we may so mismanage our energy resources that we will seriously degrade our environment and leave our descendants without the feedstocks for their essential chemical industries.

The false apocalypse is widely listened to, and its success makes the fulfillment of the true apocalypse increasingly likely. I need hardly set forth the false apocalypse for your attention. Regrettably, it is what almost every proper intellectual believes about nuclear power. Nuclear power is, among intellectuals, an automatic object of hate which everyone "knows," without evidence or argument, to be bad.

If we strip away the cloak of ignorance, we reveal the true apocalypse: the alternatives to nuclear power are themselves dangerous, and nuclear power is much safer than its opponents make it out to be.

Energy from the atom is energy produced from fuels that are otherwise almost useless. Uranium and thorium are essentially trash, and nuclear electricity, if not something from nothing, is a close approximation. If we are to consider our descendants, we will not needlessly burn up coal, oil, and natural gas from which they must make essential petrochemicals ranging from cloth to fertilizer. Utilized in breeder reactors, the waste U-238 already produced from our present reactor program would give us literally centuries of electricity without requiring us to mine another ounce of uranium. And the earth's yet unmined supplies of uranium and thorium have an energy supply that is all but infinite.

The energy locked in the atom is so concentrated, moreover, that the occupational hazards of nuclear energy are very much less than those of its competitors. To generate a given amount of electricity from coal requires the death of approximately 100 times as many miners as would the same amount from uranium. And the evil effects of coal are not limited to the deaths of coal miners or to the thousands of cases of black lung disease. We now kill approximately 50,000 people each year from air pollution caused by the industrial use of coal—one million deaths by the end of this century, a disaster of a magnitude that is exceeded historically only by the Black Death and the automobile. We would expect, by contrast, at most, a handful of deaths from nuclear electricity generated in the same amount over the same span.

Coal-fired generators also pose serious environmental threats. One of these, the so-called acid rain, damages trees and pollutes lakes and has the unfortunate habit of dissolving buildings. There is, in Scandinavia, a pungent irony in this connection. Visit Copenhagen and you will hear the Danish antinuclear activists complain that the Swedes have irresponsibly sited a nuclear reactor at Barseback just across the Sound from Copenhagen, thereby threatening the Danish capital but leaving Stockholm safe. Cross the Sound to Malmo, and the Swedes will point out that since the Arab oil embargo, the Danes have been converting their oil-fired plants to coal, and that the coast of Denmark is lined with large coal-fired plants. The prevailing westerly winds drive the pollution from these plants away from Denmark and straight into Sweden, which, without any coal-fired plants of its own, now has a very serious acid rain problem. The false apocalypse of Danish antinuclearism brought the genuine apocalypse of acid rain upon Sweden.

Acid rain is an actual problem. The other environmental threat of coal—and of all other fossil fuels—the so-called greenhouse effect, is a prospective one. Although the matter is still controversial, there is a substantial body of expert opinion that the large amounts of carbon dioxide that are undoubtedly emitted by fossil fuel plants will eventually form an insulating layer in the atmosphere that will raise the earth's temperature by several degrees. Such an increase would at minimum disrupt world patterns of food production, and might begin melting the polar icecaps with a disastrous raising of the ocean level. Although this scenario is disputed, it has substantially more respectable and persuasive scientific support than the disaster scenarios written for nuclear power.

Nuclear reactors have an operating industrial safety record that cannot be matched by any other means of energy conversion, and by very few industrial activities of any sort. The true lesson of Three Mile Island, almost entirely missed by the media, is that it is easier than anyone had thought to limit the damage in a nuclear accident to the reactor itself.

Where nuclear power really shines over the competition is in waste disposal. A large part of the millions of tons of waste products produced annually by coal-fired power plants is buried in unmonitored landfills, where ground water can leach out a hellish inventory of carcinogens and mutagens. The rest is dispersed into the air, ultimately to rest in our lungs. The one-year wastes of a nuclear power plant, by contrast, can be reduced to a size that would fit under a dining room table, converted into glass and buried in a geologically stable formation. There, within a few centuries, they will decay to the point that they are less radioactive than the uranium ore from which they sprang. Although we often hear it said that "we do not know how to dispose of nuclear wastes," the vitrification process I have been describing is already in commercial operation in France. To adopt it in the United States requires merely the political decision to do so. Although we are often assured that we could not handle the nuclear waste problem, I am inclined to agree with Immanuel Kant that what is actual is possible.

The advantages of nuclear energy are very great, and only the false apocalypse of the antinuclear movement can prevent us from developing it. We hear it alleged, for example, that the fuel from nuclear power plants can be made into bombs. Although it is technically possible to make an explosive device from reactor fuel, it is very badly adapted for the purpose. One is better advised to use a reactor designed for the purpose of making nuclear fuel. That is what India did. The Iraqi reactor destroyed by Israel was widely misreported to have been a power plant, but it was in fact a research reactor whose fuel could have been directly usable in bombs. The difficulty of making bombs from power plant reactors is suggested by the fact that the Soviet Union supplies such reactors and fuel to its satellites.

Nuclear proliferation is a serious issue on its own merits, but it cannot be solved by shutting down nuclear power, any more than bingo can be prevented by shutting down cruise ships.

Under the baleful influence of the antinuclear apocalypse, we continue to threaten our economy and our political independence by buying OPEC oil, to threaten the health of our people by mining and burning coal, and to threaten the industrial and environmental welfare of our descendants by risking catastrophic effects on the weather and by exhausting our chemical feedstocks. It would take substantial time to fully exploit the potential of electricity generated from uranium. The time to begin is now—in fact, it was a decade ago. France and Japan are already embarked on a vigorous program of nuclear development. The French program started under Giscard d'Estaing was so ambitious that even after the cutbacks being considered under Mitterrand, an imposing program remains. Although the Soviet Union has a highly advanced nuclear program, the European Communist parties, including those most subservient to Moscow, oppose nuclear power outside the Soviet Union, testifying to the strategic value of nuclear power and the importance of denying it to the free world. The rest of the industrialized world is developing the breeder reactor which the United States dawdles. There is no reason for us to be backward in this matter. It is largely in the United States—and, derivatively, in West Germany—that the development of nuclear energy is stymied by its apocalyptic opponents. They may not know it, but the false apocalyptic opponents of nuclear power are working to bring on a genuine apocalypse of famine, sickness, and death. That is, they are riding with three of the horsemen of the apocalypse.

THE PEACE MOVEMENT

The other apocalyptic movement I want to talk about rides with the fourth rider. This is ironically named the "peace" movement, sometimes also confusingly called the

antinuclear movement. The personnel of the two movements may be largely the same, but the apocalypses are distinctive. In opposing nuclear energy, the activists seriously distort facts about the way in which we gain peaceful energy from the atom. But the members of the "peace" movement, on the whole, describe nuclear warfare accurately. For there can be little doubt as to the hellish nature of strategic nuclear warfare, and it is bizarre for the members of the movement to imagine that they are opposed to it whereas others are in favor of it.

The fact is that everyone is opposed to nuclear warfare, and the disagreement which has recently arisen after a period of dormancy is a disagreement about the best way to prevent such a war.

In Western Europe and the United States, apocalyptic opponents of nuclear warfare propose to prevent it by unilateral disarmament, on the assumption that the Soviet Union, once the democracies had disarmed themselves, would follow suit. In the recent context of proxy intervention by the Soviet Union in Afghanistan and its threatened intervention in Poland, fewer people urge the total and immediate unilateral disarming of the West. The suggestion is common, nevertheless, that we should make some major unilateral gesture to set the Soviets a good example. There is no evidence whatever that the Soviets would emulate such an action, and much evidence that they would not. Their rejection of President Reagan's offer to effect a removal of nuclear missiles from Europe was almost instantaneous.

The preferred mode of the "peace" movement is to spell out in detail what everyone already knows: that a nuclear attack on a city is a terrible, diabolical thing. The United States nuclear policy is founded on a clear appreciation of this fact and a determination to deter the use of nuclear weapons. Since there is abundant evidence that the Soviets' strategic thinking holds that there are situations in which nuclear war is winnable and preferable to the alternative, it is necessary to keep the level of deterrence extremely high.

The present-day apocalyptic opponents of nuclear war had spiritual colleagues in the 1930s. When the Oxford Union voted that "This House will not fight for King and Country," it raised the apocalyptic vision of an intolerable war. In doing so, these Oxford apocalypticians helped not only to rob Europe of its will and its means to resist Hitler, but also to encourage Hitler himself in the belief that he would conquer Europe without substantial opposition. Had Britain and France responded to the plain fact of German rearmament by rearming themselves and opposing Hitler's early moves, there would have been no Second World War. Had the French met the German reoccupation of the Rhineland with military force, the German army would have been forced into a precipitate withdrawal, and the resulting humiliation would probably have led to Hitler's downfall. As it was, the allies allowed him one bloodless conquest after another until no German general could gainsay him.

If we apply to the prewar period the theory expressed by today's so-called "peace" movement we would be forced to conclude that the greatest threat to peace between 1935 and 1939 was not Adolf Hitler but Winston Churchill. The falsity of this idea should now be apparent to all, as should be the falsity of its modern descendant, that the United States is the principal threat to peace today. If the United States were a threat to peace, the hegemony of the Soviet Union would not have survived that period between 1945 and 1960 when the United States possessed a virtual monopoly on nuclear weapons and sufficient power to bring the Kremlin to heel at any time it so desired.

The prehistory of the Second World War is extremely instructive about the objective consequences of peace movements: the horrors of the First World War were followed by a vigorous and superficially successful peace movement. The Washington Naval Treaty of 1922—that President Harding thought would assure his place in history—put an end to what everyone agreed was a dangerous naval arms race. The advocates of "peace" so prevailed in the democracies that at every turn, Hitler's demands were satisfied without firing a shot. And just twenty-one years after the guns fell silent, Europe was at war again.

Since the end of the Second World War, we have been in a more or less unrelieved arms race. But the world as a whole, thirty-seven years after the guns fell silent, is still at peace. For the first time since the middle of the nineteenth century, the prospect of a general European war seems extremely remote. The reason, as Quincy Wright has persuasively demonstrated in The Study of War, is that the balance of power works.

But war in Europe is not unthinkable. Part of the reason for doubting that the Soviet Union is a peace-loving state is its massive tank buildup. It is also building up all its forces, but the tank buildup is especially telling. This is because there are few views more widely concurred in by military experts of all countries than the judgment that the tank has no defensive value: it is the weapon of attack, pure and simple. This Soviet force must be developed as part of a plan to invade Western Europe. We cannot know whether the Soviets will carry such a plan into effect, but we can hardly doubt that they contemplate the possibility.

The Western allies could hardly counter this force with conventional weapons short of going through a permanent war alert—and through an industrial mobilization appropriate to it, that is, by converting themselves into garrison states. Anyone who opposes the maintenance of a nuclear deterrent against a Soviet invasion of that part of Europe not now under their control must have decided that a Soviet future for Europe, and ultimately for the United States, is tolerable.

Such a person has perhaps succumbed to the slogan "Better Red than Dead." Better Red than Dead? Of course—who could doubt it? But in the world of slogans we are beginning to hear, "Better Neither than Either." The logical conclusion of the "Better Red than Dead" school of thought would be to try to negotiate generous terms of surrender to the Soviets while they are still unable to dictate their own, and hope that they would honorably carry out their commitments once we disarmed. I would disagree with people who had come to a clear understanding of such a position, but at least people who advocate this would know what they are doing. But the "peace" movement contains many people who have not come to understand the final logic of their positions at all. Nor do I believe that the majority of Americans hold such views.

Maintaining peace is a substantially harder task than going out into the streets and waving placards. It is a difficult and demanding job to calculate the balance of forces and maintain them. The danger of the apocalyptic "peace" movement is that its success would lead either to war or to surrender. This would be a choice between to intolerables. The people of the United States, I believe, will accept neither. The great problem facing us is how to find a constructive alternative that avoids both war and surrender.

The apocalypse then—to use a metaphor that would have probably delighted St. John—is a two-edged sword. When false and given credience, it almost invariably leads to the sort of events that are customarily called "apocalyptic." When true, it gives us a chance to avoid them. Our urgent need is to develop a better ability to know the difference between the two. And on this subject, so far, we intellectuals have not made a major contribution.

ARMENIAN TERRORISTS MUST BE STOPPED

Mr. SYMMS. Mr. President, international terrorism recently claimed another victim: Turkey's Ambassador to Yugoslavia, Galip Balkar. He was fatally wounded by Armenian terrorists on March 9, 1983, and died of his wounds a few days later.

Ambassador Balkar became the 26th victim of Armenian assassination teams specializing in the murder of Turkish diplomatic personnel and their relatives. Having lost American Ambassadors to Afghanistan and Lebanon in dastardly assassinations, we feel a special sympathy and compassion for the martyred Turkish diplomats. Turkey is a close ally of the United States and a member of NATO. The terrorists who commit these unspeakable crimes want to dismember Turkey and attach the "liberated" territories to the Soviet Union's Armenian Soviet Socialist Republic.

In a spring 1979 interview at Beirut, the ASALA (Secret Army for the Liberation of Armenia) openly professed its Marxist philosophy, its hatred of the United States, and its praise of the Soviet Union, which "has provided a homeland for the Armenians." ASALA members receive training from the most Pro-Soviet extremist faction within the PLO under Dr. George Habash, establishing at least an indirect link between ASALA and the Soviet Union. The other terrorist group, Justice Commandos of the Armenian Genocide, is not traditionally Marxist, but more like the "New Left" of the late 1960's in the United States and emphasizes Armenian fanatical nationalism at the expense of socialist ideology. They are, however, virulently anti-American.

Whether they have or do not have direct contacts with the KGB is of secondary importance. Both groups promote the aims of the Soviet Union in this northern tier region of the Middle East. The parallel Armenian and Soviet objectives are:

First. Destabilization of Turkey and helping to create a bad international

image for Turkey, recalling the tragic events of 1915-16 in an exaggerated fashion.

Second. Infiltration of the large, peaceful and traditionalist American Armenian community, especially the youth, by calling for revenge against the killings and deportation of Armenians from eastern Anatolia in 1915-16 after their rising against the Ottoman Empire in World War I.

Third. To "liberate" the six eastern provinces of Turkey (Stalin asked for three of them in 1945 and was dissuaded only by President Truman's resolute opposition) and their attachment to Soviet Armenia, despite the fact that only a few thousand Armenians still live in them.

Fourth. To establish "closer ties" between the two largest Armenian communities in the world, the 4.2 million Armenians in the Soviet Union (about 1 million of whom live outside of Soviet Armenia) and the 600,000 American Armenians, most of whom are second- and third-generation Americans who would like to preserve their Armenian heritage.

The Armenian terrorists, like any other international terrorists, hope for maximum media coverage of their "message" against Turkey and its friend, the United States.

Their activities are not merely a Turkish concern. Four of the murders and eight of the bombings have occurred in the United States. (Los Angeles, Boston, New York), and increased tourism, cultural exchanges, and the takeover of some of the Armenian churches by pro-Soviet elements show the potential for Soviet infiltration of the American Armenian community.

While expressing our condolences to Ambassador Galip Balkar's family and the Turkish Government, we must take positive steps to prevent the recurrence of Armenian terrorism on our shores in the future.

REPEAL OF TAX INDEXING

Mr. THURMOND. Mr. President, last week, I joined with 14 of my colleagues in expressing firm opposition to any attempt to delay, modify, or eliminate the third and most important installment of President Reagan's tax cut and the administration's plan to begin indexing individual and corporate income taxes.

These two programs, despite what the critics allege, are the first real tax relief the working men and women of this country have had in the last decade; and believe me, we owe it to them.

I have heard all the rhetoric about postponing the third segment of the tax cut and the tax-indexing program because of concerns about worsening the Federal deficit.

Mr. President, there is no one more concerned about increasing our deficit than I. However, the solution to that problem is to cut Government spending, not eliminate tax relief which will benefit every American.

For years, the working people of this country have been robbed of their just earnings through the hidden tax of inflation. "Bracket creep," the automatic increase in individual income taxes due to inflation, has been steadily diminishing the hard-earned paychecks of people who shoulder the biggest share of the tax burden in this country—the middle-income American.

In fact, recent studies have shown that 80 percent of the relief generated by tax indexing will go to persons earning less than $50,000 a year. Coupled with the tax cut, which will put more money back in the pockets of all Americans, tax indexing will provide the first real protection against automatic and covert tax increases through bracket creep.

The wisdom of these two programs should be apparent to everyone, but there are apparently those who believe that the American people will stand silently by while the tax cut and tax indexing are repealed. Let me assure you that they will not.

An economist recently summed up the feelings of all working people when he succinctly said, "I never met a tax cut I didn't like."

The American people have had enough of Government that robs their earnings and initiative to work hard for salary increases. For the last several years, there has been a growing movement among taxpayers to actively organize and lobby against uncontrolled taxation and Government spending. That movement consists of the mainstream of America, those men and women who support families and businesses, and they will not tolerate elimination of programs which reduce their taxes.

An editorial in the April 18, 1983, edition of the Charleston News & Courier makes a good case for supporting the tax cut and tax-indexing programs. I ask unanimous consent that the article, entitled "An Urge To Kill Tax-Indexing," be included in the RECORD.

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

[From the News & Courier, Apr. 18, 1983]

AN URGE TO KILL TAX INDEXING

Those who are ganging up in Congress to repeal income tax reductions due in June are fighting a misguided battle in a broad campaign to dismantle most of the rest of President Reagan's tax-saving program.

Widespread grass roots support was needed a year ago to persuade Democrats deeply infected with ideological hatred of everything Mr. Reagan represents to adopt that program.

Similar support is needed now to make sure that it is not canceled with the help of disloyal Republicans influenced by baseless reports that the program works in the favor of the rich against the poor. The outburst of anger against Congress for voting withholding taxes on interest and dividends need to be duplicated in a new cause.

Goodness knows there is plenty to be angry about. The allies in attacking the June income tax cuts make it seem as if they are striving for a limited objective in order to redress a single inequity between high and low income people. Actually, however, they have the much more important aim of eliminating tax indexing. It is the feature of the Reagan program which spendthrift members of Congress dislike the most. It places automatic restrictions on a favorite game of voting for government spending without having to worry about where to find the money to pay for it.

Among less responsible members of Congress, the hypocritical attack on tax indexing descends to even lower grounds. At that level one meets those who pander for votes by telling low-income taxpayers that repeal of indexing is in their interest when it is a fact that it is those taxpayers who will suffer the most if indexing is removed. The distortion is inexcusable.

Would that things were much better in the precincts where economic heavyweights like Sen. Hollings reside. Mr. Hollings has plenty of company, though, from colleagues who argue as he does that the repeal of indexing offers budget salvation because it will help to reduce deficits. Neither Mr. Hollings nor his associates mention that repealing indexing will be useful in that respect only if inflation is started up again. That is because it is in inflationary times that the "bracket creep" which indexing is designed to prevent manifests itself.

Overlooking the plain demagoguery of those in Senate and House who lie to poor people on the tax indexing issue and use it as a club to beat the better off, what about the more respectable members of Congress who put down indexing as the cause of deficits? Are they sending us a message that is not being read as it should be?

We suspect they are. The repeal of indexing will be of no earthly use in closing deficit gaps except in inflationary times. The attack on indexing must be read therefore as a red flag warning that somebody is thinking of returning to those times.

Inflation is very unpopular in this country despite its apparent popularity in Congress. Maybe because they reckon that Congress must think their way, few people seem to have really taken a look at the possible connection between the repeal of tax indexing and a calculated move in Congress to restore an inflationary climate. We recommend they look now. Tax indexing is an insurance policy against inflation. It removes temptations to vote today, pay tomorrow or maybe not at all. Unless they want that insurance policy voided before it becomes effective, Americans had better get to work to prevent it.

MESSAGES FROM THE HOUSE

At 12:26 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House has passed the following bill, without amendment:

S. 304. An act to hold a parcel of land in trust for the Burns Paiute Tribe.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-882. A communication from the Assistant Secretary of the Army (Civil Works), transmitting, pursuant to law, a report entitled "Projects Recommended for Deauthorization—8th Annual Report"; to the Committee on Environment and Public Works.

EC-883. A communication from the Acting Assistant Secretary of State for Congressional Relations, transmitting, pursuant to law, a memorandum dealing with the recognition of the Red Shield of David of the Magen David Adom Society of Israel by the League of Red Cross Societies; to the Committee on Foreign Relations.

EC-884. A communication from the General Counsel and Congressional Liaison of the International Communication Agency, transmitting, a resolution of the German Bundestag relating to the Tricentennial Anniversary of German Settlement in America; to the Committee on Foreign Relations.

EC-885. A communication from the Assistant Secretary of State for Congressional Relations, transmitting, pursuant to law, a request by the Republic of Korea on use of foreign military sales financing; to the Committee on Foreign Relations.

EC-886. A communication from the Acting Assistant Legal Advisor For Treaty Affairs, Department of State, transmitting, pursuant to law, a report on international agreements, other than treaties, entered into by the United States in the 60-day period prior to April 7, 1983; to the Committee on Foreign Relations.

EC-887. A communication from the Chairman of the D.C. Retirement Board, transmitting, pursuant to law, a report on the amount of the Federal contribution and actuarial tables on the D.C. retirement system; to the Committee on Governmental Affairs.

EC-888. A communication from the Comptroller General of the United States, transmitting, pursuant to law, his comments on a report on the D.C. retirement system; to the Committee on Governmental Affairs.

EC-889. A communication from the Director of the Office of Government Relations, Washington Metropolitan Area Transit Authority, transmitting, pursuant to law, the audit report of the Authority for fiscal year 1982; to the Committee on Governmental Affairs.

EC-890. A communication from the Mayor of the District of Columbia, transmitting a draft of proposed legislation to amend the District of Columbia Self-Government and Governmental Reorganization Act to increase the amount authorized to be appropriated as the annual Federal payment to the District of Columbia; to the Committee on Governmental Affairs.

EC-891. A communication from the District of Columbia Auditor, transmitting, pursuant to law, a report entitled "University of the District of Columbia President's Discretionary Fund"; to the Committee on Governmental Affairs.

EC-892. A communication from the District of Columbia Auditor, transmitting, pursuant to law, a report entitled "Revenue For February 1983"; to the Committee on Governmental Affairs.

EC-893. A communication from the District of Columbia Auditor, transmitting, pursuant to law, a report entitled "Review of Smoke Detector Compliance by the District of Columbia Government"; to the Committee on Governmental Affairs.

EC-894. A communication from the Executive Secretary of the Board of Regents of the Uniformed Services University of the Health Sciences, transmitting, pursuant to law, the annual report of the Board on activities under the Government in the Sunshine Act for calendar year 1982; to the Committee on Governmental Affairs.

EC-895. A communication from the Executive Director of the National Institute of Education, Department of Education, transmitting, notice that the annual report of the National Council on Educational Research will be submitted on or about June 1, 1983; to the Committee on Labor and Human Resources.

EC-896. A communication from the Secretary of Education, transmitting, pursuant to law, the 1983-84 guaranteed student loan family contribution schedule, and a notice of proposed rulemaking for the 1984-85 family contribution schedule; to the Committee on Labor and Human Resources.

EC-897. A communication from the Chief Executive Officer of the National Commission on Student Financial Assistance, transmitting, pursuant to law, a copy of the Study of Procedures to Eliminate the Guaranteed Student Loan In-school Interest Subsidy; to the Committee on Labor and Human Resources.

EC-898. A communication from the President of the United States, transmitting, pursuant to law, the report of the commission he appointed to respond to the issues raised by Congress regarding the Peacekeeper missile, possible alternatives to the Peacekeeper, and possible alternative ICBM basing modes; to the Committee on Appropriations.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. WILSON:

S. 1103. A bill to impose a moratorium on offshore oil and gas leasing, certain licensing and permitting, and approval of certain plans, with respect to geographical areas located in the Pacific Ocean off the coastline of the State of California; to the Committee on Energy and natural Resources.

By Mr. HUDDLESTON (for himself and Mr. FORD):

S. 1104. A bill for the relief of the grantors of certain land in Henderson, Union, and Webster Counties, Ky., to the United States, and their heirs; to the Committee on the Judiciary.

By Mr. MOYNIHAN (for himself, Mr. INOUYE, Mr. MELCHER, Mr. MITCHELL, Mr. HEINZ, Mr. SYMMS, Mr. EAST, Mr. BAUCUS, and Mr. EAGLETON):

S. 1105. A bill to amend the Internal Revenue Code to change certain accounting rules related to inventory, and for other purposes; to the Committee on Finance.

By Mr. WARNER (for himself and Mr. JACKSON):

S. 1106. A bill to authorize appropriations for the Department of Energy for national security programs for fiscal year 1983, and for other purposes; to the Committee on Armed Services.

By Mr. WARNER (for himself and Mr. JACKSON) (by request):

S. 1107. A bill to authorize appropriations for the Department of Energy for national Security programs for fiscal year 1984 and fiscal year 1985, and for other purposes; to the Committee on Armed Services.

By Mr. DANFORTH (for himself, Mr. PELL, and Mr. PACKWOOD):

S. 1108. A bill to amend various provisions of law to provide for more effective highway and motor vehicle safety regulations and enforcement, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. PRESSLER:

S. 1109. A bill to provide for the establishment of a bipartisan commission to study and make recommendations concerning changes in the medicare program to assure its short-term and long-term financial solvency and the appropriateness of its benefit structure; to the Committee on Finance.

By Mr. MOYNIHAN (for himself and Mr. CRANSTON):

S. 1110. A bill to establish a National Commission on monetary Policy and its relation to fiscal policy; to the Committee on Governmental Affairs.

By Mr. MOYNIHAN (for himself, Mr. JACKSON, Mr. RANDOLPH, Mr. BAUCUS, Mr. TSONGAS, Mr. GORTON, and Mr. D'AMATO):

S. 1111. A bill to amend the Safe Drinking Water Act to provide for the protection of certain recharge areas overlying sole source underground water supplies; to the Committee on Environment and Public Works.

By Mr. GORTON (for himself and Mr. JACKSON):

S.1112. A bill to modify the city waterway navigation channel project, Tacoma harbor, Wash., to redefine the project boundaries; to the Committee on Environment and Public Works.

By Mr. D'AMATO:

S. 1113. A bill to amend the Internal Revenue Code of 1954 to provide that tax-exempt interest shall not be taken into account in determining the amount of social security benefits to be taxed; to the Committee on Finance.

By Mr. MATSUNAGA:

S. 1114. A bill for the relief of Charlie Tan Supnet; to the Committee on the Judiciary.

By Mr. MATSUNAGA:

S. 1115. A bill to amend titles XVIII and XIX of the Social Security Act to treat certain sensory and communication aids as medical and other health services, and for other purposes; to the Committee on Finance.

By Mr. PACKWOOD:

S. 1116. A bill to amend the Federal Cigarette Labeling and Advertising Act to change the label requirements for cigarettes, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. DANFORTH (for himself, Mr. PACKWOOD, Mr. GOLDWATER, Mr. FORD, Mr. EXON, and Mr. RIEGLE):

S. 1117. A bill to amend the Rail Passenger Service Act to authorize additional appropriations for the National Railroad Passenger Corporation, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. DANFORTH (by request):

S. 1118. A bill to amend the Rail Passenger Service Act to authorize additional appropriations for the National Railroad Passenger Corporation and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. DIXON (for himself and Mr. PERCY):

S. 1119. A bill to amend the Natural Gas Policy Act of 1978 to establish natural gas pipelines as common carriers, and for other purposes; to the Committee on Energy and Natural Resources.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. GOLDWATER:

S. Res. 116. A resolution deploring the bombing of the U.S. Embassy in Beirut, Lebanon, and expressing the sorrow and condolences of the Senate on the death and wounding of Americans caught in the bombing, and for other purposes; to the Committee on Foreign Relations.

By Mr. HUDDLESTON (for himself and Mr. FORD):

S. Res. 117. A resolution to refer the bill (S. 1104) entitled "A bill for the relief of the grantors of certain land in Henderson, Union, and Webster Counties, Ky., to the United States, and their heirs" to the Chief Commissioner of the U.S. Court of Claims for a report thereon; to the Committee on the Judiciary.

By Mr. HOLLINGS (for himself, Mr. WEICKER, Mr. PACKWOOD, Mr. PELL, Mr. BENTSEN, Mr. JACKSON, Mr. TSONGAS, Mr. RIEGLE, Mr. HUDDLESTON, Mr. INOUYE, Mr. LAUTENBERG, Mr. KENNEDY, Mr. FORD, Mr. CHILES, Mr. MATSUNAGA, Mr. STENNIS, and Mr. LONG):

S. Res. 118. A resolution to express the sense of the Senate in support of continued integrity of the National Oceanic and Atmospheric Administration; to the Committee on Commerce, Science, and Transportation.

By Mr. D'AMATO (for himself, Mrs. HAWKINS, Mr. DECONCINI, Mr. BOSCHWITZ, Mr. MURKOWSKI, Mr. HECHT, Mr. MOYNIHAN, Mr. RIEGLE, Mr. LAUTENBERG, Mr. INOUYE, Mr. SPECTER, Mr. DODD, and Mr. PRESSLER):

S. Res. 119. A resolution expressing the sense of the Senate that the United States should proceed with the sale and delivery of F-16 aircraft to Israel; to the Committee on Foreign Relations.

By Mr. HATFIELD:

S. Con. Res. 26. A concurrent resolution approving the obligation and expenditure of funds for MX missile procurement and full-scale engineering development of a basing mode; to the Committee on Appropriations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. WILSON:

S. 1103. A bill to impose a moratorium on offshore oil and gas leasing, certain licensing and permitting, and approval of certain plans, with respect to geographical areas located in the Pacific Ocean off the coastline of the State of California; to the Committee on Energy and Natural Resources.

OFFSHORE OIL AND GAS LEASING

Mr. WILSON. Mr. President, today I am introducing legislation designed to prohibit oil and gas leasing on most of the California Outer Continental Shelf until 1994.

My purpose in seeking this temporary protection for the California coastline and the economic activity that depend upon it, is not to declare California Camelot and off limits to efforts to achieve national energy self-sufficiency. But because of the greater risk and the magnitude of harm on shore possible from a near-shore Outer Continental Shelf drilling mishap, California and other coastal States are entitled to the assurance that other domestic energy sources have been exhausted before they are asked to expose their sensitive coastlines and their dependent coastal economies to such risk.

Some States have chosen to assume that risk, to share in the profits from exploration and drilling on their Outer Continental Shelf. But in California the tourism industry, the U.S. Navy, the fishing industry and virtually every coastal community in the State have raised the most strenuous objections to drilling activity in the near-shore tracts included by Secretary Watt in various proposed lease sales.

And, what is the need for present production in these highly sensitive California Outer Continental Shelf areas? Has America reached the bottom of its oil barrel? Not according to figures provided by the U.S. Geological Survey which estimates that California's Outer Continental Shelf would yield but 7 billion of the 300 billion barrels of remaining recoverable oil in America. That's just 2⅓ percent of the total.

I do not know whether a 10-year moratorium is too long or not long enough to determine whether alternative energy sources can be found to otherwise satisfy America's energy requirements and to permanently obviate the need for development of California's Outer Continental Shelf resources. But if we look at oil alone, the total recoverable from the Outer Continental Shelf off California's shore represents only slightly more than 1 year's annual national consumption. The other 97⅔ percent of domestic recoverable oil represents a supply to accommodate annual consumption for more than 42 years.

At the very least this legislation is required to prevent what may be an altogether unnecessary hazard and certainly a risk that is premature and unjustifiable in February 1984, which is Secretary Watt's target date for subjecting California's Outer Continental Shelf to the exploration and production which carries such risks to California's coastline.

My bill would prohibit Outer Continental Shelf oil and gas leasing from Pismo Beach north to the Oregon border, Newport Beach south to the Mexican border, the Santa Monica Bay area, the Channel Islands National Marine Sanctuary, and the Santa Barbara Federal Ecological Preserve for the designated 10 years.

In recognition of this Nation's need to become energy self-sufficient, I have taken care to exclude key oil and gas fields from this moratorium. For example, the estimated-billion-acre oilfield at Point Arguello is left out as are established oil and gas fields in the Santa Barbara Channel and the Long Beach near-shore area.

In effect, this bill provides the same protection for undeveloped Outer Continental Shelf areas in southern California that is recommended for northern and central California by the Department of the Interior.

Finally, this bill departs from other similar legislation by allowing the President to lift the moratorium in the event of a national emergency. Without this provision, this bill would be unnecessarily restrictive and inflexible.

Mr. President, this bill needs to be acted upon promptly. OCS lease sale No. 80 in southern California is scheduled for February 1984, and lease sale No. 73 in central California is slated for next October. Absent action by Congress, these lease sales will open up vast sections of the coastline to the potential dangers of offshore drilling. I, therefore, urge my colleagues to move expeditiously on this bill and commend it to them for their favorable 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. 1103

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) notwithstanding section 8 of the Outer Continental Shelf Lands Act (43 U.S.C. 1337), the Secretary of the Interior may not issue any oil and gas lease on any submerged lands located within the geographical areas described in section 4(a).

(b) Notwithstanding sections 11 and 25 of the Outer Continental Shelf Lands Act (43 U.S.C. 1340 and 1351), the Secretary of the Interior may not grant any license or permit for any activity which—

(1) affects the geographical areas described in section 4(a), and

(2) involves drilling for oil or gas.

(c) Notwithstanding sections 11 and 25 of the Outer Continental Shelf Lands Act (43 U.S.C. 1340 and 1351), the Secretary of the Interior may not approve any exploration plan, or any development and production plan, which—

(1) provides for any activity affecting the geographical area described in section 4(a), and

(2) involves drilling for oil or gas.

SEC. 2. This Act shall not affect the authority of the Secretary of the Interior to approve any plan, or to grant any license or

permit, which allows scientific exploration or other scientific activities.

SEC. 3. This Act shall take effect on the date of its enactment and shall remain effective until January 1, 1994, except that this Act shall not apply during any period in which there is in effect a national emergency, proclaimed by the President, which involves a shortage of oil or gas.

SEC. 4. (a) The geographical areas specified in the preceding sections of this Act are—

(1) an area of the Outer Continental Shelf, as defined in section 2(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1331(a)), located in the Pacific Ocean off the coastline of the State of California with the boundaries of—

(A) on the north, the line between the row of blocks numbered N968 and the row of blocks numbered N969 of the Universal Transverse Mercator Grid System based on the Clarke Spheroid of 1866; and

(B) on the south, the line between the row of blocks numbered N808 and the row of blocks numbered N809 of the Universal Transverse Mercator Grid System based on the Clarke Spheroid of 1866;

(2) an area of the Outer Continental Shelf, as defined in section 2(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1331(a)), located in the Pacific Ocean off the coastline of Santa Monica Bay, State of California, which begins at the point of intersection of a seaward extension of the boundary line between Los Angeles County and Ventura County with the seaward limit of the California State Tidelands: thence due south to the midpoint of block 39 north 52 west; thence diagonally southeast to the southeast corner of block 35 north, 45 west; thence due east to the first point of intersection with a line extended south from Point Fermin along the eastern boundary of the State of California Oil and Gas Sanctuary in effect on June 1, 1982; thence north along that line to the first point of intersection with seaward boundary of the California State Tidelands; thence northwesterly to the point of beginning along the seaward boundary of the California State Tidelands;

(3) an area of the Outer Continental Shelf, as defined in section 2(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1331(a)), located in the Pacific Ocean off the coastline of Orange and San Diego Counties, State of California, which begins at the intersection of the southern border of row 34 north with the seaward boundary of the California State Tidelands; thence due west to the northwest corner of block 33 north, 35 west; thence due south to the southwest corner of block 31 north, 35 west; thence diagonally southeast to the southwest corner of block 21 north, 25 west; thence due south to the point of intersection with the international boundary line between the United States and Mexico; thence easterly along said international boundary line to its first point of intersection with the seaward boundary of the California State Tidelands; thence northwesterly along the seaward boundary of the California State Tidelands to the point of beginning; and

(4) an area of the Outer Continental Shelf, as defined in section 2(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1331(a)), located in the Pacific Ocean off the coastline of the State of California and consisting of the following tracts identified on the official Outer Continental Shelf leasing map for the Channel Islands Area (map numbered 6B):

(A) All of block 50 north, 67 west.

(B) The northwestern quarter of the northwestern quarter of block 51 north, 65 west.

(C) All of block 51 north, 66 west.

(D) All of block 51 north, 67 west.

(E) All of block 51 north, 68 west.

(F) All of block 51 north, 69 west.

(G) The eastern half and the eastern half of the western half of block 51 north, 70 west.

(H) All of block 52 north, 64 west.

(I) All of block 52 north, 65 west.

(J) All of block 52 north, 66 west.

(K) All of block 52 north, 67 west.

(L) All of block 52 north, 68 west.

(M) All of block 52 north, 69 west.

(N) The eastern half and the eastern half of the western half of block 52 north, 70 west,

and any submerged lands within that part of the Channel Islands National Marine Sanctuary which lies 3 to 6 miles out from the baseline from which the State waters are measured around San Miguel and Prince Islands, Santa Rosa, Santa Cruz, Anacapa, and Santa Barbara Islands.

(b) The northern and southern boundaries of the geographical area described in subsection (a)(1) are marked on the map entitled "United States Department of the Interior, Bureau of Land Management Index of Outer Continental Shelf Official Protraction Diagrams Pacific Coast", dated March 1982. the areas described in subsections (a)(2) and (3) are those areas contained on a map entitled "U.S. Department of the Interior, Bureau of Land Management, Pacific Outer Continental Shelf Office, Southern California Offshore Area".

By Mr. HUDDLESTON (for himself and Mr. FORD):

S. 1104. A bill for the relief of the grantors of certain land in Henderson, Union, and Webster Counties, Ky., to the United States and their heirs; to the Committee on the Judiciary.

RELIEF OF CERTAIN GRANTORS OF LAND IN KENTUCKY

Mr. HUDDLESTON. Mr. President, today I am introducing a private relief bill which seeks compensation for the oil, gas, and mineral rights for which the owners of land condemned in 1942 for Camp Breckinridge were never paid. Along with this bill, I am submitting a Senate resolution, Senate Resolution 117, to refer the entire matter to the Commissioners of the Court of Claims for factfinding and their report. My distinguished colleague from Kentucky, Senator FORD, is joining me in introducing this legislation.

Camp Breckinridge consisted of some 36,000 acres in a rural farming section of Henderson, Union, and Webster Counties, Ky. The land was condemned in 1942 and used for a military training camp during World War II and the Korean conflict. With the declaration of war on the Axis powers, the United States was involved in a war of new, and at the time, unknown dimensions. The need for immediate action by the United States in Europe and the Pacific was desperate and properly trained troops were needed without delay. Hence, getting the camp in working order in the shortest possible time became the Government's primary objective.

To some extent, this necessity for quick action explains the callous attitude displayed by the Government and the cavalier manner in which the 1,500 families who stood between the Government and an operating training camp were treated. It is an explanation but not an excuse. Some residents were ordered to evacuate in 2 or 3 weeks' time. Some notices of eviction were tacked on porch columns to avoid the problem of facing the owners. The appraisers were equally pressed for time. Farms were appraised, not by walking the metes and bounds, but by viewing the property from a car parked in a driveway. There are other accounts which have grown more bitter with the passage of time.

Similar stories are not uncommon in condemnation situations. In most cases, condemnation is simply a very unpleasant experience. No one, regardless of their patriotism, likes to have his property taken. An understanding of the necessity of private sacrifice for the public good rarely makes the situation more palatable. The constitutional guarantee that no property will be taken without just compensation is the only factor in the whole equation designed to relieve the anguish of those forced to leave their homes and farms for the public good.

However, in this situation, there was not just compensation as required by the fifth amendment of the U.S. Constitution. This may seem unlikely when the various court battles fought by the former owners of the camp are considered, but through a combination of factors, the Government managed to acquire this property at an unreasonably low price. The Government's negotiators who handled the purchase of the camp property were instructed to obtain the property at the best price for the Government. This was an admirable instruction. However, in their zeal to carry it out, the negotiators seem to have forgotten the constitutional stricture placed upon their actions, namely, that the compensation must be just.

The land involved was fertile farmland with the necessary accouterments for housing 1,500 families and producing a living for them by farming. Also, there had been coal mining activity in the area for years. Oil wells were in existence at the time on some of the property in question. There were oil leases outstanding on approximately 70 percent of the property. Despite this, the Corps of Engineers publicly stated that the oil and gas leases were "of nuisance value only" and subtracted the meager amounts paid for the leases from the valuation of the properties. This completely ignored the very real possibility of substantial con-

tinued income to owners of property on which wells might in the future be located. In the end, many of the property owners received less for their land than they had invested to make it productive and nothing for the future value of their oil leases.

The obvious question in response to this information is, "Why didn't the owners fight the condemnation appraisals in court?" There are several answers to that question, some of which reflect very badly on the good faith of the U.S. Government. The major reason involved the Surplus Property Acts of 1939 and 1944. These laws provided a third priority repurchase right for the owners of property condemned by the United States which later became surplus. This priority followed a first priority for other Federal agencies and a second priority for State and local governments since it is obviously better to fill governmental property needs with Government property than to visit the trauma of condemnation on a new set of property owners. When this repurchase privilege was provided by Congress, it was expressly created on a temporary basis, each of the laws expiring by its own terms at the end of 5 years unless it were extended by an act of Congress. Hence, the repurchase priority which did exist was anything but a guarantee that the property would be returned to the former owners.

This was not the story told the owners by the Government negotiators. The property owners were told they would be able to repurchase their property at the end of the war. There was not mention of only a third priority or that it was effective only if the property were declared surplus and refused by other Government agencies. Furthermore, the owners were strongly encouraged not to contest the Government appraisals of their property because that appraised value would be the price they would pay when they would be allowed to repurchase the property after the war. This can be characterized as intentional misrepresentation or, as some have implied, fraud.

It is generally assumed that our legal system provides remedies for such wrongs. In this situation, the law was all on the Government's side. In all of the documents prepared by the Government, the owners conveyed a fee simple absolute to the United States. Having conveyed everything to the Government, the former owners had no rights left. These written documents could not be disputed by oral evidence and the Government had never made any of its promises in writing. The case of *Harrison* v. *Phillips*, 282 F.2d 927 (5th Cir. 1960) highlights the legal cul de sac faced by the former owners. The plaintiff, Harrison, based his case on statements by Coast Guard officials who condemned his property in Texas, which were identical to those made by the negotiators in Kentucky. Even though such representations were made, the Government ". . . would not be bound by any representations made by . . . its negotiators since they did not have authority to bind the United States to reconvey the property on a priority basis. . . . Any statements made by the negotiators were clearly beyond the scope of their authority and not binding upon the Government." (*Harrison*, at p. 208).

There were other more basic reasons why many of the owners did not contest their appraisals. They were told that they would receive their compensation immediately if they did not contest. For those who followed this advice, the payment was often 1 year away. For those who chose to contest, the last suits were not completed until after the war had been over for 2 years. In retrospect, all of this may seem inconsequential or simply water under the bridge, but think for a moment of the difficulties of moving a farming operation to new land when one-quarter of the land in the county in question has just been removed from the market and prices have risen accordingly for remaining land, when no compensation has yet been received, and when the completely disrupted farming operation is the only source of income. The thought is not pleasant. In this situation, many simply could not afford to contest the appraisals.

The hardships and indignities of the move were endured with a mixture of bitterness, patriotism, and faith that the separation from land and home would not be a long one. During the Korean conflict, the camp was used again by the military but it was not until 1962 that it was finally declared surplus Government property. It seemed that the hopes of the owners would at last be fulfilled. However, injustice was to win in the end. In 1949, the third repurchase priority of the Surplus Property Act of 1944 expired. No notice of this event had been given to any of the former owners although they had been in continuous contact with the Government concerning the property. Further offense had been given the owners in 1957 when the Government leased two tracts of the property for productive oil wells.

In 1962, when it was learned that the camp was to be sold, the former owners sought to exercise their promised repurchase priority only to learn that the land was to be sold at public auction and that the supposedly worthless oil, gas, and mineral rights were to be auctioned separately in seven tracts. These proposed actions were fought through the Federal court system concluding with the denial of certiorari by the Supreme Court. Thus, the former landowners lost their legal efforts to repurchase their property in 1968. The last of the Camp Breckinridge property was sold in 1969. The dollar figures for this whole transaction are astounding. The owners of the property received $3,100,000 for the 36,000 acres of land, housing for 1,500 families, and the fencing and buildings necessary to farm this amount of land. When the Government sold the land, oil, and coal rights in the 1960's, it received approximately $40 million in return. Thus the U.S. Government held property for 10 years after its last public use and made a $37,000,000 profit with the help of broken promises. While I admire the ability to make a profit fairly, the Government of this country should not be in the business of making a profit by breaking its promises, legally authorized or not, and doing so at the expense of the individual citizens of this Nation.

As we have noted, the owners of Camp Breckinridge land fought their case to the highest court in the land. The Sixth Circuit Court of Appeals held against the owners, asserting that their interest in the land began only after its oil resources were discovered. These resources have never been the sole interest of those who owned the land on which the camp was built, but even if they were, these resources were well known long before the condemnation by the Government, contrary to the assertion of the court of appeals. Furthermore, the Government considered these leases of sufficient value to bring separate condemnation proceedings to obtain them, after the war was over.

At the time of the initial condemnation proceedings, the Corps of Engineers estimated that there were oil exploration leases outstanding on 65 to 70 percent of the land. Under these leases, small amounts ranging from $1 to $5 per acre were paid for exploration rights and the owners retained a one-eighth overriding royalty on all oil production.

To date, oil worth millions of dollars has been extracted from the Camp Breckinridge land. The wells are still pumping on this land where the Corps of Engineers said that the oil leases were of simply nuisance value. This is the same land to which the Government sold oil and coal rights in 1965 for $32,000,000.

I do not find the continued interest of the former owners at all out of place. Nor do I find it greedy or unpatriotic. In fact, I find it quite admirable that this group has refused to be completely defeated by the numerous setbacks and injustices through which they have suffered and have once again sought relief, this time from the Congress, the arbiter of last resort. To aid their cause, Senator FORD and I are introducing a private relief bill seeking

compensation in the amount of $32 million, the amount for which the Government sold the oil, gas, and mineral rights it acquired for free. Along with this bill, we are also introducing a Senate resolution seeking to refer this matter to the Commissioners of the Court of Claims for a thorough and objective review of the situation and a recommendation as to the amount to which the former owners are "equitably due" from the United States.

I firmly believe that the circumstances surrounding the creation of Camp Breckinridge and subsequent Government action should be given a full hearing. This hearing should go to the heart of the injustice done the former owners and consider all evidence presented rather than revolving around the principles of agency and being inhibited by such legalities as the parole evidence rule. These are obviously very important parts of our legal system but they should never be used to insulate from exposure Government conduct that some might describe as fraudulent. It is for situations such as this that private relief and congressional reference procedures have been developed over the years. They are only applicable when there is no other remedy.

Cases such as this one, when sent to the Commissioners of the Court of Claims by congressional reference, are judged by the standard of the Government's "broad moral responsibility," *Sherman Webb, et al.* v. *United States,* 192 Ct. Cl. 925 (1970), and the pleas are addressed to the conscience of the sovereign. We should never be hesitant to subject the actions of the Government to review before such a standard. The amount of money potentially involved should not frighten us away from action but should make us more determined to give the former owners an opportunity to obtain justice. Furthermore, we should neither rely on the absence of precedent for cases of this size nor refrain from acting for fear that we will establish a precedent for the future. Rather, we should be eager to establish a precedent for redress anytime the Government of the United States has perpetrated injustice upon its citizens.

The action of this Chamber on the resolution I am introducing today will be but the first step toward such redress. Upon referral to the Commissioners of the Court of Claims, they will report to us on their findings. Upon receipt of their report, the Senate and House will be called on to make a final decision. I feel very strongly about this issue. I urge my colleagues to support this effort. While I realize that I have set a goal which will be difficult to achieve, I also realize that the former owners have been fighting this battle for over 30 years. My determination and that of my constituents to see justice done in situations of this type has been demonstrated on prior occasions. I am determined to pursue this effort to fruition and ask my colleagues to join me in this first step.

Mr. FORD. Mr. President, for the third consecutive Congress Mr. HUDDLESTON and I are introducing a bill to redress the grievances of a group of Kentuckians against the Government of the United States. Our legislation, through one of several means, would force the Government to reimburse families for land it purchased from them in World War II in Henderson, Union, and Webster Counties, Ky. In this case the Government must be forced to live up to its moral and legal obligations.

In 1942, the Government forced farmers to sell 36,000 acres of prime land as part of the war effort and named the area Camp Breckinridge. Rural families numbering 1,500 were forced to evacuate their land, sometimes with only 2 or 3 weeks' notice. Appraisers hurriedly viewed the property and hastily made their evaluations. The war in Europe and the Pacific demanded quick action, and whole families were uprooted in the relocation process.

The Government purchased the land at an unreasonably low price. There was not fair compensation as required by the fifth amendment. Negotiators were instructed to purchase the land at the best possible price and they did so, at the expense of the owners.

The most blatant abuse of power by the Government occurred when its agents maneuvered themselves into purchasing the mineral rights to this fertile land, which yielded coal, oil and gas. While the owners of the property received $3.1 million for the 36,000 acres, the Government sold the land, oil and coal rights in the 1960's for $40 million. Thus, the U.S. Government made a profit of some $37 million. To date in excess of 60 million dollars' worth of oil has been extracted from the Camp Breckinridge land. Keep in mind, now, that this is the same land the Government sold oil and coal rights in 1965 for $32 million.

Despite staying in constant contact with the Government about the property, the landowners were never warned that the repurchase priority to the land could expire, which is what happened in 1949. The land was sold at public auction. From that date, the owners went to the courts with their legitimate grievances. They fought their case to the highest court in the land, only to lose the decision and any hope of receiving back their property of a just compensation. An act of Congress is their last resort.

These landowners and their progenity only want a fair settlement. They have been trying for four decades. I am determined to continue the battle.

Mr. President, I ask unanimous consent to have printed a letter addressed to Senator GRASSLEY, chairman of the Senate's Subcommittee on Agency Administration, to provide a more detailed background on Camp Breckinridge. I urge my colleagues to seriously consider the unfairness of this situation and support our efforts to correct it.

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

U.S. SENATE,
Washington, D.C., October 23, 1981.

Hon. CHARLES E. GRASSLEY,
U.S. Senate,
Washington, D.C.

DEAR MR. CHAIRMAN: This letter is to provide you with supporting information on S. 1227, a bill for the relief of the former landowners of Camp Breckinridge, and to urge you to give this measure prompt consideration.

Camp Breckinridge consisted of some 36,000 acres in a rural farming section of Henderson, Union and Webster Counties, Kentucky. The land was condemned in 1942 and used for a military training camp during World War II and the Korean conflict. With the declaration of war on the Axis powers, the United States was involved in a war of new, and at the time, unknown dimensions. The need for immediate action by the United States in Europe and the Pacific was desperate and properly trained troops were needed without delay. Hence, getting the camp in working order in the shortest possible time became the government's primary objective.

To some extent, this necessity for quick action explains the callous attitude displayed by the Government and the cavalier manner in which the 1500 families who stood between the government and an operating training camp were treated. It is an explanation but not an excuse. Some residents were ordered to evacuate in two or three weeks time. Some notices of eviction were tacked on porch columns to avoid the problem of facing the owners. The appraisers were equally pressed for time. Farms were appraised, not by walking the metes and bounds, but by viewing the property from a car parked in a driveway.

Similar stories are not uncommon in condemnation situations. In most cases condemnation is simply a very unpleasant experience. No one, regardless of their patriotism, likes to have his property taken. An understanding of the necessity of private sacrifice for the public good rarely makes the situation more palatable. The Constitutional guarantee that no property will be taken without just compensation is the only factor in the whole will be taken without just compensation is the only factor in the whole equation designed to relieve the anguish of those forced to leave their homes and farms for the public good.

However, in this situation, there was not just compensation as required by the Fifth Amendment of the United States Constitution. This may seem unlikely when the various court battles fought by the former owners of the camp are considered, but through a combination of factors, the government managed to acquire this property at an unreasonably low price. The government's negotiators who handled the purchase of the camp property were instructed to obtain the property at the best price for

the government. This was an admirable instruction. However, in their zeal to carry it out, the negotiators seem to have forgotten the Constitutional structure placed upon their actions, namely, that the compensation must be just.

The land involved was fertile farm land with the necessary accoutrements for housing 1500 families and producing a living for them by farming. Also, there had been coal mining activity in the area for years. Oil wells were in existence at the time on some of the property in question. There were oil leases outstanding on approximately 70 percent of the property. Despite this, the Corps of Engineers publicly stated that the oil and gas leases were "of nuisance value only" and subtracted the meager amounts paid for the leases from the valuation of the properties. This completely ignored the very real possibility of substantial continued income to owners of property on which wells might in the future be located. In the end, many of the property owners received less for their land than they had invested to make it productive and nothing for the future value of their oil leases.

The obvious question in response to this information is, "Why didn't the owners fight the condemnation appraisals in court?" There are several answers to that question, some of which reflect very badly on the good faith of the United States government. The major reason involved the Surplus Property Acts of 1939 and 1944. These laws provided a third priority for other federal agencies and a second priority for state and local governments since it is obviously better to fill governmental property needs with governmental property than to visit the trauma of condemnation on a new set of property owners. When this repurchase privilege was provided by Congress, it was expressly created on a temporary basis, each of the laws expiring by its own terms at the end of five years unless it were extended by an act of congress. Hence, the repurchase priority which did exist was anything but a guarantee that the property would be returned to the former owners.

This was not the story told the owners by the government negotiators. The property owners were told they would be able to repurchase their property at the end of the war. There was no mention of only a third priority or that it was effective only if the property were declared surplus and refused by other government agencies. Furthermore, the owners were strongly encouraged not to contest the government appraisals of their property because that appraised value would be the price they would pay when they would be allowed to repurchase the property after the war. This can be characterized as intentional misrepresentation or, as some have implied, fraud.

It is generally assumed that our legal system provides remedies for such wrongs. In this situation, the law was all on the government's side. In all of the documents prepared by the government, the owners conveyed a fee simple absolute to the United States. Having conveyed everything to the government, the former owners had no rights left. These written documents could not be disputed by oral evidence and the government has never made any of its promises in writing. The case of *Harrison* v. *Phillips*, 282 F.2d 927 (5th Cir. 1960) highlights the legal cul-de-sac faced by the former owners. The plaintiff, Harrison, based his case on statements by Coast Guard officials who condemned his property in Texas, which were identical to those made by the negotiators in Kentucky. Even though such representations were made, the government ". . . would not be bound by any representations made by . . . its negotiators since they did not have authority to bind the United States to reconvey the property on a priority basis . . . Any statements made by the negotiators were clearly beyond the scope of their authority and not binding upon the government." (Harrison, at p. 208)

There were other more basic reasons why many of the owners did not contest their appraisals. They were told that they would receive their compensation immediately if they did not contest. For those who followed this advice, the payment was often a year away. For those who chose to contest, the last suits were not completed until after the war had been over for two years. In retrospect, all of this may seem inconsequential unless you consider the difficulties of moving a farming operation to new land when one quarter of the land in the county in question has just been removed from the market and prices have risen accordingly for remaining land, when no compensation has yet been received, and when the completely disrupted farming operation is the only source of income. In this situation, many simply could not afford to contest the appraisals.

During the Korean Conflict, the camp was used again by the military but it was not until 1962 that it was finally declared surplus government property. It seemed that the hopes of the owners to recover their property would at last be fulfilled. However, injustice was to win in the end. In 1949, the third repurchase priority of the Surplus Property Act of 1944 expired. No notice of this event had been given to any of the former owners although they had been in continuous contact with the government concerning the property. Further offense had been given the owners in 1957 when the government leased two tracts of the property for productive oil wells.

In 1962, when it was learned that the camp was to be sold, the former owners sought to exercise their promised repurchase priority only to learn that the land was to be sold at public auction and that the supposedly worthless oil, gas and mineral rights were to be auctioned separately in seven tracts. These proposed actions were fought through the federal court system concluding with the denial of certiorari by the Supreme Court. Thus, the former land owners lost their legal efforts to repurchase their property in 1968. The last of the Camp Breckinridge property was sold in 1969. The dollar figures for this whole transaction are astounding. The owners of the property received $3,100,000.00 for the 36,000 acres of land, housing for 1500 families, and the fencing and buildings necessary to farm this amount of land. When the government sold the land, oil and coal rights in the 1960s, it received approximately forty million dollars in return. Thus, the United States government held property for ten years after its last public use and made a $37,000,000.00 profit fairly. The government of this country should not be in the business of making a profit by breaking its promises, legally authorized or not, and doing so at the expense of the individual citizens of this Nation.

As we have noted, the owners of Camp Breckinridge land fought their case to the highest court in the land. The Sixth Circuit Court of Appeals held against the owners asserting that their interest in the land began only after its oil resources were discovered. These resources have never been the sole interest of those who owned the land on which the camp was built, but even if they were, these resources were well known long before the condemnation by the government, contrary to the assertions of the Court of Appeals. Furthermore, the government considered these leases of sufficient value to bring separate condemnation proceedings to obtain them, after the war was over.

At the time of the initial condemnation proceedings, the Corps of Engineers estimated that there were oil exploration leases outstanding on 65 to 70 percent of the land. Under these leases, small amounts ranging from one to five dollars per acre were paid for exploration rights and the owners retained a one-eighth over-riding royalty on all oil production. To date, in excess of $60,000,000.00 worth of oil has been extracted from the Camp Breckinridge land. The wells are still pumping on this land where the Corps of Engineers said that the oil leases were of simply nuisance value. This is the same land which the government sold oil and coal rights in 1965 for $32,000,000.00.

We firmly believe that the circumstances surrounding the creation of Camp Breckinridge and subsequent government action should be given a full hearing. This hearing should go to the heart of the injustice done the former owners and consider all evidence presented rather than revolving round the principles of agency and being inhibited by such legalities as the parole evidence rule. These are obviously very important parts of our legal system but they should never be used to insulate from exposure government conduct that some might describe as fraudulent. It is for situations such as this that private relief and Congressional reference procedures have been developed over the years. They are only applicable when there is no other remedy.

Cases such as this one, when sent to the Commissioners of the Court of Claims by Congressional reference, are judged by the standard of the government's "broad moral responsibility", *Sherman Webb, et al.* v. *United States*, 192 Ct. Cl. 925 (1970), and the pleas are addressed to the conscience of the sovereign. We should never be hesitant to subject the actions of the government to review before such a standard.

Again, we urge the Senate Judiciary Committee to give this matter speedy consideration and report out the resolution which will return the matter to the Court of Claims.

Any additional information or supporting documents will be supplied upon request.

Sincerely,

WENDELL H. FORD.
WALTER D. HUDDLESTON.

By Mr. MOYNIHAN (for himself, Mr. INOUYE, Mr. MELCHER, Mr. MITCHELL, Mr. HEINZ, Mr. SYMMS, Mr. EAST, Mr. BAUCUS, and Mr. EAGLETON):

S. 1105. A bill to amend the Internal Revenue Code to change certain accounting rules related to inventory, and for other purposes; to the Committee on Finance.

CHANGES IN ACCOUNTING RULES RELATED TO INVENTORY

● Mr. MOYNIHAN. Mr. President, I am introducing legislation today that would modify the Thor Power Tool

tax ruling with respect to excessive inventory.

The bill has two provisions. The first would let any company that can demonstrate that a portion of its inventory will eventually be sold below cost write down that portion to its net realizable value.

And the second would give companies that switch from FIFO to LIFO accounting 10 years over which to spread out any sudden profits that result from the change.

The heart of the bill is section 1. It, more than the other part, is aimed at the real Thor controversy. The controversy arises because of a decision by the Supreme Court in the case *Thor Power Tool Co.* v. *Commissioner,* 439 U.S. 522 (1979).

The Thor Power Tool Co. was—and still is—a FIFO taxpayer. FIFO is an accounting method; the acronym stands for first-in, first-out. And under that accounting method, a company must figure out at the end of each tax year how much its inventory is worth. The law says that the inventory must be listed at its cost—or at its market value, but only if the market value is lower. The law also says that each item of inventory must be valued separately.

In 1963, the Thor Co. had in its inventory 44,000 spare parts for handheld power tools and rubber products. The company had recently come under new management. The new managers decided that many of these spare parts would never be sold; hence, in the managers' view, the parts had little, if any, market value. They were excess inventory. Consequently, the company used the market value, rather than the cost of the parts, when it reported how much of its inventory was worth at the end of 1964 to the IRS.

This process of suddenly choosing a low-market value, when up to now a company had listed its inventory at cost, is known as writing down one's inventory. In 1964, it yielded the Thor Power Tool Co. a tax deduction of $744,030.

However, there was one problem with what the company did. And that is there was no evidence that the spare parts were worth what the company said they were.

Company officials merely projected demand for the parts using their experience with sales in 1964. Parts that the company expected to sell in 1965 were said to be worth something, and were listed on the company's books at cost. But parts that the company expected to sell in 1966 were said to have a market value of from 50 to 75 percent below cost. And the company claimed that the parts it might sell in 1967 or in later years were worthless. These were listed at zero, or thereabouts—their assumed market value.

The company's claim was absurd. The market values it selected had no demonstrable basis in fact. Therefore, the Internal Revenue Service disallowed the company's deduction. And when the case went to the Supreme Court the Justice agreed with the IRS. Their decision was unanimous.

What the Court said is that a taxpayer must be able to prove that his inventory has a low market value, before he may write down the inventory. And the IRS may insist on "a high evidentiary standard."

Tax regulations, in effect at the time, said that a company may prove that its inventory has a low market value in one of two ways. The company may sell the inventory at less than cost within 30 days after the close of the tax year. Or it may cut its prices below cost, in which case the IRS will accept the company's word that the inventory is not worth more than the company is charging for it.

The Court did not say that there are no other ways that a company may prove that its inventory has a low market value. What it said was there must be proof. And it is reasonable for the IRS to demand the kind of evidence that it wanted of taxpayers.

My bill suggests a third method of proof.

Consider the following case: A publisher has 1,000 copies of a 1960 best seller in his warehouse. The books are still being held out for sale at the list price, although there are few purchasers. Intuitively, one knows that each book is not worth the list price; some of the books will never be sold and are not worth even the cost of printing them. But how does one prove it?

That is the Thor problem. The answer is that a taxpayer should be able to look to his experience. If the publisher's records show that, on average, 10 percent of any books that have not been sold within a year after they were printed will eventually be remaindered, then each year the publisher should be able to write down 10 percent of his 1-year-old books to their remainder value.

By the same token, if the records show that, on average, 40 percent of 2-year-old books are eventually remaindered, then 40 percent of 2-year-old books would be written down each year to their remainder value.

I hasten to add that the books need not actually be remaindered in the strictest sense of the word. It is enough that they will be sold eventually at less than cost. And when that is the case, they may be written down to what the publisher's experience tells him he will receive for them.

I want also to stress that while I used a book publisher in my example, this new approach would be available to all companies in all industries. The only restrictions are that a company would have to segregate its inventory items by age. And it would have to point to its most recent 5 years of experience with inventories.

The bill would take effect retroactively and apply to the 1979 tax years. A company would be able to redo its taxes using this new method, if it wishes; 1979 was the year in which the IRS began aggressively to enforce the holding in the Supreme Court decision. Companies would not have to seek the IRS' permission in order to file amended returns.

That is section 1 of the bill.

The other section deals with LIFO, or last-in, first-out, accounting. There are two ways to resolve the Thor problem; one is to address the issue directly, as I have already done. The other is to persuade more companies to switch to LIFO; companies on LIFO do not have a Thor problem since under LIFO, all inventories must be valued at cost. There is no need to supply evidence of market value.

LIFO is more favorable to taxpayers since it makes them appear less profitable. Nevertheless, many companies do not use it because of the so-called conformity requirement—a rule that says a company that uses LIFO for its taxes must also use LIFO for its financial statements to shareholders.

My bill would not affect the conformity requirement.

Another reason companies do not use LIFO is that when a company switches to it from FIFO, adjustments must be made to the company's inventory and this often causes the company's income to increase suddenly in the year of the change. My bill would give a company making the switch 10 years over which to spread out the adjustments.

I intend to let a taxpayer make a 10-year spread without having to seek the advance consent of the IRS. Under present law, a taxpayer must get the IRS's permission for a spread within the first 180 days of the tax year. That rule would not apply here.

The LIFO provision of the bill would take effect prospectively in tax years beginning after the date of enactment.

That is the plan.

In concluding, let me note that the bill has been carefully written over a period of several years. Almost everyone who has told me he has an interest in the subject has been consulted and given a chance to participate in the drafting.

In addition, Treasury and Joint Tax Committee experts have been kept advised of the bill's progress at every step of the way.

I am proposing that we resolve the excess inventory problem in a manner that is consistent with the Supreme Court's decision. A company should be able to prove that its inventory has a low market volue before it claims a loss on its taxes. The only question is

what kind of evidence should the company be required to provide.

I ask unanimous consent, Mr. President, that the 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. 1105

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXCESS INVENTORY ITEMS MAY BE WRITTEN DOWN TO SCRAP VALUE.—Section 471 of the Internal Revenue Code of 1954 (relating to the general rule for inventories) is amended by adding at the end thereof the following new sentences: "A taxpayer may value his excess inventory at its net realizable value. For purposes of this section, the term 'excess inventory' means that portion of the taxpayer's inventory which the taxpayer reasonably expects will be disposed of at less than full realization of its cost. Such portion shall be determined with respect to each group of articles by age by referring to the taxpayer's most recent 5-year experience with inventories".

SEC. 2. TEN-YEAR SPREAD PERMITTED FOR INCREASES IN INVENTORY VALUE REQUIRED FOR ADOPTION OF LIFO METHOD.—Subsection (b) of section 472 of such Code (relating to last-in, first-out inventories) is amended by adding at the end thereof the following new sentence: "For purposes of section 481, any increase in the valuation of inventory required by paragraph (2) shall be treated as an adjustment attributable to a change in a method of accounting initiated by the taxpayer".

SEC. 3. EFFECTIVE DATES.—

(a) GENERAL RULE.—

(1) AMENDMENT MADE BY SECTION 1.—The amendment made by section 1 of this Act shall apply to taxable years ending on or after December 31, 1979.

(2) AMENDMENTS MADE BY SECTION 2.—The amendments made by section 2 of this Act shall apply to taxable years beginning after the date of enactment.

(b) SPECIAL RULE.—Solely for the purpose of determining the applicability of the amendment made by section 1 of this Act the special rule of section 441(f)(2)(A)(ii) shall not be applied.●

By Mr. WARNER (for himself and Mr. JACKSON):

S. 1106. A bill to authorize appropriations for the Department of Energy for national security programs for fiscal year 1983, and for other purposes; to the Committee on Armed Services.

DEPARTMENT OF ENERGY NATIONAL SECURITY AND MILITARY APPLICATIONS OF NUCLEAR ENERGY AUTHORIZATION ACT OF 1983

● Mr. WARNER. Mr. President, for myself and the senior Senator from Washington (Mr. JACKSON), I introduce for appropriate reference a bill to authorize appropriations for the Department of Energy for national security programs for fiscal year 1983, and for other purposes.

The Senate did not act on the fiscal year 1983 authorization bill, as reported by the Senate Committee on Armed Services, and it is the committee's intention to pursue enactment of this authorization bill in conjunction with the fiscal year 1984 Department of Energy authorization bill.

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. 1106

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 "Department of Energy National Security and Militry Applications of Nuclear Energy Authorization Act of 1983".

TITLE I—NATIONAL SECURITY PROGRAMS

OPERATING EXPENSES

SEC. 101. Funds are authorized to be appropriated to the Depatement of Energy for fiscal year 1983 for operating expenses incurred in carrying out national security programs (including scientific research and development in support of the Armed Forces, strategic and critical materials necessary for the common defense, and military applications of nuclear energy and related management and support activities) as follows:

(1) For naval reactors development program, $331,760,000 including $9,660,000 for program management.

(2) For weapons activities, $2,765,491,000 to be allocted as follows:

(A) For research and development, $644,600,000.

(B) For weapons testing, $420,400,000.

(C) For the defense inertial confinement fusion program, $140,000,000, of which—

(i) $75,100,000 shall be used for glass laser experiments;

(ii) $41,800,000 shall be used for gas laser experiments;

(iii) $20,000,000 shall be used for pulled power experiments; and

(iv) $3,100,000 shall be used for supporting research and experiments, except that none of such funds may be used for the research, development, or demonstration of the use of heavy ion devices as drivers for defense inertial confinement fusion experiments and defense inertial confinement fusion systems.

(D) For production and surveillance, $1,507,200,000.

(E) For weapons program management, $53,291,000.

(3) For verification and control technology, $52,400,000 including $1,800,000 for program management.

(4) For defense nuclear materials production, $969,100,000, to be allocated as follows:

(A) For uranium enriching, $109,000,000.

(B) For production reactor operations, $345,460,000.

(C) For processing of defense nuclear materials, $210,600,000.

(D) For special isotope separation research, $63,000,000.

(E) For supporting services, $227,040,000.

(F) For program management, $14,000,000.

(5) For defense nuclear waste, $288,929,000, to be allocated as follows:

(A) For interim waste management $190,313,000.

(B) For long term waste management technology, $53,861,000.

(C) For terminal waste storage, $14,000,000.

(D) For byproducts beneficial uses, $10,000,000.

(E) For decontamination and decommissioning, $12,655,000.

(F) For transportation research and development, $6,100,000.

(G) For program management, $2,000,000.

(6) For nuclear materials security and safeguards technology development program (defense programs), $43,160,000, including $5,850,000 for program management.

(7) For security investigations, $28,500,000.

PLANT AND CAPITAL EQUIPMENT

SEC. 102. Funds are authorized to be appropriated to the Department of Energy for fiscal year 1983 for plant and capital equipment (including planning, construction, acquisition, and modification of facilities, land acquisition related thereto, and acquisition and fabrication of capital equipment not related to construction) necessary for national security programs as follows—

(1) For naval reactors development:

Project 83-N-101, general plant projects, various locations, $1,500,000.

Project 83-N-102, additions to the radioactive materials laboratory, Knolls Atomic Power Laboratory, Schenectady, New York, $1,500,000.

Project 82-N-111, Materials Facility, Savannah River, South Carolina, $40,000,000, for a total project authorization of $55,000,000.

(2) For weapons activities:

Project 83-D-101, general plant projects, various locations, $15,800,000.

Project 83-D-122, Los Alamos Airport improvement, Los Alamos National Laboratory, New Mexico, $3,100,000.

Project 83-D-123, general plant projects, various locations, $16,300,000.

Project 83-D-124, standard missile-2 (SM-2) warhead production facilities, various locations, $2,000,000.

Project 82-D-106, weapons assembly facilities, Pantex Plant, Amarillo, Texas, $16,500,000 for a total project authorization of $40,000,000.

Project 82-D-107, utilities and equipment restoration, replacement, and upgrade, Phase III, various locations, $151,800,000, for a total project authorization of $239,300,000.

Project 82-D-108, nuclear weapons stockpile improvement, various locations, $33,300,000, for a total project authorization of $48,300,000.

Project 82-D-109, 155-millimeter artillery-fired atomic projectile (AFAP) production facilities, various locations, $30,000,000, for a total project authorization of $65,000,000.

Project 82-D-110, exhaust plenum modifications, Rocky Flats Plant, Colorado, $500,000, for a total project authorization of $12,500,000.

Project 82-D-111, interactive graphics system, various locations, $6,000,000, for a total project authorization of $15,000,000.

Project 82-D-144, simulation technology laboratory, Sandia National Laboratories, New Mexico, $10,000,000.

Project 82-D-146, weapons production and production support facilities, various locations, $40,000,000, for a total authorization of $48,000,000.

Project 82-D-150, weapons material research and development facility, Lawrence Livermore National Laboratory, California, $5,000,000.

Project 82-D-152, new detonator facility, Los Alamos National Laboratory, New Mexico, $9,100,000.

Project 82-D-153, tritium facility, Los Alamos National Laboratory, New Mexico, $2,600,000.

Project 81-D-115, MX warhead production facilities, various locations, $55,000,000, for a total project authorization of $95,000,000.

Project 81-D-133, earthquake damage restoration, Lawrence Livermore National Laboratory, Livermore, California, $1,500,000, for a total project authorization of $5,500,000.

Project 81-D-134, earthquake damage restoration, Sandia National Laboratories, Livermore, California, $1,700,000, for a total project authorization of $3,700,000.

Project 79-7-c, proton storage ring, Los Alamos National Laboratory, Los Alamos, New Mexico, $2,800,000, for a total project authorization of $21,800,000.

Project 78-17-d, steam plant improvements, Y-12 Plant, Oak Ridge, Tennessee, $1,500,000, for a total project authorization of $27,000,000.

(3) For materials production:

Project 83-D-135, general plant projects, various locations, $26,000,000.

Project 83-D-136, plant engineering and design, various locations, $2,000,000.

Project 83-D-138, PUREX canyon and dissolver filter systems improvements, Richland, Washington, $4,250,000.

Project 83-D-142, fuel dissolver off-gas transfer and treatment system, Idaho Fuels Processing Facility, Idaho National Engineering Laboratory, Idaho, $7,600,000.

Project 83-D-146, water pollution control, Feed Materials Production Facility, Fernald, Ohio, $2,500,000.

Project 83-D-147, pollution discharge elimination, Savannah River, South Carolina, $1,000,000.

Project 83-D-148, nonradioactive hazardous waste management Savannah River, South Carolina, $1,000,000.

Project 83-D-180, facility storage modifications, various locations, $16,300,000.

Project 82-D-124, restoration of production capabilities, Phases II and III, various locations, $48,500,000, for a total project authorization of $174,500,000.

Project 82-D-126, reactor safety and reliability, various locations, $2,000,000, for a total project authorization of $44,900,000.

Project 82-D-136, fuel processing facilities upgrade, Idaho Fuels Processing Facility, Idaho National Engineering Laboratory, Idaho, $6,000,000, for a total project authorization of $46,000,000.

Project 82-D-201, special plutonium recovery facilities, F-chemical separations area, Savannah River, South Carolina, $37,000,000, for a total project authorization of $39,000,000.

Project 81-D-142, steam transfer header, Savannah River, South Carolina, $10,400,000, for a total project authorization of $18,400,000.

Project 81-D-143, L-reactor upgrade, Savannah River, South Carolina, $19,000,000, for a total project authorization of $134,000,000.

(4) For defense nuclear waste:

Project 83-D-156, general plant projects, interim waste operations, various locations, $19,145,000.

Project 83-D-157, additional radioactive waste storage facilities, Richland, Washington, $19,000,000.

Project 83-D-159, general plant projects, long-term waste management technology, Savannah River, South Carolina, $500,000.

Project 82-BU-1, byproducts beneficial uses demonstration plants, various locations, $10,000,000.

Project 81-T-104, radioactive waste facilities improvements, Oak Ridge National Laboratory, Tennessee, $1,000,000, for a total project authorization of $21,000,000.

Project 81-T-105, defense waste processing facility, Savannah River, South Carolina, $40,000,000, for a total project authorization of $70,000,000.

Project 77-13-f, waste isolation pilot plant, Delaware Basin, Southeast, New Mexico, $110,800,000, for a total project authorization of $268,400,000.

(5) For nuclear materials security and safeguards development:

Project 83-D-175, general plant project, New Brunswick Laboratory, $500,000.

(6) For capital equipment not related to construction—

(A) for naval reactors development, $11,000,000;

(B) for weapon activities, $196,000,000;

(C) for verification and control technology, $1,500,000;

(D) for materials production, $107,700,000;

(E) for defense nuclear waste, $31,646,000; and

(F) for nuclear materials security and safeguards development, $3,700,000.

TITLE II—GENERAL PROVISIONS

REPROGRAMMING

SEC. 201. (a) Except as otherwise provided in this Act—

(1) no amount appropriated pursuant to this Act may be used for any program in excess of 105 per centum of the amount authorized for that program by this Act or $10,000,000 more than the amount authorized for that program by this Act, whichever is the lesser, and

(2) no amount appropriated pursuant to this Act may be used for any program which has not been presented to, or requested of, the Congress,

unless a period of thirty calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) has passed after receipt by the appropriate committees of Congress of notice from the Secretary of Energy (hereinafter in this title referred to as the "Secretary") containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action, or unless each such committee before the expiration of such period has transmitted to the Secretary written notice to the effect that such committee has no objection to the proposed action.

(b) In no event may the total amount of funds obligated pursuant to this act exceed the total amount authorized to be appropriated by this Act.

LIMITS ON GENERAL PLANT PROJECTS

SEC. 202. (a) The Secretary may carry out any construction project under the general plant projects provisions authorized by this Act if the total estimated costs of the construction project does not exceed $1,000,000.

(b) If at any time during the construction of any general plant project authorized by this Act, the estimated cost of the project is revised because of unforeseen cost variations and the revised cost of the project exceeds $1,000,000, the Secretary shall immediately furnish a complete report to the appropriate committees of Congress explaining the reasons for the cost variation.

(c) In no event may the total amount of funds obligated to carry out all general plant projects authorized by this Act exceed the total amount authorized to be appropriated for such projects by this Act.

LIMITS ON CONSTRUCTION PROJECTS

SEC. 203. (a) Whenever the current estimated cost of a construction project which is authorized by section 102 of this Act, or which is in support of national security programs of the Department of Energy and was authorized by any previous Act, exceeds by more than 25 per centum the higher of (1) the amount authorized for the project, or (2) the amount of the total estimated cost for the project as shown in the most recent budget justification data submitted to Congress, construction may not be started or additional obligations incurred in connection with the project above the total estimated cost, as the case may be, unless a period of thirty calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three days to a day certain) has passed after receipt by the appropriate committees of the Congress of written notice from the Secretary containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of the action, or unless each committee before the expiration of such period has notified the Secretary it has no objection to the proposed action.

(b) Subsection (a) shall not apply to any construction project which has a current estimated cost of less than $5,000,000.

FUND TRANSFER AUTHORITY

SEC. 204. To the extent specified in appropriations Acts, funds appropriated pursuant to this Act may be transferred to other agencies of the Government for the performance of the work for which the funds were appropriated, and funds so transferred may be merged with the appropriations of the agency to which the funds are transferred.

AUTHORITY FOR CONSTRUCTION DESIGN

SEC. 205. (a)(1) Within the amounts authorized by this Act for plant engineering and design, the Secretary may carry out advance planning and construction designs (including architectural and engineering services) in connection with any proposed construction project if the total estimated cost for such planning and design does not exceed $2,000,000.

(2) In any case in which the total estimated cost for such planning and design exceeds $300,000, the Secretary shall notify the appropriate committees of Congress in writing of the details of such project at least thirty days before any funds are obligated for design services for such project.

(b) In any case in which the total estimated cost for advance planning and construction design in connection with any construction project exceeds $2,000,000, funds for such design must be specifically authorized by law.

AUTHORITY FOR EMERGENCY CONSTRUCTION DESIGN

SEC. 206. In addition to the advance planning and construction design authorized by section 102, the Secretary may perform planning and design utilizing available funds for any Department of Energy defense activity construction project whenever the Secretary determines that the design must proceed expeditiously in order to meet the demands of national defense or to protect property or human life.

FUNDS AVAILABLE FOR ALL NATIONAL SECURITY PROGRAMS OF THE DEPARTMENT OF ENERGY

SEC. 207. Subject to the provisions of appropriation Acts, amounts appropriated pursuant to this Act for management and support activities and for general plant projects are available for use, when necessary, in connection with all national security programs of the Department of Energy.

ADJUSTMENTS FOR PAY INCREASES

SEC. 208. Appropriations authorized by this Act for salary, pay, retirement, or other benefits for Federal employees may be increased by such amounts as may be necessary for increases in such benefits authorized by law.

AVAILABILITY OF FUNDS

SEC. 209. When so specified in an appropriation Act, amounts for "Operating Expenses" or for "Plant and Capital Equipment" may remain available until expended.●

By Mr. WARNER (for himself and Mr. JACKSON) (by request):

S. 1107. A bill to authorize appropriations for the Department of Energy for national security programs for fiscal year 1984 and fiscal year 1985, and for other purposes; to the Committee on Armed Services.

NATIONAL SECURITY PROGRAMS AUTHORIZATION ACT FOR FISCAL YEARS 1984 AND 1985

● Mr. WARNER. Mr. President, by request, for myself and the senior Senator from Washington (Mr. JACKSON), I introduce for appropriate reference a bill to authorize appropriations for the Department of Energy for national security programs for fiscal year 1984 and fiscal year 1985, and for other purposes.

I ask unanimous consent that a letter of transmittal requesting consideration of the legislation and explaining its purpose be printed in the RECORD immediately following the printing of the bill.

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

S. 1107

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 "National Security Programs Authorization Act for Fiscal Years 1984 and 1985."

TITLE I—NATIONAL SECURITY PROGRAMS OPERATING EXPENSES

SEC. 101. Funds are authorized to be appropriated to the Department of Energy for fiscal year 1984 for operating expenses incurred in carrying out national security programs (including scientific research and development in support of the armed forces, strategic and critical materials necessary for the common defense, and military applications of nuclear energy and related management and support activities) as follows:

(1) For naval reactors development, $490,000,000.

(2) For weapons activities, $3,153,125,000.

(3) For verification and control technology, $59,900,000.

(4) For materials production, $1,125,700,000.

(5) For defense waste and byproducts management, $318,900,000.

(6) For nuclear safeguards and security, $48,000,000.

(7) For security investigations, $29,500,000.

PLANT AND CAPITAL EQUIPMENT

SEC. 102. Funds are authorized to be appropriated to the Department of Energy for fiscal year 1984 for plant and capital equipment (including planning, construction, acquisition, and modification of facilities, land acquisition related thereto, and acquisition and fabrication of capital equipment not related to construction) necessary for national security programs as follows:

(1) For naval reactors development:

Project 84-N-101, general plant projects, various locations, $2,500,000.

Project 83-N-102, addition to the radioactive materials laboratory, Knolls Atomic Power Laboratory, Schenectady, New York, $6,500,000, for a total project authorization of $8,000,000.

Project 82-N-111, materials facility, Savannah River, South Carolina, $70,000,000, for a total project authorization of $125,000,000.

Project 81-T-112, modifications and additions to prototype facilities, various locations, $1,000,000, for a total authorization of $104,000,000.

(2) For weapons activities:

Project 84-D-101, general plant projects, various locations, $27,100,000.

Project 84-D-111, general plant projects, various locations, $29,500,000.

Project 84-D-103, hardened central guard force facility, Los Alamos National Laboratory, Los Alamos, New Mexico, $600,000.

Project 84-D-104, nuclear materials storage facility, Los Alamos National Laboratory, Los Alamos, New Mexico, $700,000.

Project 84-D-107, nuclear testing facilities revitalization, various locations, $38,500,000.

Project 84-D-112, TRIDENT II warhead production facilities, various locations, $19,300,000.

Project 84-D-113, antisubmarine warhead/standoff weapon warhead production facilities, various locations, $17,600,000.

Project 84-D-114, consolidated manufacturing facility, Rocky Flats Plant, Golden, Colorado, $24,100,000.

Project 84-D-115, electrical system expansion, Pantex Plant, Amarillo, Texas, $1,500,000.

Project 84-D-117, inert assembly and test facility, Pantex Plant, Amarillo, Texas, $1,500,000.

Project 84-D-118, high-explosive subassembly facility, Pantex Plant, Amarillo, Texas, $7,000,000.

Project 84-D-119, railroad track replacement and upgrade, Pantex Plant, Amarillo, Texas, $800,000.

Project 84-D-120, explosive component text facility, Mound Facility, Miamisburg, Ohio, $13,100,000.

Project 84-D-121, safeguards and site security upgrading, Rocky Flats Plant, Golden, Colorado, $10,000,000.

Project 83-D-124, standard missile-2 (SM-2) warhead production facilities, various locations, $3,000,000, for a total authorization of $5,000,000.

Project 83-D-134, SENTRY warhead production facilities, various locations, $16,300,000.

Project 82-D-107, utilities and equipment restoration, replacement, and upgrade, Phase III, various locations, $229,200,000, for a total project authorization of $449,600,000.

Project 82-D-108, nuclear weapons stockpile improvement, various locations, $4,000,000, for a total project authorization of $46,800,000.

Project 82-D-111, interactive graphics systems, various locations, $15,600,000, for a total project authorization of $24,600,000.

Project 82-D-144, simulation technology laboratory, Sandia National Laboratories, Albuquerque, New Mexico, $8,000,000, for a total project authorization of $12,200,000.

Project 82-D-146, weapons production and production support facilities, various locations, $14,200,000, for a total project authorization of $62,200,000.

Project 82-D-150, weapons materials research and development facility, Lawrence Livermore National Laboratory, Livermore, California, $2,900,000, for a total project authorization of $10,400,000.

Project 81-D-101, particle beam fusion accelerator-II, Sandia National Laboratories, Albuquerque, New Mexico, $5,400,000, for a total project authorization of $42,150,000.

Project 81-D-115, Missile X warhead production facilities, various locations, $30,000,000, for a total project authorization of $104,100,000.

(3) For materials production:

Project 84-D-125, general plant projects, various locations, $31,000,000.

Project 84-D-126, plant engineering and design, various locations, $2,000,000.

Project 84-D-130, modification processing facility substations, Savannah River, South Carolina, $5,600,000.

Project 83-D-138, PUREX filter systems improvements, Richland, Washington, $8,500,000, for a total project authorization of $12,750,000.

Project 83-D-142, fuel dissolver off-gas transfer and treatment system, Idaho Fuels Processing Facility, Idaho National Engineering Laboratory, Idaho, $4,100,000, for a total project authorization of $7,600,000.

Project 83-D-146, water pollution control, Feed Materials Production Center, Fernald, Ohio, $4,000,000, for a total project authorization of $5,400,000.

Project 83-D-147, pollution discharge elimination, Savannah River, South Carolina, $2,000,000, for a total project authorization of $3,000,000.

Project 83-D-148, non-radioactive hazardous waste management, Savannah River, South Carolina, $3,000,000, for a total project authorization of $4,000,000.

Project 83-D-180, facility storage modifications, various locations, $6,500,000, for a total project authorization of $15,800,000.

Project 82-D-118, N plant security and surveillance, Richland, Washington, $400,000, for a total project authorization of $4,400,000.

Project 82-D-124, restoration of production capabilities, Phases II, III and IV, various locations, $118,600,000, for a total project authorization of $253,300,000.

Project 82-D-136, fuel processing facilities upgrade, Idaho Fuels Processing Facility, Idaho National Engineering Laboratory, Idaho, $6,000,000, for a total project authorization of $46,000,000.

Project 82-D-201, special plutonium recovery facilities, JB-Line, Savannah River, South Carolina, $26,000,000, for a total project authorization of $37,000,000.

Project 81-D-142, steam transfer header, Savannah River, South Carolina, $7,400,000, for a total project authorization of $18,400,000.

(4) For defense waste and byproducts management:

Project 84-D-150, general plant projects, interim waste operations and long-term

waste management technology, various locations, $25,830,000.

Project 83-D-157, additional radioactive waste storage facilities, Richland, Washington, $31,000,000, for a total project authorization of $50,000,000.

Project 81-T-104, radioactive waste facilities improvements, Oak Ridge National Laboratory, Tennessee, $1,000,000 for a total project authorization of $21,000,000.

Project 81-T-105, defense waste processing facility, Savannah River, South Carolina, $142,000,000, for a total project authorization of $212,000,000.

Project 77-13-f, waste isolation pilot plant, Delaware Basin, Southeast, New Mexico, $109,700,000 for a total project authorization of $343,500,000.

(5) For capital equipment not related to construction—

(A) for naval reactors development, $20,000,000;

(B) for weapons activities, $234,600,000;

(C) for verification and control technology, $1,750,000;

(D) for materials production, $102,500,000;

(E) for defense waste and byproducts management, $33,900,000; and,

(F) for nuclear safeguards and security, $4,000,000.

TITLE III—GENERAL PROVISIONS

REPROGRAMING

SEC. 201. Except as otherwise provided in this Act—

(1) no amount appropriated pursuant to this Act may be used for any program in excess of 105 percent of the amount authorized for that program by this Act or $10,000,000 more than the amount authorized for that program by this Act, whichever is the lesser, and

(2) no amount appropriated pursuant to this Act may be used for any program which has not been presented to, or requested of, the Congress, unless a period of thirty calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) has passed after receipt by the appropriate committees of Congress of notice from the Secretary of the Department of Energy (hereinafter in this title referred to as the "Secretary") containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of the proposed action, or unless each committee before the expiration of the period has transmitted to the Secretary written notice to the effect that the committee has no objection to the proposed action.

LIMITS ON GENERAL PLANT PROJECTS

SEC. 202. (a) The Secretary may carry out any construction project under the general plant projects provisions authorized by this Act if the total estimated cost of the construction project does not exceed $1,200,000.

(b) If at any time during the construction of any general plant project authorized by this Act, the estimated cost of the project is revised because of unforeseen cost variations and the revised cost of the project exceeds $1,200,000, the Secretary shall immediately furnish a complete report to the appropriate committees of Congress explaining the reasons for the cost variation.

LIMITS ON CONSTRUCTION PROJECTS

SEC. 203. (a) Whenever the current estimated cost of a construction project which is authorized by section 102 of this Act, or which is in support of national security programs of the Department of Energy and was authorized by any previous Act, exceeds by more than 25 percent the higher of (1) the amount authorized for the project, or (2) the amount of the total estimated cost for the project as shown in the most recent budget justification data submitted to Congress, construction may not be started or additional obligations incurred in connection with the project above the total estimated cost, as the case may be, unless a period of thirty calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three days to a day certain) has passed after receipt by the appropriate committees of the Congress of written notice from the Secretary containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of the action, or unless each committee before the expiration of the period has notified the Secretary it has no objection to the proposed action.

(b) Subsection (a) shall not apply to any construction project which has a current estimated cost of less than $5,000,000.

FUND TRANSFER AUTHORITY

SEC. 204. To the extent specified in appropriation Acts, funds appropriated pursuant to this Act may be transferred to other agencies of the Government for the performance of the work for which the funds were appropriated, and funds so transferred may be merged with the appropriations of the agency to which the funds are transferred.

AUTHORITY FOR CONSTRUCTION DESIGN

SEC. 205. (a) Within the amounts authorized by this Act for plant engineering and design, the Secretary may carry out advance planning and construction designs (including architectural and engineering services) in connection with any proposed construction project.

(b) In any case in which the total estimated cost for such planning and design exceeds $1,000,000, the Secretary shall notify the appropriate committees of Congress in writing of the details of the project at least thirty days before any funds are obligated for design services for the project.

AUTHORITY FOR EMERGENCY CONSTRUCTION DESIGN

SEC. 206. In addition to the advance planning and construction design authorized by section 102, the Secretary may perform planning and design utilizing available funds for any Department of Energy national security program construction project whenever the Secretary determines that the design must proceed expeditiously in order to meet the needs of national defense or to protect property or human life.

FUNDS AVAILABLE FOR ALL NATIONAL SECURITY PROGRAMS OF THE DEPARTMENT OF ENERGY

SEC. 207. Subject to the provisions of appropriation Acts, amounts appropriated pursuant to this Act of management and support activities and for general plant projects are available for use, when necessary, in connection with all national security programs of the Department of Energy.

ADJUSTMENTS FOR PAY INCREASES

SEC. 208. Appropriations authorized by this Act for salary, pay, retirement or other benefits for Federal employees may be increased by such amounts as may be necessary for increases in benefits authorized by law.

AVAILABILITY OF FUNDS

SEC. 209. When so specified in an appropriation Act, amounts appropriated for "Operating Expenses" or for "Plant and Capital Equipment" may remain available until expended.

TITLE III—AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 1985

SEC. 301. There are authorized to be appropriated to the Department of Energy to be available not earlier than October 1, 1984, such sums as may be necessary for fiscal year 1985 for programs set forth in this Act.

DEPARTMENT OF ENERGY,
Washington, D.C., March 9, 1983.

Hon. GEORGE BUSH,
President of the Senate,
Washington D.C.

DEAR MR. PRESIDENT: Enclosed is proposed legislation "[t]o authorize appropriations for the Department of Energy for national security programs for fiscal year 1984 and fiscal years 1985, and for other purposes." The bill would authorize specific appropriations for FY 84 and those appropriations which might be necessary for FY 85. The total amount proposed for FY 84 is $6,756,405,000, of which $5,225,125,000 is for operating expenses, $396,750,000 is for capital equipment, and $1,134,530,000 is for construction projects.

The Office of Management and Budget advises that enactment of this legislative proposal would be in accord with the program of the President.

Sincerely,

ERIC J. FYGI,
Acting General Counsel.●

By Mr. DANFORTH (for himself, Mr. PELL, and Mr. PACKWOOD):

S. 1108. A bill to amend various provisions of the law to provide for more effective highway and motor vehicle safety regulations and enforcement, and for other purposes; to the Committee on Commerce, Science, and Transportation.

HIGHWAY SAFETY ACT OF 1983

Mr. DANFORTH. Mr. President, traffic safety is an issue of life, limb, and dollars. Government figures show that the number of fatalities moderately declined in 1982 to about 45,000, but traffic safety remains one of the most serious public health problem facing our Nation. Too many Americans are being killed or injured in traffic accidents and too much money must be spent by consumers, insurance companies, and others as a result of these accidents.

Earlier this year, my Subcommittee on Surface Transportation held 3 days of hearings surveying the state of the art in automobile safety technology and explored ways of expediting the availability of this technology to American consumers. The bill I am introducing today on behalf of myself and Senators PELL and PACKWOOD is a comprehensive approach to the traffic safety problem which incorporates the knowledge gained from those hearings, as well as provisions aimed at upgrading all facets of highway safety.

Mr. President, the Highway Safety Act of 1983 recognizes the importance of incorporating the most up-to-date technological advances in automobiles and trucks to save lives and reduce injuries and property damage. The bill also addresses the behavioral side of driving by encouraging States to take action to combat drunk and drugged driving and to enact laws requiring the use of child passenger safety seats.

Motor carrier safety is also addressed in this bill. This issue is especially important because of the larger trucks now allowed on the highways. Missouri and some other States opposed these larger trucks and I fought against the larger trucks. One of the main concerns about the larger trucks was safety. While the Surface Transportation Assistance Act of 1982 contained some beneficial provisions in this area—such as a grant program to States for enforcement of Federal and compatible State safety regulations and whistleblower protection for trucking company employees—more needs to be done. The bill we are introducing today provides for a comprehensive motor carrier safety program. The bill gives the Department of Transportation broad safety enforcement authority and updates and improves the current penalty system applicable to violators of commercial motor vehicle safety regulations.

Hazardous materials transportation is also an issue of great concern. The bill we are introducing today provides for an evaluation of current training programs dealing with enforcement of hazardous materials transportation incidents. The bill establishes a grant program for State enforcement of hazardous materials transportation regulations, along with a grant program to enable States to improve emergency response capabilities. This bill also authorizes the Secretary to establish routing requirements and a prenotification system as necessary to protect the American public.

Mr. President, we believe this bill is an important part of our efforts to improve highway safety. Congress must do all it can to promote safety at the Federal level and to encourage effective action at the State level to improve highway safety.

Mr. President, I would like to briefly describe the major provisions of the bill we are introducing today.

TITLE I—AUTOMOTIVE SAFETY IMPROVEMENT

Title I of this bill provides for specific technology-related safety improvements. The provisions of this title are in response to testimony received at a series of hearings on Motor Vehicle Safety and the Marketplace conducted earlier this year by the Senate Commerce Committee's Surface Transportation Subcommittee. The testimony presented at these hearings clearly showed that technologies exist which would reduce the death and injury toll as well as the monetary costs resulting from highway accidents. These technologies, however, for the most part are unavailable to the American consumer.

This bill takes steps to address this problem in the following areas:

BUMPERS

Under the initial Federal bumper regulation, automobile manufacturers have been required since 1974 to equip their cars with bumpers capable of withstanding collisions at speeds up to 5 miles per hour without permitting damage to specified safety-related equipment. That safety regulation was incorporated into broader no damage standards, starting with 1970–80 model cars.

In May, 1982, the National Highway Traffic Safety Administration (NHTSA) announced its decision to reduce the standard from 5-mile per hour to 2.5-mile-per-hour for both front and rear bumpers and to eliminate entirely the requirement that the bumper itself be capable of withstanding damage at a specified speed. NHTSA asserted that the 2.5- mile-per-hour bumpers would cost and weigh less than the 5-mile-per-hour bumpers, leading to lower sticker prices and improved fuel economy. NHTSA's decision to roll back the bumper standard, however, is now being challenged in the courts.

Insurance industry and auto safety groups disagreed with NHTSA's rationale in weakening the standard, noting that the 2.5-mile-per-hour bumpers would lead to significantly greater crash damage compared to the 5-mile-per-hour bumpers, thus causing increased repair costs and insurance premium costs. Contrary to NHTSA's claims, these additional costs are not likely to be offset by any substantial benefits.

For example, the Insurance Institute for Highway Safety conducted crash tests comparing some of the 2.5-mile-per-hour bumpers to the 5-mile-per-hour bumpers used on the same cars. In virtually all cases, the cars with 2.5-mile-per-hour bumpers sustained substantially more damage than the corresponding models with 5-mile-per-hour bumpers.

TABLE 1.—1982–1983 MODELS—FRONT-END CRASH TESTS DAMAGE REPAIR COSTS [1]

Make and model	Model year	Bumper system (mph)	5 mph barrier	5 mph angle barrier	10 mph barrier
Honda Accord LX	1982	5	$0	$459	$578
	1983	2.5	299	880	1,402
Honda Civic 1500 DX	1982	5	0	377	532
	1983	2.5	188	455	592
Plymouth Horizon	1983	5	0	29	418
	1983	2.5	66	223	846
Plymouth Reliant	1983	5	0	267	809
	1983	2.5	172	181	689
Volvo GL	1982	5	0	143	613
	1983	2.5	138	745	838

[1] Repair costs are based on January 1983 parts prices and a labor rate of $17 per hour. Criteria for bumper facebar damage were adapted from the DOT Part 581 Bumper Standard requirements in effect between September 1, 1979 and July 6, 1982.

TABLE 2.—1982–1983 MODELS—REAR-END CRASH TESTS DAMAGE REPAIR COSTS [1]

Make and model	Model year	Bumper system (mph)	5 mph barrier	5 mph pole
Honda Accord LX	1982	5	$0	$158
	1983	2.5	198	736
Honda Civic 1500 DX	1982	5	0	174
	1983	2.5	157	423
Plymouth Horizon	1983	5	0	0
	1983	2.5	181	193
Volvo GL	1982	5	0	0
	1983	2.5	128	335

[1] Repair costs are based on January 1983 parts prices and a labor rate of $17 per hour. Criteria for bumper facebar damage were adapted from the DOT Part 581 Bumper Standard requirements in effect between September 1, 1979 and July 6, 1982.

Note.—1983 Plymouth Reliants have "2.5 mph" bumpers only on the front end; 5 mph bumpers were retained in the rear. Consequently, rear-end crash tests were not performed.

TABLE 3.—1982–1983 MODELS—FRONT- AND REAR-END CRASH TESTS DAMAGE REPAIR COST TOTALS [1]

Make and model	Model year	Bumper system (mph)	All front-end tests	All rear-end tests	All tests
Honda Accord LX	1982	5	$1037	$158	$1195
	1983	2.5	2581	934	3515
Honda Civic 1500 DX	1982	5	909	174	1083
	1983	2.5	1235	580	1815
Plymouth Horizon	1983	5	447	0	447
	1983	2.5	1135	374	1509
Plymouth Reliant	1983	5	1076	.....	.....
	1983	2.5	1042	.....	.....
Volvo GL	1982	5	756	0	756
	1983	2.5	1721	463	2184

[1] Repair costs are based on January 1983 parts prices and a labor rate of $17 per hour. Criteria for bumper facebar damage were adapted from the DOT Part 581 Bumper Standard requirements in effect between September 1, 1979 and July 6, 1982.

Note.—1983 Plymouth Reliants have "2.5 mph" bumpers only on the frond end; 5 mph bumpers were retained in the rear. Consequently, rear-end crash tests were not performed.

Source: Insurance Institute for Highway Safety.

It also does not appear that the 2.5-mile-per-hour bumpers result in any meaningful fuel savings. NHTSA analysis shows that the reduced weight of the new cars with 2.5-mile-per-hour bumpers translates into only 2 to 35 gallons saved per car over a 10-year lifetime.

It is important to note that public opinion polls show that the public is strongly in favor of a Federal minimum bumper performance standard of at least 5 miles per hour. For example, a 1982 survey conducted by Opinion Research Corp. for the Insurance Institute for Highway Safety found that when the people interviewed knew that 2.5-mile-per-hour bumpers would save gas, cost at least $20 to $40 less in the purchase price of their new car, and increase insurance collision coverage costs by 10 to 20 percent, more than three-quarters of them preferred 5-mile-per-hour bumpers.

It is also interesting to note that the Administrator of the General Services Administration recently said that it would be an agency objective to have 5-mile-per-hour bumpers on the Federal Government's fleet of new cars.

This bill would reinstate the 5-mile-per-hour no-damage bumper standard for cars manufactured on or after September 1, 1984.

SIDE IMPACT PROTECTION

More than 9,000 Americans die a year in side impact crashes, and approximately 20,000 suffer serious, nonfatal injuries.

Federal Motor Vehicle Safety Standard 214 governing side impact protection became effective January 1, 1973, although a number of domestic vehicle manufacturers complied with the standard earlier. Standard 214 was found by NHTSA to be effective in preventing death and serious injury in single vehicle crashes where about 30 percent of the life-threatening injuries occur, but is considerably less effective for the 70 percent involving vehicle-to-vehicle crashes.

The side impact protection provided by the present standard is seriously lessened as cars get smaller and ligher to improve fuel economy. Under this standard, door strength depends on vehicle weight in such a way that as cars get ligher, the protection gets poorer.

Research by the mid-seventies, especially that related to the Department of Transportation's research safety vehicle (RSV) program demonstrated that side impact crashworthiness of cars could be significantly improved with known technology. In December 1979, NHTSA issues an advance notice of proposed rulemaking to upgrade the side impact protection standard. The new side impact rule would have required a dynamic side crash with instrumented dummies meeting specified injury criteria; these test conditions would have closely resembled real world crashes. In addition, the applicability of the new standard would have been extended to include light trucks, vans, and multipurpose passenger vehicles.

On July 12, 1982, however, NHTSA terminated this rulemaking, noting that many complex issues had arisen which would require considerable time to resolve. NHTSA said, however, that the rulemaking would be reopened "after research and analysis has progressed to the point that appropriate test methods and performance parameters can be developed." This process was expected to take 1 year.

This bill directs NHTSA to reinstate its rulemaking proceeding to upgrade the side impact protection standard and to issue final regulations implementing standard 214 by July 1, 1984. It is clear that action must be taken quickly to improve side impact protection.

CHILD PASSENGER SAFETY SEATS

According to the National Transportation Safety Board (NTSB), more than 650 children under age 5 are killed and 50,000 are injured in auto crashes each year.

Many States have acted to remedy this great problem; as of March 1983, 21 States and the District of Columbia have laws requiring the use of child passenger safety seats in automobiles.

The use of these safety seats can save lives. The NTSB found in Tennessee—which adopted such a law in 1978—that child fatalities have been reduced from more than 20 per year before the law to 6 in 1982. The NTSB stated in testimony before the subcommittee that it believes that proper use of safety seats could prevent 90 percent of child fatalities and a vast majority of serious injuries to children.

This bill encourages States to enact laws requiring the use of child passenger safety seats and rewards those which already have done so. The bill provides a 1-year grant to States with such laws; these grants will equal 10 percent of a State's apportionment under the section 402 safety program and are to be used for the enforcement of child passenger safety seat laws.

AUTOMOBILE CRASH PROTECTION

Passive restraints have been a subject of considerable debate over the last several years. The Department of Transportation (DOT) issued its first notice of proposed rulemaking on passive restraints in 1969. Since that time, a variety of measures have been attempted, including manual belts with ignition interlocks, passive restraint demonstration programs, and mandated passive restraints in automobiles. This most recently occurred in 1977, when DOT Secretary Adams issued an implementation schedule requiring installation of passive restraints in large cars by September 1, 1981, in mid-size cars by September 1, 1982, and in small cars by September 1, 1983. The devices were to automatically protect front-seat passengers from injury in head-on crashes of up to 30 miles per hour. Another judicial challenge was filed and the court again upheld the standard.

NHTSA initiated efforts to dismantle the passive restraint program with a February 1981 proposal to postpone the implementation date by 1 year. Two months later, NHTSA adopted a partial delay proposal and in October 1981, NHTSA rescinded the standard. The rescission was premised almost entirely on the fact that some manufacturers had threatened to meet the standard by using a detachable automatic belt. NHTSA also expressed uncertainty about public acceptability and use of automatic safety belts and noted the relatively substantial cost of automatic restraints, estimated by NHTSA to be roughly $1 billion a year in vehicle price increases.

NHTSA was taken to court on this rescission and in June 1982, the U.S. Court of Appeals for the D.C. Circuit reversed NHTSA's rescission of the standard calling NHTSA's action arbitrary and capricious. In August 1982, the court reinstated the passive restraint standard, effective September 1, 1983. NHTSA appealed this case to the Supreme Court, where it is now pending.

Passive restraints can play a vital role in improving highway safety. The Center for Auto Safety has estimated that passive restraint regulations would save 9,000 to 12,000 lives annually, prevent over 100,000 serious injuries, and save consumers $10 for every $1 cost. In addition, evaluation by DOT has shown that fatalities in airbag-equipped cars are half the number in equivalent manual belt cars where belts are rarely used. Studies conducted by NHTSA of automatic belt systems already in service have shown usage rates of at least 70 percent. By comparison, manual belts in all cars are used by only 11.5 percent of the occupants according to a 1982 NHTSA report.

Passive restraint systems especially passive seat belts, of different types have been available in the marketplace, with good results. For example:

Between 1972 and 1976, roughly 10,000 General Motors (GM) vehicles were equipped with airbags. Since 1975, automatic seat belts have been installed in over 350,000 Volkswagen Rabbits. Automatic belts were installed in 8,000 1978 and 1979 GM Chevettes and approximately 13,000 1980 Chevettes. 1980 Toyota Coronas were equipped with authomatic belts as an option and 1981 Toyota Coronas were equipped with automatic belts as an option and 1981 Toyota Cressidas were so equipped as standard equipment.

Most recently, Mercendes-Benz has announced that airbags will be offered as an option on certain model year 1984 cars sold in the United States. In addition, the General Services Administration (GSA) has entered into an agreement with NHTSA to equip some Government fleet cars with airbags, to act as a demonstration program. These are certainly positive steps. However, steps must be taken to insure that this life-saving technology is available to all American consumers.

This bill will require manufacturers to install airbags in all automobiles manufactured on or after September 1, 1985.

NONLACERATING WINDSHIELDS

Since the 1968 model year, all vehicles sold in the United States have contained high penetration resistant (HPR) windshields made with laminated glass that prevents an occupant's head from penetrating the windshield during a collision. This has greatly reduced life-threatening lacerations from windshields in accidents; nevertheless, the inner and outer glass does shatter, leaving edges of broken glass on the inner surface and causing more than 210,000 laceration injuries to passenger car occupants each year.

A solution to this problem exists. A safety windshield, which molds a thin layer of a special clear plastic on the interior surface of the windshield, has

been developed in Europe by Saint-Gobain Vitrage and similar research is underway elsewhere. The plastic film acts as a shield between occupants and shattered glass.

This safety windshield has been installed in more than 60,000 automobiles sold in Europe, with excellent performance. This windshield does not, however, meet U.S. requirements for interior surface scratch resistance, although it does meet all other safety standards.

The Insurance Institute for Highway Safety petitioned NHTSA to amend the existing windshield safety standard to allow the use of this safety windshield in the United States. NHTSA denied the petition charging that the plastic inner liner will not resist haze and may be more rigid than existing windshields, thus causing injuries.

NHTSA has, however, recently approved an experimental program using antilacerative windshields. Under this program, GM will equip 2,500 cars with the safety windshields in order to test the durability and scratch resistance of the windshield as well as any tendency to become hazy, thus reducing visibility.

In addition, last month NHTSA instituted a rulemaking to amend standard 205 governing glazing materials to permit the use of nonlacerating windshields in the United States.

This bill builds on NHTSA's action by requiring the agency to mandate the use of nonlacerating windshields in automobiles sold in the United States by September 1, 1984. This technology has been proven and there is no need to delay its introduction into automobiles sold in the United States.

TRUCK OCCUPANT PROTECTION

Occupational injuries in the United States result in an estimated 13,000 deaths, 245 million lost work days and $25 billion in direct and indirect costs each year. Motor vehicle crashes are the leading cause of fatal injuries in the workplace. This is an especially important concern in the trucking industry.

Transportation vehicles—including boats and airplanes—are involved in over 40 percent of all work injury deaths. Yet little attention has been given to occupant protection. For example:

The few existing standards for heavy trucks were established years after comparable standards were set for passenger cars. Crashworthiness standards for heavy trucks have not been established to give drivers adequate protection.

The design of the truck steering wheel has been completely neglected, even though abdominal injuries repeatedly have been shown to be especially common in injured truck drivers.

Despite the fact that seat belts when used substantially reduce deaths and severe injuries to automobile occupants, OSHA has not promulgated regulations to require their use in company owned cars. Further, most employers—including the Government—either do not require or do not enforce seat belt use.

Changing the design of products—for example, multipiece truck wheels which often explode—could substantially reduce the risk of injury for workers.

These are serious issues that need to be addressed. This bill would require NHTSA to undertake a detailed study on truck occupant protection. The study is to investigate potential and known hazards to truck occupants, means of improving truck occupant safety and is to evaluate potential performance standards to be met by manufacturers. This study is to be submitted to Congress by September 1, 1984, and NHTSA is to initiate a rulemaking on truck occupant protection, based on the results of this research, on or before that date.

HIGH-MOUNTED REAR STOPLAMPS

High-mounted rear stoplamps have been shown to be effective in reducing rear end collisions. These stoplamps provide a more effective brake warning than the current system to drivers following behind a car.

This bill would require the installation of high-mounted rear stoplamps in cars manufactured on or after September 1, 1984.

CRASH TEST DATA

In recent years, we have seen a trend toward smaller, lighter cars due to their high fuel efficiency. These cars, however, are inherently less safe in crashes than larger cars. Largely because of this trend to smaller cars, traffic fatalities are likely to significantly increase unless major safety improvements are made.

Consumers are becoming increasingly aware of the accident risks associated with smaller cars and there is evidence that indicates consumers want to know more about the safety of their cars. For example, a 1981 NHTSA survey of 2,331 recent or prospective new car purchasers found that 78 percent of those surveyed agreed with the statement made by interviewers that they like the idea of Government ratings of such items as safety and maintenance costs.

Title II of the Motor Vehicle Information and Cost Savings Act requires NHTSA to compile information regarding the damage susceptibility of passenger motor vehicles and certain aspects of the crashworthiness of such vehicles. NHTSA is required to furnish this information to the public "in a simple and readily understandable form." Last year, the Commerce Committee authorized a total appropriation of nearly $5.5 million over fiscal year 1983 through 1985 to carry out the purposes of title II. The bill I am introducing today builds on these provisions of the Motor Vehicle Information and Cost Savings Act by requiring DOT to promulgate a safety standard establishing passenger car crashworthiness and labeling requirements for cars manufactured on or after September 1, 1984. Manufacturers would test their cars under the NHTSA-established criteria. DOT would also be required to prepare a booklet regarding the crashworthiness of passenger cars and other pertinent information. This booklet would be furnished to manufacturers for distribution to passenger car dealers.

TITLE II—DRIVING WHILE UNDER THE INFLUENCE

Title II addresses two important behavioral highway safety issues—drunk and drugged driving. This title also addresses the need to encourage States to update their traffic and highway recordkeeping systems.

DRUNK DRIVING

Last year, I introduced legislation with Senator PELL and numerous other cosponsors to address the national tragedy resulting from drunk driving. The bill provided for Federal incentive grants to States to enact comprehensive drunk driving enforcement programs. The bill also provided for the computerization of the National Driver Register to assist State officials in identifying problem drivers. A compromise version of this bill passed both Houses and was enacted in October (Public Law 97-364).

Public Law 97-364 is an important first step. But much more needs to be done to combat drunk driving. Earlier this session I reintroduced legislation I sponsored in the 97th Congress (S. 605) which would close a loophole that now exists in the bankruptcy statute. This loophole makes it possible for drunk drivers to escape civil liabilities for their actions by having their judgment debt discharged in Federal bankruptcy court. S. 605 would close this loophole by defining the operation of a motor vehicle while legally intoxicated as a willful and malicious act for purposes of the bankruptcy statute.

Today I want to address another aspect of the drunk driving problem. Research has showed that increasing the drinking age results in a decrease in alcohol-related crashes among young people. For example, one study showed that raising the legal drinking age produced an average annual reduction of 28 percent in nighttime fatal crashes involving 18- to 21-year-old drivers.

Mr. President, in recent months, States have been encouraged by many groups to raise the drinking age as a possible supplemental grant criterion. I am pleased to report that the Department of Transportation's recently

issued rules implementing the incentive grant program include the 21-year drinking age for all alcoholic beverages as one of the supplemental grant criterion. Congress again spoke on this issue in section 209 of the Surface Transportation Assistance Act of 1982, where Congress strongly encouraged States to prohibit the sale of alcoholic beverages to persons who are under 21 years of age.

I also want to note the Presidential Commission on Drunk Driving has recommended in its interim report that States immediately adopt 21 years as the minimum legal drinking age for all alcoholic beverages. Further, the National Transportation Safety Board testified before the Surface Transportation Subcommittee last month that raising the drinking age to 21 is one measure that has been proven to be effective in reducing teenage drunk driving deaths.

This bill would encourage States to enact laws setting the legal drinking age for all alcoholic beverages at 21. It is important to note, however, that States which already have such a law would also benefit from this bill. This bill would enable a State with a drinking age 21 and a "dram shop" law—in order to reduce the prospect of minors obtaining alcoholic beverages—to receive a Federal grant to be used for enforcement of alcohol traffic safety programs.

These grants are separate from the basic and supplemental incentive grants provided for in Public Law 97-364. These grants are aimed, however, at complementing the incentive grant program. Not only would these grants encourage States to set the legal drinking age at 21 and enact "dram shop" laws, thus addressing a major safety problem, but States would also be provided additional funding for enforcement of alcohol traffic programs.

DRUGGED DRIVING

Another emerging problem is that of drugged driving. While we do not know as much about this problem as we do about drunk driving, it is clear that persons driving while under the influence of drugs other than alcohol constitute a serious safety threat. My bill would encourage States to take action in this area by including enforcement of drugged driving laws as one of the supplemental criteria States may meet in order to receive additional incentive grant funds under Public Law 97-364.

COMPUTERIZATION OF TRAFFIC RECORD SYSTEMS

One of the largest problems facing States in their highway safety enforcement efforts is a lack of funding to modernize their traffic and highway records systems. Public Law 97-364 contained provisions to modernize the National Driver Register (NDR), but more needs to be done to broaden the scope of the modernization.

This bill would provide Federal grants to States for 3 years to update their records systems. These updated systems at the State level should then be ready to work with the computerized NDR system established under Public Law 97-364. The computerized systems will also enhance State enforcement of drunk and drugged driving laws as well as general highway safety laws.

TITLE III—MOTOR CARRIER SAFETY

Motor carrier safety has been an issue of great concern to the Commerce Committee for several years. Truck accidents fatalities and injuries have been generally been increasing in recent years. In 1975, there were 24,274 truck accidents, 2,232 fatalities, and 26,374 injuries compared to 31,759 accidents, 2,479 fatalities, and 25,779 injuries in 1982. These 1982 accidents resulted in $321 million in property damage. Bus accidents occur much less frequently, bus safety remains an issue of concern in this industry.

Trucks and buses traveling in interstate commerce and ICC-regulated motor carriers transporting hazardous materials are subject to Federal motor carrier safety regulations administered by DOT's Bureau of Motor Carrier Safety. Enforcement of these regulations, however, is constrained due to the small number of Federal inspectors and the limited sanctions available for prosecution of violators of safety regulations.

The provisions of this bill would enhance the motor carrier safety provisions contained in the Surface Transportation Assistance (STA) Act of 1982. The STA Act authorized a total of $150 million over fiscal years 1984 through 1988 to enable DOT to provide grants to States for enforcement of Federal and compatible State motor carrier safety regulations. This grant program is crucial to the enforcement of motor carrier safety regulations; States will be able to supplement the current Federal safety enforcement efforts. Nevertheless, more needs to be done to enhance motor carrier safety and to supplement the STA Act provisions.

DOT ENFORCEMENT AUTHORITY

This bill would improve DOT's safety enforcement capabilities in several ways:

First. Grants the Secretary of Transportation authority to promulgate comprehensive safety rules and regulations;

Second. Expands DOT's authority to prosecute safety violations and sets forth an updated system of civil and criminal penalties; and

Third. Requires all motor carriers to pass an annual Federal equipment inspection, using State inspectors.

These provisions, coupled with the provisions contained in the STA Act, would lead to improved enforcement of Federal motor carrier safety regulations.

CERTIFICATION OF SAFETY FITNESS

The Motor Carrier Act of 1980 and the Bus Regulatory Reform Act of 1982 significantly eased entry into the interstate trucking and bus industries, respectively. As the economic entry controls are lessened, the safety fitness of applicants assumes increasing importance. At present, the Interstate Commerce Commission (ICC) and DOT determine the safety fitness of applicants seeking ICC truck and bus operating authority. Questions have been raised, however, as to the effectiveness of current procedures in determining whether or not an applicant is fit; this is especially true in the case of first-time applicants into the trucking and bus industries.

This bill would require the ICC and DOT to establish specific safety fitness standards applicable to new entrants into the motor carrier industry or existing carriers seeking additional operating authority. The ICC and DOT would also be required to develop adequate procedures for determining whether applicants meet the safety fitness requirements. These requirements are neither meant to be burdensome nor to thwart entry into the trucking or intercity bus industries. Rather, the requirements are aimed at insuring that motor carriers operating on our highways truly are safe.

HEAVY TRUCK RESEARCH

While a considerable body of knowledge exists related to the safety of automobiles, railroads, and airplanes, relatively little research has been done concerning heavy trucks.

This bill would require NHTSA to undertake research into the unique safety problems associated with heavy trucks.

TITLE IV—HAZARDOUS MATERIALS TRANSPORTATION

The transportation of hazardous materials is a function essential to the operation of numerous industries in this country, but is a function with which many potentially serious risks are associated. Last year, 6,277 hazardous materials transportation incidents were reported to the Department of Transportation. Of these, roughly 90 percent related to highway incidents and well over 90 percent of hazardous materials deaths and injuries are attributable to incidents which occur during the transportation of these materials over the highways.

In recent years, several problems associated with hazardous materials transportation have been identified:

First. Inadequate emergency response capabilities;

Second. Inadequate funding for hazardous materials programs;

Third. Lack of coordination between the Federal Government and State and local governments in formulating

hazardous materials transportation regulations; and

Fourth. Less than comprehensive enforcement of hazardous materials regulations.

This bill would address these and other problems related to the transportation of hazardous materials. This bill would:

First. Require the Secretary and the Director of the Federal Emergency Management Agency (FEMA) to evaluate Federal, State, local, and private programs which provide training with respect to compliance with and enforcement of hazardous materials transportation regulations as well as emergency response. If needed, the Secretary and the Director would be authorized to develop appropriate training programs.

Second. Allow the Secretary to provide grants to States for the development and implementation of programs for the enforcement of Federal and consistent State hazardous materials transportation regulations;

Third. Authorize the Secretary to establish hazardous materials transportation routing regulations and a system of prenotification, where necessary to protect the American public;

Fourth. Authorize the Director of FEMA to make grants to States to evaluate and improve emergency response capabilities; and

Fifth. Authorize the Director of FEMA, in coordination with the Secretary, to conduct research and development activities designed to improve Government and private agencies' response capabilities.

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. 1108

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 "Highway Safety Act of 1983".

TITLE I

SHORT TITLE

SEC. 101. This title may be cited as the "Automotive Safety Improvement Act of 1983".

PURPOSE

SEC. 102. This title is part of the continuing effort by Congress to address the critical highway safety problem facing this Nation.

FINDINGS

SEC. 103. The Congress finds that—

(1) the Department of Transportation should be given explicit direction as to actions to be taken to save lives, reduce injuries, and decrease consumer costs of accidents;

(2) the current trend toward purchases of smaller and lighter passenger cars increases the importance of and the need for effective occupant crash protection;

(3) comfortable and convenient crash protection should be provided for occupants of new passenger automobiles;

(4) child passenger safety seats have proven life-saving and injury-prevention capabilities, and States should be encouraged to require their use in passenger automobiles; and

(5) crashworthiness information should be available upon the introduction of each new passenger car model, and a systematic effort must be made to disseminate this information.

DEFINITIONS

SEC. 104. (a) For purposes of this title, the term "passenger automobile" means a motor vehicle with motive power, except that the term does not include a multipurpose passenger vehicle, a motorcycle, or a trailer designed for carrying 10 persons or less.

(b) As used in subsection (a) of this section, the term "multipurpose passenger vehicle" means a motor vehicle with motive power, other than a trailer, which is designed to carry 10 persons or less and which is constructed either on a truck chassis or with special features for occasional off-road operation.

BUMPER STANDARDS

SEC. 105. Section 102 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1912) is amended to read as follows:

"SETTING OF STANDARDS

"SEC. 102. (a) Each passenger motor vehicle shall meet the bumper standard damage criteria of 49 CFR sections 581.5(c)(1) through 581.5(c)(7) and section 581.5(c)(9) when impacted by a pendulum-type test device in accordance with the procedures of 49 CFR section 581.7(b) under the conditions of 49 CFR section 581.6, at an impact speed of 3 miles per hour, and when impacted by a pendulum-type test device in accordance with the procedures of 49 CFR section 581.7(a) at 5 miles per hour, followed by impacts into a fixed collision barrier that is perpendicular to the line of travel of the vehicle, while traveling longitudinally forward, then longitudinally rearward, under the conditions of 49 CFR section 581.6, at 5 miles per hour.

"(b) Each vehicle shall meet the following damage criteria when tested in accordance with the requirements of subsection (a) of this section:

"(1) the exterior surfaces of the vehicle, except for the bumper face bar, shall have no separations of surface materials, paint, polymeric coatings, or other materials from the surface to which they are bonded, and no permanent deviations from their original contours 30 minutes after completion of each pendulum and barrier impact; and

"(2) 30 minutes after the completion of each pendulum and barrier impact test, the bumper face bar shall have—

"(A) no permanent deviation greater than ¾ inch from its original contour and position relative to the vehicle frame; and

"(B) no permanent deviation greater than ⅜ inch from its original contour on areas of contact with the barrier face or the impact ridge of the pendulum test device measured from a straight line connecting the bumper contours adjoining any such contact area.

"(c) The damage criteria specified under subsections (a) and (b) of this section shall be applicable to—

"(1) all passenger motor vehicles manufactured in or imported into the United States; and

"(2) any item of passenger motor vehicle equipment so manufactured or imported;

except that such criteria shall not apply to any vehicle which is intended solely for export (and is so labeled or tagged on the vehicle or equipment itself and on the outside of the container, if any) and which is exported.

"(d)(1) In promulgating any bumper standard under this section, the Secretary may for good cause shown—

"(A) exempt partially or completely any multipurpose passenger motor vehicle; or

"(B) exempt partially or completely any make, model, or class of passenger motor vehicle manufactured for a special use, if such standard would unreasonably interfere with the special use of such vehicle.

"(2) To the maximum extent practicable, a bumper standard promulgated by the Secretary shall not preclude the attachment of detachable hitches.

"(e) This bumper standard shall be applicable to passenger motor vehicles manufactured on or after September 1, 1984.

"(f) Nothing in this section shall be construed to prohibit the Secretary from increasing the impact speeds specified in subsection (a) of this section.

"(g) All rules establishing, amending, or revoking a bumper standard under this title shall be issued pursuant to section 553 of title 5, United States Code, except that the Secretary shall give interested persons an opportunity for oral presentation of data, views, or arguments, and the opportunity to make written submissions. A transcript shall be kept of any oral presentation.".

SIDE IMPACT PROTECTION

SEC. 106. (a) Not later than 60 days after the date of enactment of this Act, the Secretary shall reopen the rulemaking proceeding terminated on July 12, 1982 to implement Federal Motor Vehicle Safety Standard 214 (49 CFR 571.214). The Secretary shall—

(1) establish performance criteria for occupant protection in side impacts under dynamic crash tests; and

(2) extend the applicability of such Standard to light trucks, vans, and multipurpose passenger vehicles.

(b) The final regulations implementing such Standard shall be issued not later than July 1, 1984.

CHILD PASSENGER SAFETY SEATS

SEC. 107. Chapter 4 of title 23, United States Code, is amended by adding at the end thereof the following:

"§ 409. Child passenger safety seats

"(a) Subject to the provisions of this section, the Secretary shall make grants to those States which have in effect a law requiring the proper use of child safety seats meeting the requirements of Federal Motor Vehicle Safety Standard 213 (49 CFR 571.212) by any child in a highway motor vehicle who—

"(A) has not attained an age of 5 years or such lesser age as may be established by such law; or

"(B) has a weight of less than 40 pounds.

"(b) No State may receive a grant under this section in more than 1 fiscal year.

"(c) The amount of a grant made under this section for any fiscal year to any State which is eligible for such a grant under subsection (d) of this section shall equal 10 per centum of the amount apportioned to such State for each of the fiscal years 1984 and 1985 under section 402 of this title.

"(d) A State is eligible for a grant under this section if—

"(1) on the date of enactment of this section, the State has adopted or has in effect a law or regulation which complies with the requirements or subsection (a) of this section; or

"(2 after the date of enactment of this section, the State adopts or puts in effect a law or regulation which complies with the requirements or subsection (a) of this section.

"(e) There are hereby authorized to be appropriated to carry out this section, out of the Highway Trust Fund, $10,000,000 for the fiscal year ending September 30, 1984, and $20,000,000 for the fiscal year ending September 30, 1985. All provisions of chapter 1 of this title that are applicable to Federal-aid primary highway funds, other than provisions relating to the apportionment formula and provisions limiting the expenditure of such funds to Federal-aid systems, shall apply to the funds authorized to be appropriated to carry out this section, except as determined by the Secretary to be inconsistent with this section. Sums authorized by this subsection shall not be subject to any obligation limitation for State and community highway safety programs.".

(b) The analysis for chapter 4 of title 23, United States Code, is amended by adding at the end thereof the following:

"409. Child passenger safety seats.".

(c) The Secretary of Transportation shall issue and publish in the Federal Register proposed regulations to implement section 409 of title 23, United States Code, as added by subsection (a) of this section, not later than July 1, 1983. The Secretary shall allow public comment on the proposed regulations to encourage maximum citizen participation. The final regulations shall be issued and published in the Federal Register not later than January 1, 1984. Such regulations shall become effective on the date on which they are published in the Federal Register.

AUTOMATIC CRASH PROTECTION

SEC. 108. Part A of title I of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1391-1410b) is amended by adding at the end thereof the following:

"SEC. 126. (a) Each manufacturer of passenger automobiles shall install airbags in each passenger automobile manufactured on or after September 1, 1985.

"(b) The Secretary, in carrying out his responsibilities under section 201(c) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1941(c)), shall develop and disseminate data to inform the public about the performance and benefits of airbags.".

ANTILACERATIVE WINDSHIELD

SEC. 109. (a) The Secretary shall, within 60 days after the date of enactment of this Act, amend Federal Motor Vehicle Safety Standard No. 205 to require manufacturers of automobiles to install anti-lacerative windshields in all passenger automobiles manufactured on or after September 1, 1984.

(b) For purposes of this section, the term "anti-lacerative windshield" means a high penetration-resistant windshield whose interior and exterior surfaces are made of Item 1 laminated glass, to which a layer of polyurethane is bonded on the side of the windshield facing inside the occupant compartment.

TRUCK OCCUPANT PROTECTION

SEC. 110. (a) The Secretary shall make a full investigation and study of crash protection for truck occupants. Such study shall examine potential and known hazards to truck occupants and means of improving truck occupant safety. This study shall also include potential performance standards to be met by truck manufacturers. The Secretary shall submit to Congress a report on the findings of this investigation and study not later than September 30, 1984.

(b) There are authorized to be appropriated for fiscal year 1984 such sums as are necessary to undertake the study required by subsection (a) of this section.

HIGH-MOUNTED REAR STOPLAMPS

SEC. 111. Part A of title I of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1391-1410b), as amended by section 108 of this title, is further amended by adding at the end thereof the following:

"SEC. 127. (a)(1) Not later than 60 days after the date of enactment of this section, the Secretary shall amend Federal Motor Vehicle Safety Standard 108 (49 CFR 571.108) to provide that each manufacturer of passenger automobiles equip each passenger automobile manufactured on or after September 1, 1984 with a high-mounted rear stoplamp. Each such stoplamp shall be activated upon application of the service brakes of the passenger automobile.

"(2) Such amendment also shall include such requirements as the Secretary considers necessary or appropriate relating to the positioning of such high-mounted rear stoplamps, the effective projected luminous area of such stoplamps, and any other matters regarding the installation and operation of such stoplamps.

"(b) Such amendment shall take effect not later than 120 days after the date of enactment of this section.".

AUTOMOBILE CRASHWORTHINESS DATA

SEC. 112. Part A of title I of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1391-1410b), as amended by section 108 and 111 of this title, is further amended by adding at the end thereof the following:

"SEC. 128. (a) Not later than 60 days after the date of enactment of this section, the Secretary shall promulgate a Federal motor vehicle safety standard establishing passenger automobile crashworthiness rating and labeling requirements in accordance with this section. Such amendment shall take effect not later than 120 days after such date of enactment, and shall apply to passenger automobiles manufactured on or after September 1, 1984.

"(b) The standard required in subsection (a) of this section shall provide a method for calculating a uniform numerical rating which will enable consumers to compare the crashworthiness of different automobile models.

"(c)(1) The standard required in subsection (a) of this section shall also require that—

"(A) each automobile manufacturer certify to the Secretary, not later than 90 days before any passenger automobile model produced by such manufacturer is offered for sale to consumers, the crashworthiness rating achieved by that model;

"(B) each passenger automobile manufacturer affix a label to each passenger car indicating that model's crashworthiness rating; and

"(C) the Secretary prepare a booklet for purposes of disseminating comparative information regarding the crashworthiness of passenger cars.

"(2) The Secretary may include in the booklet to be prepared pursuant to paragraph (1)(C) of this subsection such other information relating to the purchase and ownership of passenger automobiles as the Secretary determines may be useful to consumers. Copies of such booklet shall be furnished by the Secretary to passenger automobile manufacturers for distribution to passenger automobile dealers.

"(d) The labeling and certification required under this section shall be based upon performance criteria established by the Secretary relating to—

"(1) crash protection for occupants with and without manual seat belts;

"(2) windshield mounting;

"(3) windshield zone intrusion;

"(4) fuel system integrity; and

"(5) such other aspects affecting crashworthiness as the Secretary may consider appropriate.".

(b) Section 201 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1941) is amended by adding at the end thereof the following:

"(f) Not later than July 1, 1984, the Secretary shall by rule establish procedures requiring automobile dealers to make available to prospective automobile purchasers information developed by the Secretary and provided to the dealer which contains data comparing the crashworthiness of passenger automobiles.".

STUDY OF SAFETY-RELATED DEVICES

SEC. 113. (a) The Department of Transportation shall conduct a study of the effectiveness of existing regulations regarding emergency warning devices required to be carried on buses, trucks, truck-tractors and motor-driven vehicles which are involved in emergency situations. Such study shall also investigate the potential costs and benefits of requiring passenger automobile operators to carry emergency warning devices, and shall examine the relative benefits of various types of warning devices in enhancing highway safety. A report containing the findings of this study shall be submitted to the Congress not later than April 1, 1984.

(b) There are authorized to be appropriated for fiscal year 1984 such sums as are necessary to undertake the study required by this section.

TITLE II

SHORT TITLE

SEC. 201. This title may be cited as the "Drunk and Drugged Driving Prevention Act of 1983".

PURPOSE

SEC. 202. This title is part of the continuing effort by Congress to encourage States to take effective action to reduce traffic safety problems resulting from persons driving under the influence of alcohol or other drugs.

FINDINGS

SEC. 203. The Congress finds that—

(1) it is in the public interest to reduce deaths and injuries resulting from drunk and drugged driving;

(2) public awareness of the drunk and drugged driving problem must continue to be increased;

(3) there is a direct correlation between the minimum drinking age and alcohol-related crashes;

(4) States should be encouraged to raise the minimum legal drinking age for persons consuming all alcoholic beverages to 21 in order to reduce the death rate of young Americans; and

(5) States should be encouraged to modernize traffic record systems in order to facilitate enforcement of highway safety rules and regulations.

DRUGGED DRIVING

SEC. 204. (a) Section 408(a) of title 23, United States Code, is amended by striking "alcohol" and inserting in lieu thereof "alcohol or other drugs.".

(b) Subsection (c)(1) of section 408 is amended by inserting "and drug" immediately after "alcohol".

(c) Section 408(f) of title 23, United States Code, is amended—

(1) by striking the period at the end of paragraph (7) and inserting in lieu thereof "; and"; and

(2) by adding at the end thereof the following:

"(8) for the creation and operation of rehabilitation and treatment programs for those arrested and convicted of driving while under the influence of drugs.".

MINIMUM LEGAL DRINKING AGE

SEC. 205. (a) Chapter 4 of title 23, United States Code, as amended by section 107 of this Act, is further amended by adding at the end thereof the following:

"§ 410. Minimum legal drinking age

"(a)(1) Subject to the provisions of this section, the Secretary shall make grants to those States which have in effect a law—

"(A) which sets the minimum legal drinking age for persons consuming all alcoholic beverages in such State at 21 years of age;

"(B) which provides that any person who is licensed by a State, or any employee of any such person, who sells, vends, gives away or otherwise supplies any alcoholic beverage in any quantity to (i) any individual under 21 years of age, or (ii) to any person who is or appears to be intoxicated, shall be guilty of a misdemeanor; and

"(C) which provides that any person who procures, sells, gives away or otherwise supplies any alcoholic beverage in any quantity to (i) any individual under 21 years of age, or (ii) to any person who is or appears to be intoxicated, shall be guilty of a misdemeanor, except that this subparagraph shall not apply to the parent or guardian of any such individual.

"(2) Such a law shall be deemed to comply with paragraph (1) (B) and (C) of this subsection although it provides that the law does not apply to any person supplying alcoholic beverages for medical purposes or to any physician who administers alcoholic beverages to a patient for purposes of medical treatment.

"(3) Such a grant may be used only by a recipient State to enforce alcohol traffic safety programs.

"(b) No State may receive a grant under this section in more than 2 fiscal years.

"(c) The amount of a grant made under this section for any fiscal year to any State which is eligible for such a grant under subsection (d) of this section shall equal 10 per centum of the amount apportioned to such State for each of the fiscal years 1984 and 1985 under section 402 of this title. Such a grant shall be in addition to any basic or supplemental grant received by such State under section 408 of this title.

"(d) A State is eligible for a grant under this section if—

"(1) on the date of enactment of this section, it has adopted or has in effect a law or regulation which meets the requirements of subsection (a) of this section; or

"(2) after the date of enactment of this section, the State adopts or puts in effect a law or regulation which meets the requirements of subsection (a) of this section.

"(e) There are hereby authorized to be appropriated to carry out this section, out of the Highway Trust Fund, $10,000,000 for the fiscal year ending September 30, 1984, and $20,000,000 for the fiscal year ending September 30, 1985. All provisions of chapter 1 of this title that are applicable to Federal-aid primary highway funds, other than provisions relating to the apportionment formula and provisions limiting the expenditure of such funds to Federal-aid systems, shall apply to the funds authorized to be appropriated to carry out this section, except as determined by the Secretary to be inconsistent with this section. Sums authorized by this subsection shall not be subject to any obligation limitation for State and community highway safety programs.".

(b) The analysis for chapter 4 of title 23, United States Code, as amended by section 107 of this Act, is further amended by adding at the end thereof the following:

"410. Minimum Legal Drinking Age.".

(c) The Secretary of Transportation shall issue and publish in the Federal Register proposed regulations to implement section 410 of title 23, United States Code, as added by subsection (a) of this section, not later than July 1, 1983. The Secretary shall allow public comment on the proposed regulations to encourage maximum citizen participation. The final regulations shall be issued and published in the Federal Register not later than October 1, 1983. Such regulations shall become effective on the date on which they are published in the Federal Register.

COMPUTERIZATION OF TRAFFIC RECORD SYSTEMS

SEC. 206. (a) Chapter 4 of title 23, United States Code, as amended by sections 107 and 205 of this Act, is further amended by adding at the end thereof the following:

"§ 411. Computerization of traffic record systems

"(a) Subject to the provisions of this section, the Secretary shall make grants to those States which implement accident reduction projects through use of computerized safety recordkeeping systems designed to produce data regarding accident incidents or potential sites for accident incidents. Any such grant may only be used by a recipient State to establish and maintain computerized safety recordkeeping systems.

"(b) No State may receive a grant under this section in more than three fiscal years.

"(c) The amount of a grant made under this section for any fiscal year to any State which is eligible for such a grant under subsection (d) of this section shall equal 20 per centum of the amount apportioned to such State for each of the fiscal years 1984, 1985, and 1986 under section 402 of this title.

"(d) A State is eligible for a grant under this section if—

"(1) it certifies to the Secretary that it has in operation a computerized traffic safety recordkeeping system and identifies proposed means of upgrading the system; or

"(2) it provides to the Secretary a plan for establishing and maintaining a traffic safety recordkeeping system.

"(e) There are authorized to be appropriated to carry out this section, out of the Highway Trust Fund, $20,000,000 for the fiscal year ending September 30, 1984, $25,000,000 for the fiscal year ending September 30, 1985, and $30,000,000 for the fiscal year ending September 30, 1986.".

(b) The analysis for chapter 4 of title 23, United States Code, as amended by sections 107 and 205 of this Act, is further amended by adding at the end thereof the following:

"411. Computerization of traffic record systems."

(c) The Secretary of Transportation shall issue and publish in the Federal Register proposed regulations to implement section 411 of title 23, United States Code, as added by subsection (a) of this section, not later than September 1, 1983. The Secretary shall allow public comment on the proposed regulations to encourage maximum citizen participation. The final regulations shall be issued and published in the Federal Register not later than March 1, 1984. Such regulations shall become effective on the date on which they are published in the Federal Register.

OVERSIGHT

SEC. 207. The appropriate authorizing committees of Congress shall conduct periodic oversight hearings on the implementation and effects of this legislation, not less often than annually for the first 3 years following the date of enactment of this Act.

TITLE III

SHORT TITLE

SEC. 301. This title may be cited as the "Motor Carrier Safety Act of 1983".

PURPOSES

SEC. 302. The purposes of this title are to promote the safe operation of commercial motor vehicles in or affecting interstate commerce, to minimize dangers to the health of operators of commercial motor vehicles while they are operating such vehicles, and to assure increased compliance with the commercial motor vehicle safety and health rules, regulations, standards, and orders issued pursuant to this title.

FINDINGS

SEC. 303. The Congress finds that—

(1) it is in the public interest to enhance commercial motor vehicle safety and thereby to reduce highway fatalities, injuries, and property damage;

(2) improved commercial motor vehicle safety measures and strengthened enforcement would reduce the number of fatalities and injuries, and the level of property damage related to commercial motor vehicle operations;

(3) enhanced protection of the health of commercial motor vehicle operators is in the public interest; and

(4) interested State governments can provide valuable assistance to the Federal Government in assuring that commercial motor vehicle operations are conducted safely and healthfully.

DEFINITIONS

SEC. 304. For purposes of this title, the term—

(1) "commerce" means trade, traffic, or transportation within the jurisdiction of the United States between a place in a State and a place outside of such State, or which affects trade, traffic, or transportation between a place in a State and a place outside of such State;

(2) "commercial motor vehicle" means any selfpropelled or towed vehicle used on the highways in commerce principally to transport passengers or cargo—

(A) if such vehicle has a gross vehicle weight rating of 10,000 or more pounds;

(B) if such vehicle is designed to transport more than 10 passengers, including the driver; or

(C) if such vehicle is used in the transportation of materials found by the Secretary to be hazardous for the purposes of the

Hazardous Materials Transportation Act, as amended (49 U.S.C. 1801 et seq.);

(3) "employee" means—

(A) a driver of a commercial motor vehicle (including an independent contractor while in the course of personally operating a commercial motor vehicle);

(B) a mechanic;

(C) a freight handler; or

(D) any individual other than an employer;

who is employed by a commercial motor carrier and who in the course of this employment directly affects commercial motor vehicle safety, but such term does not include an employee of the United States, any State, or a political subdivision of a State who is acting within the course of such employment;

(4) "employer" means any person engaged in a business affecting commerce who owns or leases a commercial motor vehicle in connection with that business, or assigns employees to operate it in commerce, but such term does not include the United States, any State, or a political subdivision of a State;

(5) "person" means one or more individuals, partnershps, associations, corporations, business trusts, or any other organized group of individuals;

(6) "Secretary" means the Secretary of Transportation; and

(7) "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, or the Commonwealth of the Northern Marianas.

DUTIES

SEC. 305. Each employer and employee shall comply with the safety and health rules, regulations, standards, and orders issued pursuant to this title which are applicable to his own actions and conduct.

REGULATORY AUTHORITY AND STANDARDS

SEC. 306. (a) The Secretary shall establish and revise such rules, regulations, standards, and orders as may be necessary in order to further the purposes of this title. The Secretary shall where practicable consider costs and benefits before revising existing rules, regulations, standards, or orders. Such rules, regulations, standards, and orders shall be directed toward assuring that—

(1) commercial motor vehicles are safely maintained, equipped, loaded, and operated;

(2) the responsibilities imposed upon drivers of commercial motor vehicles do not impair a driver's ability to operate safely;

(3) the physical condition of drivers of commercial motor vehicles is adequate to enable them to drive safely; and

(4) the operation of commercial motor vehicles does not create deleterious effects on the physical condition of such drivers.

(b)(1) The Secretary shall promulgate any such rule or regulation within a period of 1 year after the date of commencement of any proceeding respecting such rule or regulation. If the Secretary determines that any such promulgation will not be completed within such time period, the Secretary shall immediately notify the Congress and shall furnish the reasons for the delay, information regarding the resources assigned, and the projected completion date, for any such proceeding. If such rule or regulation has not been promulgated within 1 year after the date of commencement of any proceeding with respect to such rule or regulation, the Secretary shall supply the Congress with current data regarding the information specified in the preceding sentence, and shall provide the Congress with such information at the end of every 60-day period thereafter during which the proceeding remains incomplete.

(2) All rules, regulations, standards, and orders issued under this section shall be promulgated in accordance with section 553 of title 5, United States Code (without regard to sections 556 and 557 of such title), except that the time periods specified in paragraph (1) of this subsection shall apply to such promulgation.

(c) The Secretary may waive in whole or in part application of any rule, regulation, standard, or order established under this section with respect to any person or class of persons if the Secretary determines that such waiver is in the public interest and is consistent with the safe operation of commercial motor vehicles. Any waiver permitted under this subsection shall be published in the Federal Register, together with the reasons for such waiver. Any final agency action taken under this section is subject to judicial review as provided in chapter 7 of title 5, United States Code.

(d)(1) The Secretary and the Director of the National Institute for Occupational Safety and Health shall, in consultation with the Secretary of Labor, undertake a study of health hazards to which employees engaged in the operation of commercial motor vehicles are exposed, and shall develop such materials and information as are necessary to enable such employees to carry out their employment in a place and manner free from recognized hazards that are causing or are likely to cause death or serious physical harm. The study shall include recommendations regarding the most appropriate method for regulating and protecting the health of operators of commercial motor vehicles. Such study shall be submitted to the Congress within 1 year after the date of enactment of this Act.

(2) For purposes of carrying out the provisions of this subsection, there are authorized to be appropriated out of the Highway Trust Fund to the Secretary for fiscal year 1984 not to exceed $1,500,000.

(e) The Secretary, the Director of the National Institute for Occupational Safety and Health, and the Secretary of Labor shall coordinate their activities under this section to ensure adequate protection of the safety and health of operators of commercial motor vehicles. Such Secretaries and Directors shall attempt to minimize paperwork burdens to assure maximum coordination, and to avoid overlap or the imposition of undue burdens on persons subject to such rules, regulations, standards, and orders.

GENERAL POWERS

SEC. 307. (a) The Secretary may conduct, directly or indirectly, such research, development, demonstrations, and training activities as the Secretary considers appropriate to develop rules, regulations, standards, and orders authorized to be promulgated under section 306 of this title, to design and develop improved enforcement procedures and technologies, and to familiarize affected persons with such rules, regulations, standards, and orders.

(b) In carrying out the Secretary's functions under this title, the Secretary is authorized to perform such acts (including conducting investigations and inspections; compiling statistics; making reports; issuing subpenas; requiring production of documents, records, and property; taking depositions; holding hearings; prescribing recordkeeping and reporting requirements; and carrying out and contracting for such research, development, testing, evaluation, and training) as the Secretary determines necessary to carry out the provisions of this title, or rules, regulations, standards, or orders issued pursuant to section 402 of the Surface Transportation Assistance Act of 1982 (49 U.S.C. 2302), the Secretary may delegate to a State such functions respecting the enforcement (including investigations) of the provisions of this title or rules, regulations, standards, or orders issued pursuant thereto as the Secretary determines appropriate to carry out the provisions of this title.

INSPECTIONS AND WARRANTS

SEC. 308. (a)(1) To carry out the Secretary's responsibilities under this title, agents of the Secretary are authorized to enter upon, inspect, and examine facilities, equipment, operations, and pertinent records without advance notice, in accordance with the provisions of paragraph (2) of this subsection. Any such agent of the Secretary shall display proper credentials when requested and may consult with employers and employees and their duly authorized representatives, and shall offer them a right of accompaniment.

(2)(A) A warrant under this paragraph shall be required for any entry or administrative inspection (including impoundment of motor vehicles or motor vehicle equipment) authorized by this section, except if such entry or inspection is—

(i) with the consent of the employer or agent of the employer in charge of the business, establishment, or premises;

(ii) in situations involving inspection of motor vehicles where there is reasonable cause to believe that the mobility of the motor vehicle makes it impractical to obtain a warrant;

(iii) in any other exceptional or emergency circumstance where time or opportunity to apply for a warrant is lacking;

(iv) for access to and examination of books, records, and any other documentary evidence which can be easily altered, manufactured, or falsified; and

(v) in any other situations where a warrant is not constitutionally required.

(B) Issuance and execution of administrative inspection warrants shall be as follows:

(i) Any judge of the United States or of a State court of record, or any United States magistrate, may, within his territorial jurisdiction, and upon proper oath or affirmation showing probable cause, issue warrants for the purpose of conducting administrative inspections authorized by this section and of impoundment of motor vehicles or motor vehicle equipment appropriate to such inspections. For the purposes of this section, the term "probable cause" means a valid public interest in the effective enforcement of this title, or rules, regulations, standards, or orders issued thereunder, sufficient to justify administrative inspections of the area, establishment, premises, records, or motor vehicles, or contents thereof, in the circumstances specified in the application for the warrant.

(ii) A warrant shall be issued only upon an affidavit of an officer, or representative of the Secretary having knowledge of the facts alleged, sworn to before the judge or magistrate and establishing the grounds for issuing the warrant. If the judge or magistrate is satisfied that grounds for the application exist or that there is a reasonable basis for believing they exist, he shall issue a warrant identifying the area, establishment, prem-

ises, or motor vehicle to be inspected, the purpose of such inspection, and, where appropriate, the type of property to be inspected, if any. The warrant shall—

(I) identify the items or type of property to be impounded, if any;

(II) be directed to a person authorized under this section to execute it;

(III) state the grounds for its issuance and the name of the person or persons whose affidavit has been taken in support thereof;

(IV) command the person to whom it is directed to inspect the area, establishment, premises, records, or motor vehicle identified for the purpose specified, and where appropriate, shall direct the impoundment of the property specified;

(V) direct that it be served during the hours specified in it; and

(VI) designate the judge or magistrate to whom it shall be returned.

(iii) A warrant issued pursuant to this section must be execute and returned within 10 days of its date unless, upon a showing by the Secretary of a need therefor, the judge or magistrate allows additional time in the warrant. If property is impounded pursuant to a warrant, the person executing the warrant shall give the person from whom or from whose premises the property was taken a copy of the warrant and a receipt for the property taken or shall leave the copy and receipt at the place from which the property was taken. The return of the warrant shall be made promptly and shall be accompanied by a written inventory of any property taken. The inventory shall be made in the presence of the person executing the warrant and of the person from whose possession or premises the property was taken, if they are present, or in the presence of at least one credible person other than the person making such inventory, and shall be verified by the person executing the warrant. The judge or magistrate, upon request, shall deliver a copy of the inventory to the person from whom or from whose premises the property was taken and the applicant for the warrant.

(iv) The judge or magistrate who has issued a warrant under this section shall attach to the warrant a copy of the return and all papers filed the connection therewith and shall file them with the clerk of the district court of the United States for the judicial district in which the inspection was made.

DUTY TO INVESTIGATE COMPLAINTS; PROTECTION OF COMPLAINANTS

SEC. 309. (a) The Secretary shall timely investigate any nonfrivolous written complaint alleging that a material violation of any rule, regulation, standard, or order issued under this title is occurring or has occurred within the preceding 60 days. The complainant shall be timely notified of findings resulting from such investigation. The Secretary shall not be required to conduct separate investigations of duplicative complaints.

(b) Notwithstanding the provisions of section 552 of title 5, United States Code, the Secretary shall not disclose the identity of complainants unless it is determined that such disclosure is necessary to prosecute a violation. If disclosure becomes necessary, the Secretary shall take every practical measure within his authority to assure that the complainant is not subject to harassment, intimidation, disciplinary action, discrimination, or financial loss as a result of such disclosure.

PENALTIES

SEC. 310. (a) If the Secretary finds that a violation of sections 305 through 313 of this title has occurred, the Secretary shall issue a written notice to the violator. Such notice shall describe with reasonable particularity the nature of the violation found and the provision which has been violated. The notice shall fix a reasonable time for abatement of the violation, specify the appropriate civil penalty, if any, and specify the actions which the Secretary proposes to be taken in order to avoid subsequent similar violations. The notice shall indicate that the violator may, within 15 days of service, notify the Secretary of his intention to contest the matter. In the event of a contested notice, the Secretary shall afford such violator an opportunity for a hearing, pursuant to section 554 of title 5, United States Code, following which the Secretary shall issue an order affirming, modifying, or vacating the notice of violation.

(b) Except as otherwise provided in this subsection, any person who is determined by the Secretary to have committed an act which is a violation of recordkeeping requirements issued by the Secretary pursuant to this title shall be liable to the United States for a civil penalty not to exceed $500 for each offense. Each day of a violation shall constitute a separate offense, except that the total of all civil penalties assessed against any violator for all offenses relating to any single recordkeeping violation shall not exceed $10,000. If the Secretary determines that a substantial health or safety violation exists or has occurred which could reasonably lead to, or has resulted in, serious personal injury or death, he may assess a civil penalty not to exceed $10,000 for each offense: Provided, however, That except for recordkeeping violations, no civil penalty provided under this title shall be assessed against an employee for violations of this title unless the employee is an operator of a commercial motor vehicle and the Secretary determines that such employee's actions constituted gross negligence or reckless disregard for safety, in which case such employee shall be liable for a civil penalty not to exceed $1,000. The amount of any civil penalty, and a reasonable time for abatement of the violation, shall by written order be determined by the Secretary, taking into account the nature, circumstances, extent, and gravity of the violation committed and, with respect to the violation, the degree of culpability, history of prior offenses, ability to pay, effect on ability to continue to do business, and such other matters as justice and public safety may require. In each case, the assessment shall be calculated to induce further compliance.

(c) The Secretary may require any violator served with a notice of violation to post a copy of such notice or statement thereof in such place or places and for such duration as the Secretary may determine appropriate to aid in the enforcement of this title.

(d) If, upon inspection or investigation, the Secretary determines that a violation, or combination of violations, poses an imminent hazard to safety, the Secretary shall order a vehicle or employee operating such vehicle out of service, or order an employer to cease all or part of his commercial motor vehicle operations. In making any such order, the Secretary shall impose no restriction on any employee or employer beyond that required to abate the hazard. Subsequent to the issuance of such order, opportunity for review shall be provided in accordance with section 554 of title 5, United States Code, except that such review shall occur not later than 10 days following issuance of such order.

(e) Any person other than an employee who knowingly and willfully violates any provision of this title or who knowingly and willfully makes any false statement or representation required under this title shall, upon conviction, be subject for each offense for a fine not to exceed $25,000 or imprisonment for a term not to exceed 1 year, or both, except that, if such violator is an employee, he shall only be subject to penalty if, while operating a commercial motor vehicle, his activities have led or could have led to death or serious injury, in which case he shall be liable, upon conviction, for a fine not to exceed $2,500.

(f) The Secretary shall promulgate regulations establishing penalty schedules designed to induce timely compliance for persons failing to comply promptly with the requirements set forth in notices and orders.

(g) Any aggrieved person who, after a hearing, is adversely affected by a final order issued under this section may, within 30 days, petition for review of the order in the United States court of appeals in the circuit wherein the violation is alleged to have occurred or where he has his principal place of business or residence, or in the United States Court of Appeals for the District of Columbia Circuit. Review of the order shall be based on a determination of whether the Secretary's findings and conclusions were supported by substantial evidence, or were otherwise not in accordance with law. No objection that has not been urged before the Secretary shall be considered by the court, unless reasonable grounds existed for failure or neglect to do so. The commencement of proceedings under this subsection shall not, unless ordered by the court, operate as a stay of the order of the Secretary.

(h) The Secretary may obtain enforcement, including injunctive relief, of any penalties or orders issued under this section by applying to the United States district court for the district where the violation occurred or where the cited party has his principal place of business or residence. In addition to granting enforcement, the district court may assess an appropriate penalty for noncompliance and award such further relief as justice and public safety may require.

(i) All penalties and fines imposed under this section shall be deposited into the Treasury as miscellaneous receipts.

(j) In any action brought under this section, subpenas for witnesses who are required to attend a United States district court may run into any other district.

(k) In any proceeding for criminal contempt for violation of an injunction or restraining order issued under this section, trial shall be by the court, or, upon demand of the accused, by a jury, conducted in accordance with the provisions of rule 42(b) of the Federal Rules of Criminal Procedure.

REPRESENTATION BEFORE THE COURTS

SEC. 311. Except as provided in section 518(a) of title 28, United States Code, relating to litigation before the Supreme Court, the General Counsel of the Department of Transportation may appear for and represent the Secretary in all proceedings and in any civil litigation brought under this title. Prior to making any such appearance and representation, the General Counsel of the Department of Transportation shall consult

with and inform the Attorney General of the United States of his activities pursuant to this section.

STATE REGULATIONS

SEC. 312. (a) Except as may otherwise be provided in this Act or any other law, any State agency may adopt additional or more stringent safety rules, regulations, standards, or orders for commercial motor vehicle safety if such rules, regulations, standards, or orders are not inconsistent with the Federal rules, regulations, standards, and orders issued under this title.

(b) Nothing in this title shall affect existing hour-of-service regulations of any State applying to commercial motor vehicle operations occurring wholly within that State, unless the Secretary affirmatively finds upon review of a State's hours-of-service regulations that such regulations—

(1) materially diminish commercial motor vehicle safety or the health and safety of employees;

(2) are not required by compelling local conditions; or

(3) unduly burden interstate commerce.

If the Secretary makes such an affirmative determination, the Secretary may require such State to adopt Federal hours-of-service regulations.

ANNUAL INSPECTION

SEC. 313. (a) Each commercial motor vehicle shall be required to submit to and pass an annual inspection of all safety equipment required under part 393 of subchapter B of chapter 3 of title 49, United States Code.

(b) The Secretary shall, by rule, establish Federal standards to be met by required equipment on commercial motor vehicles. The Secretary shall also establish—

(1) a procedure for State implementation of the inspection requirement;

(2) an appropriate fee to be charged for the inspection of each vehicle;

(3) a mechanism by which the fees collected would be utilized by State authorities to fund the required inspections; and

(4) a reporting requirement specifying inspection information to be furnished to the Secretary on an annual basis.

(c) The Secretary shall initiate the rulemaking required under subsection (b) of this section not later than September 30, 1983. The final regulations shall be issued and published in the Federal Register before September 30, 1984. These regulations shall become effective on the date on which they are published in the Federal Register.

CERTIFICATION OF SAFETY FITNESS

SEC. 314. (a) The Secretary and the Interstate Commerce Commission shall jointly establish a procedure to determine the safety fitness of persons seeking new or additional operating authority as motor carriers of property or passengers under sections 10922 and 10923 of title 49, United States Code. Such a procedure shall include—

(1) specific requirements to be met by such persons to prove safety fitness;

(2) a means of determining whether such persons meet the safety fitness requirements specified under paragraph (1); and

(3) specific time deadlines for action by the Department of Transportation and the Interstate Commerce Commission in making safety fitness determinations.

(b) Not later than July 1, 1984, the Secretary and the Interstate Commerce Commission shall submit to Congress a copy of the procedure established under subsection (a) of this section.

HEAVY TRUCK RESEARCH

SEC. 315. (a) The Secretary shall undertake a comprehensive study of safety characteristics of heavy trucks and the unique problems related to heavy trucks. Such study shall include an examination of the handling, stability, and crashworthiness of heavy trucks.

(b) There are authorized to be appropriated not to exceed $1,200,000 for the fiscal year ending September 30, 1984, and not to exceed $1,400,000 for the fiscal year ending September 30, 1985, to conduct the research required under subsection (a) of this section.

OVERSIGHT

SEC. 316. The appropriate authorizing Committees of the Congress shall conduct periodic oversight hearings on the effects of this title no less often than annually for the first 3 years following the date of enactment of this Act, to ensure that this title is being implemented according to congressional intent and the purposes of this title.

TITLE IV

SHORT TITLE

SEC. 401. This title may be cited as the "Hazardous Materials Transportation Act Amendments of 1983".

PURPOSES

SEC. 402. The purposes of this title are to—

(1) promote the public safety by providing for increased coordination among the various levels of government and greater consistency among Federal, State and local rules and regulations;

(2) encourage and assist State and local governments to play a major role in the prevention of hazardous materials transportation incidents by delegating the enforcement of certain Federal regulations; and

(3) provide for greater assistance to State and local governments in responding to such incidents through coordinated and well-planned advice and assistance at the time of the incident, training and technical assistance programs, and planning grants to encourage the adoption of coordinated incident response programs.

FINDINGS

SEC. 403. The Congress finds that—

(1) the transportation of hazardous materials can create severe hazards to the public safety;

(2) such transportation is nonetheless essential to commerce;

(3) in the interest of uniformity, the Hazardous Materials Transportation Act (49 U.S.C. 1801 et seq.) provides for the preemption of State and local governmental regulation of hazardous materials transportation to the extent that it is not consistent with Federal requirements and regulations;

(4) despite this preemption, when serious hazardous materials incidents occur, State and local governments necessarily have the primary responsibility for emergency response; and

(5) increased coordination and greater consistency between the Federal Government and State and local governments would assist in the prevention of hazardous materials transportation incidents and in the overall ability of State and local governments to respond to such incidents.

DEFINITION

SEC. 404. Section 103 of the Hazardous Materials Transportation Act (49 U.S.C. 1802) is amended by redesignating paragraphs (3), (4), (5), (6), and (7), and all references thereto, as paragraphs (4), (5), (6), (7), and (8), respectively, and by inserting the following new paragraph immediately after paragraph (2):

"(3) 'incident' means any event occurring in the transportation of hazardous materials or a transportation-related function such as loading, unloading, packaging or stowage which has led, or poses an imminent threat of leading, to a release of hazardous materials which could result in a serious risk to health, safety, or property;".

PREVENTION OF AND RESPONSE TO HAZARDOUS MATERIALS INCIDENTS

SEC. 405. The Hazardous Materials Transportation Act (49 U.S.C. 1801 et seq.) is amended by inserting "Subtitle A" immediately after "TITLE I—HAZARDOUS MATERIALS", and by adding at the end thereof the following:

"SUBTITLE B

"FEDERAL TRAINING PROGRAMS FOR INCIDENT PREVENTION AND RESPONSE

"SEC. 120. (a) EVALUATION.—(1) The Secretary and the Director of the Federal Emergency Management Agency, in coordination with other agencies with responsibilities relating to hazardous materials transportation, shall evaluate—

"(A) programs conducted by Federal, State, and local agencies and private organizations which provide training to shippers, carriers, inspectors, and enforcement personnel involved in the transportation of hazardous materials with respect to compliance with and enforcement of rules, regulations, standards, and orders promulgated by the Secretary under the authority of this title; and

"(B) programs conducted by Federal, State, and local agencies and private organizations which provide training to agencies or organizations responsible for responding to incidents involving hazardous materials transportation.

"(2) Not later than 5 months after the date of enactment of this section, the Secretary and the Director shall submit an interim report to the Congress on the results of such evaluation. Not later than 10 months after the date of enactment of this section, the Secretary and the Director shall complete such evaluation and submit the results of such evaluation to the Congress.

"(b) TRAINING PROGRAMS.—If, as a result of the evaluation conducted pursuant to subsection (a) of this section, the Secretary and the Director determine that existing training programs for the transportation of hazardous materials are inadequate or that there is needless duplication among such programs, the Secretary and the Director may develop appropriate training programs and make recommendations as to methods to improve existing programs. The Secretary and the Director shall, upon request, provide to State and local agencies and private organizations a description of training programs and such other assistance as is appropriate to assist such agencies and organizations in fulfilling their hazardous materials and incident response training needs.

"(c) INFORMATION DISSEMINATION.—The Secretary or the Director, as they consider appropriate, shall maintain an information dissemination service, which shall provide instructional materials in the training, skills, and knowledge necessary to assist Federal, State, and local agencies and private organizations in training personnel in safe and proper methods for the transportation of hazardous materials and for respond-

ing to incidents. Such information service shall identify specific elements with respect to training, equipment, and methodologies necessary and useful in preventing incidents, and in responding to incidents when they occur. In addition, training programs shall be identified which are determined, through the evaluation required by subsection (a) of this section, to be useful for training shippers, carriers, inspectors, or enforcement personnel with respect to hazardous materials transportation safety and for training response personnel. The Secretary and the Director may take all necessary measures to improve the coordination and effectiveness of all such Federal, State, local, and private training programs.

"(d) TRAINING CENTERS.—As part of the effort to improve the coordination of incident prevention training programs, the Secretary, to the extent practicable, shall establish or encourage the establishment of regional training centers.

"STATE REGULATION GRANTS TO STATES

"SEC. 121. (a) GRANTS.—Under the terms and conditions of this section, and subject to the availability of funds, the Secretary is authorized to make grants to States for the development and implementation of programs for the enforcement of Federal rules, regulations, standards, and orders applicable to hazardous materials transportation pursuant to the provisions of this title and consistent State rules, regulations, standards, and orders.

"(b) STATE PLAN.—(1) The Secretary shall, after notice and opportunity for comment by interested parties, formulate procedures for any State to submit a plan whereby the State agrees to adopt, and to assume responsibility for enforcing, rules, regulations, standards, and orders issued under this title and consistent State rules, regulations, standards, and orders. Such plan shall be approved by the Secretary if the Secretary determines that the plan promotes the objectives of this title, and the plan—

"(A) designates the State agency or agencies responsible for administering the plan throughout the State;

"(B) contains satisfactory assurances that such agency has or is taking steps pursuant to State law to have the legal authority, resources, and qualified personnel necessary for the enforcement of such rules, regulations, standards, and orders;

"(C) gives satisfactory assurances that such State will devote adequate funds to the administration of such plan and enforcement of such rules, regulations, standards, and orders;

"(D) provides a right of entry and inspection sufficient to enforce the provisions of this title; and

"(E) provides that such State agency will adopt such uniform reporting requirements and use such uniform forms for recordkeeping, inspections, and investigations as may be established and required by the Secretary.

"(2) If a plan submitted under paragraph (1) of this subsection is rejected, the Secretary shall provide the State with a written explanation of the Secretary's action, and shall permit the State to modify and resubmit its proposed plan for approval, in accordance with the procedures formulated pursuant to such paragraph.

"(c) WITHDRAWAL OF APPROVAL.—The Secretary shall, on the basis of reports submitted by the State agency, and on his own inspections, make a continuing evaluation of the manner in which each State with a plan approved under this section is carrying out such plan. Whenever the Secretary finds, after affording notice and opportunity for comment, that a State plan previously approved is not being followed or that it has become inadequate to assure the enforcement of rules, regulations, standards, or orders issued under this title, the Secretary shall notify the State of withdrawal of approval of such plan. Upon receipt of such notice, such plan shall cease to be in effect. Any State aggrieved by a determination of the Secretary under this subsection may seek judicial review pursuant to chapter 7 of title 5, United States Code. The State may, however, retain jurisdiction in any case commenced before the withdrawal of the plan whenever the issues involved do not directly relate to the reasons for the withdrawal of approval of the plan.

"(d) REIMBURSEMENT.—By grants authorized under this section, the Secretary shall reimburse any State in an amount not to exceed 50 percent of the costs incurred by that State in that fiscal year in the development and implementation of programs to enforce hazardous materials transportation rules, regulations, standards, and orders issued under this title and consistent State rules, regulations, standards, and orders. The Secretary may allocate amounts appropriated for grants to support such programs among the States whose applications for grants have been approved pursuant to such criteria as may be established by the Secretary.

"SEC. 122. (a) AUTHORITY.—(1) The Secretary may, in consultation with State, local, and regional governments and with appropriate Federal agencies, and as required to protect the safety of the American public, establish—

"(A) regulations with respect to the routing of hazardous materials being transported in interstate commerce; and

"(B) a prenotification system which would inform State or local governments in advance of the timing, nature, and routing of hazardous materials shipments through their jurisdictions.

"(2) If the Secretary issues regulations pursuant to paragraph (1) of this subsection, such regulations shall provide for the participation by State, local, and regional governments in selecting preferred routes and modes of transportation of hazardous materials within their respective jurisdictons.

"(3) In determining whether to promulgate regulations under this subsection, the Secretary shall consider—

"(A) whether any mode represents an unacceptable level of risk to safety with respect to the transportation of hazardous materials;

"(B) various factors affecting the safety of any given route, including population density, design characteristics of the route, and adjacent land uses;

"(C) the implementation of additional protective measures whenever hazardous materials are transported through areas of particularly high risk;

"(D) the social, economic, and commercial impacts of routing restrictions;

"(E) the relative hazard potential of specific hazardous materials as a factor determining the need for selective routing; and

"(F) the feasibility, cost, and desirability of establishing, and the problems of implementing, a prenotification system.

"(b) CONSULTATION.—In establishing regulations under subsection (a) of this section, the Secretary shall seek the advice of various groups interested in the safety of the transportation of hazardous materials, including shippers, carriers, and users of hazardous materials and bulk package or container manufacturers; organizations which represent employees engaged in the transportation of hazardous materials; citizens' and environmental groups; and private organizations concerned with transportation safety or the provision of emergency services in response to a major accident involving the transportation of hazardous materials.

"EMERGENCY RESPONSE PLANNING GRANTS

SEC. 123. (a) PLANNING GRANTS.—In order to promote the development of coordinated and effective emergency response programs for incidents at the State and local levels, the Director of the Federal Emergency Management Agency may, taking into account consistency with the national contingency plan (as revised pursuant to the provisions of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.), make emergency response planning grants to units of State, regional, and local governments. Such grants shall be used, among other things, to—

"(1) assess the present response capabilities of each emergency response agency within the scope of the study area in terms of the adequacy of trained personnel, equipment, and information systems and to determine the most cost-effective means for upgrading such capabilities;

"(2) determine at what point and to what extent each such agency will become involved in the response to a given incident;

"(3) determine which of such agencies will be the lead agency for responding to a given type of incident at any given location;

"(4) define the role of each such agency in responding to any incident; and

"(5) establish a communications network that will permit onsite interagency communications as well as operational and command communications.

"(b) RULES AND REGULATIONS.—The Director shall, within 12 months after the date of enactment of this section, establish such rules and regulations as the Director considers necessary for the administration of emergency response planning grants described in subsection (a) of this section. Any such regulations shall provide that—

"(1) the Federal share of any such planning grant shall not exceed 50 percent of the cost of such project; and

"(2) not less than 25 percent of the funds obligated for such grants shall be used to make planning grants to units of regional or local government.

"(c) COORDINATED RESPONSE PROGRAMS.—To the extent possible, the Director shall encourage the use of such planning grants to promote planning for the establishment of coordinated regional emergency response programs.

"RESEARCH AND DEVELOPMENT

"SEC. 124. The Director of the Federal Emergency Management Agency, in coordination with the Secretary, may conduct research and development activities designed to improve the capabilities of Federal, State, local, and private agencies and organizations responsible for responding to an incident. Such activities may include programs to—

"(1) encourage the development and demonstration of new and innovative techniques in responding to incidents;

"(2) evaluate existing techniques and programs for responding to incidents; and

"(3) promote the development and adoption of minimum standards for training, equipment, coordination, information, and other resources related to responding to incidents.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 125. There are authorized to be appropriated to the Secretary such sums as may be necessary for the purposes of section 121 of this subtitle. In addition, there are authorized to be appropriated to the Federal Emergency Management Agency such sums as may be necessary for the purposes of section 123 of this subtitle.".

REPORTING SYSTEM AND DATA CENTER

SEC. 406. Section 109(d) of the Hazardous Materials Transportation Act (49 U.S.C. 1808(d)) is amended—

(1) by inserting "(1)" immediately before "The Secretary";

(2) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively; and

(3) by adding at the end thereof the following:

"(2) Nothing in this subsection shall be construed to limit the authority of the Secretary to enter into a contract with a private entity for use of a supplemental reporting system and data center operated and maintained by such entity.".

CONFORMING AMENDMENTS

SEC. 407. Sections 110, 111, and 115 of the Hazardous Materials Transportation Act (49 U.S.C. 1809, 1810, and 1812) are amended by striking "title" wherever it appears and inserting in lieu thereof "subtitle" in each such place.

OVERSIGHT

SEC. 408. The appropriate authorizing committees of the Congress shall conduct periodic oversight hearings on the implementation and effects of this title no less often than annually for the first 3 years following the date of enactment of this Act.

Mr. PELL. Mr. President, I am pleased to join with Senator DANFORTH in sponsoring the Highway Safety Act of 1983. Senator DANFORTH has provided great leadership and innovation in highway safety issues, and the elements he has drawn together in this bill, in my judgment, will contribute to a dramatic reduction in deaths and disabling injuries on our highways. I sincerely hope that my colleagues in the Senate will join with Senator DANFORTH in supporting these life-saving highway safety measures.

This bill really is a two-pronged attack on the safety problem. The first line of attack is to make automobiles safer to operate and to make the occupants of an automobile more likely to survive a crash, should one occur. The keys to achieving this objective are automatic crash protection, improved bumper safety standards, and incentives for States to enact child passenger safety seat laws. The combination of airbags, tougher bumper standards, and passive restraints for children will significantly reduce the number of lives that are lost or permanently impaired by serious injury in automobile accidents. My own State of Rhode Island enacted one of the Nation's first child restraint laws several years ago, and our experience has been that laws of this type make a great contribution to highway safety. The time has come, as Senator DANFORTH proposes, to encourage every State to enact these laws, as well as to mandate airbags in all new cars after September 1, 1985.

The second line of attack in this bill is to encourage measures that will insure that the drivers who operate motor vehicles are not a threat to highway safety. The Congress took a major step in this direction last year by enacting comprehensive legislation encouraging the States to adopt model drunk driver laws requiring among other things, a mandatory 48-hour jail sentence for persons convicted two or more times for drunk driving. I was pleased to sponsor this legislation with Senator DANFORTH, and welcome today the improvements he has proposed to the bill we developed last year. Recognizing the seriousness of the drug abuse problem and its impact on highway safety, this bill would expand the requirements and penalties of the Federal drunk driver legislation to apply equally to drugged drivers. This requirement anticipates new technologies that will make it easier to reliably identify and prosecute drugged drivers.

The second expansion of the drunk driver law is the creation of a modest incentive grant program to encourage the States to adopt a minimum legal drinking age of 21. This standard has been recommended by the President's Commission on Drunk Driving. Drunk driving continues to have its cruelest impact on young people. The great majority of drunk driver fatalities occur between the hours of 8 p.m. and 4 a.m., particularly on Friday and Saturday nights. These are the hours when young drivers are most likely to be on the highways, as reflected in the fact that while drivers age 16 to 24 account for only one-fifth of the total driving population, this age group suffers well over one-third of deaths caused by drunk driving each year. Life expectancy in the 16-to-24 age group has actually declined in the past two decades, and highway accidents are far and away the leading cause of death for young people in this age category. Study after study has demonstrated the positive relationship between the legal drinking age and the number of highway deaths attributable to alcohol. I believe we in the Congress should be doing everything we can to encourage the States to adopt a uniform legal drinking age of 21. This bill allocates $10 million in fiscal year 1984 from the highway trust fund for an incentive grant program for States enacting the 21-year-old minimum legal drinking age.

The combination of realistic measures to improve the safety of automobiles themselves, coupled with incentives to encourage safer drivers through tougher enforcement of highway safety laws will be a powerful contribution to the health and safety of every American who gets behind the wheel of an automobile. I am proud to join with Senator DANFORTH in sponsoring this legislative package, and I hope these measures will be quickly enacted into law.

By Mr. PRESSLER:

S. 1109. A bill to provide for the establishment of a bipartisan commission to study and make recommendations concerning changes in the medicare program to assure its short-term and long-term financial solvency and the appropriateness of its benefit structure; to the Committee on Finance.

MEDICARE FINANCING AND BENEFIT REVIEW COMMISSION ACT

Mr. PRESSLER. Mr. President, the recent actions of this body with regard to social security have caused many of us to consider the problems of the medicare system. Various solutions were proposed to solve the problems of the retirement fund, and the remedies the Congress finally settled upon were not easily chosen. In the end, however, it was the package put together by the National Commission on Social Security Reform that prevailed in Congress. The Commission's proposal embodied the most workable compromise that combined most of the major reforms advocated by members of both parties, in one form or another.

The work of the Commission proved to be essential to the bipartisan solution endorsed by Congress. For that reason, Mr. President, I am introducing today a bill which calls for the formation of a National Commission on Medicare Reform, to study and make recommendations concerning changes in the medicare program to insure its solvency in both the short and long term. In the estimation of most experts, the financing problems that will soon be faced with regard to medicare will be even more difficult to resolve than the problems of the social security system. A commission combining the various experts on this program can contribute enormously to the effort to find an answer to the difficult problems that face us.

In a recent report the Congressional Budget Office evaluated the four major options for solving the medicare financing crisis. These options are as follows: increase beneficiary coinsurance, increase medicare payroll taxes, reimburse medicare vendors prospectively, or use general revenues to finance the system.

Obviously, none of these constitutes an easy choice. There may be others to choose from, but I feel certain that none of them would be easily undertaken. Nonetheless, we owe some as-

surance to medicare recipients that the system will remain intact. Nationally, about 90 percent of those over 65 are enrolled in medicare. In my home State of South Dakota alone there are 93,579 medicare enrollees.

This measure is identical to a bill introduced in the House of Representatives on Tuesday, April 12, by Congressman PEPPER. Mr. President, I believe this body has a responsibility to face this problem now. I think a commission such as the one called for in this legislation can aid us in this effort. I hope that my colleagues will realize the wisdom of this call to action and support me in this effort.

By Mr. MOYNIHAN (for himself and Mr. CRANSTON):

S. 1110. A bill to establish a National Commission on Monetary Policy and its relation to fiscal policy; to the Committee on Governmental Affairs.

NATIONAL COMMISSION ON MONETARY POLICY ACT

● Mr. MOYNIHAN. Mr. President, I speak for many in this body when I say that for some time I have warned that the way we go about making economic policy is deeply flawed. Moreover, for more than 1½ years, I have warned that this process has, most recently, produced fiscal and monetary policies in direct and deep conflict with each other. And I have warned that this conflict would doom the President's economic program. I take not pleasure in witnessing recent economic developments prove all my warnings correct.

I rise today to offer a response. I rise to offer legislation to establish a National Commission specifically charged with examining the way our Government coordinates its monetary and fiscal policies.

It is certain, as certain as is anything in the world of political economy, that the relationship between fiscal and monetary policy actions, the mix, has a direct and profound bearing on the Nation's economy. This National Commission on Monetary Policy would investigate the proper degree of policy coordination between fiscal and monetary actions, and the institutional arrangements necessary to achieve this relationship.

This legislation delineates very precisely the areas of concern to the Commission:

How interrelated are the matters of fiscal and monetary policy—what are the economic factors and developments, here and abroad, that monetary and fiscal policy should take into account?

What are the costs and benefits, both economic and political, for our current arrangements, the present coordination of fiscal and monetary policies?

What costs and benefits can we expect from greater or lesser degrees of coordination?

How could we achieve the degree of coordination deemed most appropriate by the Commission?

How much information about economic conditions should be routinely exchanged by the Federal Reserve, the Congress, and the executive branch—and by what channels?

Similarly how much information about policy goals and intentions should be routinely exchanged, and by what means?

How can we best insure that monetary policy shall be compatible with the economic objectives of Congress?

What, if any, reorganization of the Federal Reserve System shall be required to achieve this coordination and compatibility?

These are controversial matters, because they raise economic and political questions of the highest importance. And this is precisely why I propose to establish a National Commission. These questions must be examined and settled in a nonpartisan forum. The organization of the Nation's economic policymaking apparatus can never be hostage to partisan disputes about the success or failure of any particular economic program.

That does not mean that important inferences about the need for greater coordination cannot be drawn from recent economic developments. Everyone is entitled to his own opinions, but not to his own facts. One fact is plain—a central characteristic of our economic policy over the last 2 years has been that its two pillars, fiscal and monetary policy, were moving rapidly and forcefully in opposite directions.

It can hardly be disputed that we are in the midst of the most expansionary fiscal policy in our history. The largest tax cuts in our history, coupled with the largest increases in defense spending, helped produce the largest deficits. The significance of his policy—its equity or its prospects for securing lasting prosperity—is a matter of judgment about which the honorable men and women of this body, and of this Nation, can differ. In a year in which the Federal deficit will breach $200 billion, the unprecedentedly expansionary character of fiscal policy is fact, not opinion.

It can also hardly be disputed that, until quite recently, the Federal Reserve was pursuing the most stringently contractionary monetary policy in at least a generation. The annual growth rate for M_1, the central measure of the money supply, fell from 7.6 percent in 1980 to 2.3 percent in 1981. That was the sharpest 1-year plunge in money growth rates since the great deflations of the 1930's, and the tightest money policy period in more than two decades. Once again, the significance or desirability of this policy may be a matter of judgment. Its contractionary character, however, is fact, not opinion.

I do not now, nor did I then, question the basic thrust of either policy. By 1981, surely it was long time to reduce the tax burden on individual Americans and business, to promote initiative and investment. Similarly, national defense spending had clearly and properly to respond to new international realities, realities which had also moved the previous administration to accelerate the growth rate of defense spending. And in an era of high inflation, large prospective deficits certainly required stringent anti-inflation measures.

We must ask, however, whether this unprecedented degree of monetary stringency, colliding with the unprecedented degree of fiscal expansion, did not produce the great recession of 1981-82. Surely, if fiscal policy planners had known the intentions of our monetary policymakers to stringently tighten, could we not have expected a more moderate fiscal posture? And surely, if monetary policymakers had been operating in some kind of organizational tandem with fiscal policymakers, could we not have expected a more moderate monetary posture? Had there been a free and frank exchange of policy information and intentions, could not our fiscal and monetary policy decisions have been better coordinated, and produced better results?

I am certain they could.

Certainly, the Congress has made many major reforms in economic policymaking procedures in the past. On the fiscal side, for example, the Budget Act of 1921 established a central organizational apparatus in the executive branch to produce an overall budget—and some 50 years later the Budget Act of 1974 established the organizational apparatus in the Congress to evaluate and modify this overall document.

Current arrangements for managing monetary policy have been reformed, and drastically so, at many points in our past. Alexander Hamilton struggled with Thomas Jefferson over the proposal to establish the first Bank of the United States in 1791; 20 years later this bank, actively loaning funds to the Federal Government and issuing a private paper currency that was assuming the status of a national scrip, found itself disestablished by Congress. A second Bank of the United States, created 4 years later in 1816 to bring some order to the task of refinancing the Federal debt from the War of 1812, also found itself disestablished 20 years later, by Andrew Jackson.

Congress and President Lincoln next reorganized the money system, and did so radically, by establishing the na-

tional banking system with uniform reserve requirements, during the Civil War. And some 50 years later, following the disastrous bank panic of 1907, Congress established a National Monetary Commission to investigate how to reform this system. This earlier Commission proposed that Congress create the Federal Reserve System, to provide emergency supplies of currency during bank runs and panics, and Congress did so.

The Federal Reserve would go on to do much else, to perform all the functions of a central bank. Certainly, the Federal Reserve effectively coordinated its operations with those of fiscal policy during World War I, when the Reserve agreed to loan new reserves to private banks at a perferential discount rate, so the banks could purchase war bonds. And again during World War II, when the Reserve agreed to manage money supplies as required to maintain the yields on war securities as set by the Treasury. Since World War II, the Reserve has remained obliged to maintain "orderly markets" for the issue of Treasury securities, the supplies of which are essentially determined by fiscal policy decisions—the size of current deficits to be financed, and of past accumulated deficits to be refinanced.

These roles apply largely to extraordinary circumstances, to emergencies. The crucial roles of fiscal policy and the Federal Reserve in the Nation's economy, however, are no longer limited to times of emergency. They are routine and, in the macroeconomic calculus, pervasive. This is reality, and we ignore it at our own peril.

The proper response to this reality is a profoundly complicated matter, subject to great disagreement. This Commission will provide the nonpartisan forum to bring together all the competing arguments, to evaluate them, and to provide a consensus about the best response.

The 20 members of the Commission, appointed by the President, will be selected precisely for this task. The President shall name five members from the executive branch, including the Chairman of his Council of Economic Advisers who will serve as the Commission Chairman. I would also expect the President to name officials such as the Director of the Office of Management and Budget, the Under Secretary of the Treasury for Monetary Affairs, and the Under Secretary of State for Economic Affairs, who are deeply involved with these matters on a daily basis.

Each House of Congress would also recommend five members each for the President to name to the Commission. And the Chairman of the Board of Governors of the Federal Reserve System shall recommend five members as well, drawn from current and past members of the Board and current and past presidents of the regional Federal Reserve banks.

We are just now emerging from the worst economic downturn in more than 50 years. The human and economic costs were, and still are, enormous and cruel. It left us with new records for the lowest capacity utilization in American manufacturing, the highest unemployment, and the sharpest plunge in corporate profits, since the Great Depression. It helped destablize the world banking system and nearly destroyed the world trading system. These are all consequences, then, of a profoundly misguided combination of expansive fiscal and restrictive monetary policies. An economic program at war with itself.

We can do better. Let us find out precisely how. I ask you to join me in establishing a National Commission on Monetary Policy, as the nonpartisan forum for examining these problems and identifying the best responses.●

By Mr. MOYNIHAN (for himself, Mr. JACKSON, Mr. RANDOLPH, Mr. BAUCUS, Mr. TSONGAS, Mr. GORTON, and Mr. D'AMATO):

S. 1111. A bill to amend the Safe Drinking Water Act to provide for the protection of certain recharge areas overlying sole source underground water supplies; to the Committee on Environment and Public Works.

SOLE SOURCE AQUIFER PROTECTION ACT OF 1983

● Mr. MOYNIHAN. Mr. President, I rise to introduce the Sole Source Aquifer Protection Act, a bill I first introduced in the 97th Congress on February 23, 1982.

This bill is designed to protect our Nation's valuable ground water resources. I am pleased to be joined by colleagues from across the country in reintroducing this legislation—Senators JACKSON and GORTON from Washington State, Senator RANDOLPH from West Virginia, Senator BAUCUS from Montana, Senator TSONGAS from Massachusetts, and my fellow New Yorker, Senator D'AMATO. The essence of the bill is the concept of watershed protection, particularly the protection of critical underground water supplies which provide the sole source of drinking water to a region.

The Sole Source Aquifer Protection Act has two primary purposes. The first is to set in motion a process by which the Federal Government may assist States and local governments in planning for the protection of special areas overlying sole source ground water reservoirs. A sole source aquifer is a ground water reservoir that provides a specific population with its only source of drinking water—section 1424e of the Safe Drinking Water Act established a procedure for formal designation of sole source aquifers. Second, the bill would provide Federal matching grants to States to develop a comprehensive management plan to protect the ground water and implement portions of the management plan such as public land acquisition. Besides financial assistance, EPA will provide technical guidance and consistency in the application of existing Federal environmental laws.

THE FEDERAL INVOLVEMENT

Over the last two decades, our Nation has recognized the overwhelming need to protect surface water. The Clean Water Act of 1972 set in motion a massive effort to monitor and control the discharge of pollutants into surface waters. Nearing $30 billion has already been spent by the Federal Government on the construction of municipal wastewater treatment plants which release their effluents into lakes, streams, rivers, bays, and estuaries. The Resource Conservation and Recovery Act and the Superfund were enacted to prevent future Love Canals and respond to land-based hazardous waste sites we still must live with.

On the other hand, the protection of our Nation's underground supplies has largely escaped direct Federal involvement. Historically, ground water has been the responsibility of States and local governments. Yet half of the Nation depends on ground water for its source of water. On Long Island, nearly 3 million residents utilize a single underground reservoir for their drinking water supply.

As we come to understand the hydrogeology of underground sources, we realize how much our activities on the land above the aquifer affect the quality of the ground water and its viability as a supply for future generations.

THE LONG ISLAND EXAMPLE

Long Island is an excellent case in point. It was in the mid-1970's in the words of the Suffolk County, Long Island health commissioner, Dr. David Harris, that we came to "the shocking discovery that our Long Island ground water was contaminated with chemicals." According to Dr. Harris, improved testing techniques led to this discovery. And after extensive testing, it became apparent that the ground water is vulnerable to almost all soluble organic compounds. According to Dr. John Dowling, Nassau County health commission, over the last 30 years, 54 public supply wells have been abandoned or deepened because of ground water contamination.

An aquifer is analogous to a surface reservoir. The aquifer has a recharge zone through which precipitation and other surface runoff filters down to the water table; a surface reservoir is usually replenished by a river. The quality of the water reaching the aquifer depends on the nature of the overlying land and the degree of contamination of the inflowing water. Once the ground water becomes contaminat-

ed, restoring the water quality in a timely fashion is extremely difficult and under certain circumstances impossible.

Protecting the recharge zone is one of the most effective means of controlling the quality of water entering the ground water supply. On Long Island, the prime recharge zone happens to be an area known as the Central Suffolk Pine Barrens, an area of approximately 110,000 acres.

The Pine Barrens of Long Island, in the opinion of early settlers, was an area barren and useless for farming or grazing. As a result, the Pine Barrens have survived as the largest undeveloped tract of land left on Long Island. Far from being barren, however, the Pine Barrens is rich in a very special resource—ground water.

Long Island is composed of thick layers of sands, sometimes mixed with gravel and clay. The soil acts as a giant sponge, soaking up rainwater and then slowly leaking it back into the surrounding ocean and bays. As long as the amount of water lost by discharge to the ocean or by pumping from wells does not exceed the amount entering from rainfall, the volume of water in the ground remains stable. The top of the ground water zone is called the water table.

Recharge takes place across the entire surface of Long Island but the penetration is more deeply vertical at the center of the island. The water that enters the ground at the highest points of the island will go deepest into the aquifer. The highest points run in a long ridge, east to west along the middle of the island. Moving toward the shores, the movement of ground water become increasingly horizontal.

The concept of how water moves is important for the Pine Barrens in two ways. It means that the growing contamination of waters in western Long Island will not contaminate the cleaner waters to the east. It also means that because the Pine Barrens spans a central recharge area, its pure waters will keep the deepest layers of the aquifer clean and uncontaminated, and will insure the infusion of high quality ground water to areas outside its boundaries.

PURPOSE OF THE LEGISLATION

The legislation we introduce today will provide a framework for Federal-State cooperation in protecting critical recharge areas such as the Pine Barrens. But the legislation, in the form of an amendment to the Safe Drinking Water Act, is not written to apply only to Long Island. Any region in the Nation with the EPA designation of sole source aquifer may qualify for the program to protect critical recharge zones, or special protection areas, as described in this legislation.

There are certain things this bill does not do. The bill does not involve the Federal Government in local land use decisions. The bill does not establish a new regulatory structure nor call for the creation of new regulations. Participation in the special protection area program is entirely optional. In addition to the Long Island aquifer, nine other sole source aquifers already have been designated by EPA. A number of petitions are pending.

The sole source aquifer designation provided by the Safe Drinking Water Act of 1974 was intended to control development activities of the Federal Government in regions entirely dependent on ground water for drinking supplies. However, experience has shown that the designation—lacking a broader planning and management context—is ineffective in controlling many activities which may adversely affect the quality of ground water.

The purposes of this new legislation is to provide a link between planning and implementation of comprehensive ground water protection program. I ask unanimous consent that a summary of the legislation, the bill, and a list of designated and pending sole source aquifer areas be printed in the RECORD.

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

S. 1111

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 "Sole Source Aquifer Protection Act of 1983".

SEC. 2. Part C of title XIV of the Public Health Service Act (the "Safe Drinking Water Act") is amended by inserting the following new section at the end thereof:

"PROTECTION OF CRITICAL GROUND WATER RECHARGE AREAS

"SEC. 1426. (a) Recognizing the dependence of the Nation on its ground water resources, it is hereby declared to be the policy of the Congress that the Fedeal Government shall cooperate with States and municipalities in the preparation and implementation of regional plans for protection of critical ground water recharge areas.

"(b) The Congress finds that—

"(1) almost half of the Nation's citizens depend on ground water for potable water supplies;

"(2) scientific evidence is mounting of contamination of ground water by toxic organic compounds, nutrients, salts, and other pollutants in all regions of the country;

"(3) ground water contamination, once it occurs, is extremely difficult to mitigate;

"(4) certain areas overlying as sole source aquifer are particularly critical in maintaining high quality ground water because of their relatively high rates of existing or potential recharge of proximity to major zones of withdrawal;

"(5) prevention of pollution of high quality ground water and protection of its critical recharge watershed area cost substantially less than measures to mitigate harm following contamination; and

"(6) there exists no established process to coordinate Federal, State and local authorities who share responsibility in the protection of ground water resources.

"(c) The purposes of this section are—

"(1) to establish procedures for the designation of special protection areas, defined by hydrogeology, water quality, and land use as of critical importance in maintaining water quality in the designated sole source area;

"(2) to establish procedures for the development and implementation of a site-specific comprehensive management plan for each designated special protection area;

"(3) to establish guidelines for Federal-State cooperation in the planning, funding, and implementation required to carry out the purposes of this section; and

"(4) to provide Federal financial assistance to States and their municipalities in the development and implementation of policies to protect critical ground water recharge areas but not to impose substantive limitations on state and local land use authorities.

"(d)(1) Upon designation of a sole or principal source area, pursuant to section 1424(e), any one or several municipalities within such area may petition the Governor of the State in which the area is located to apply for the designation of 'special protection area' within such area.

"(2) A petition under this subsection shall propose boundaries for the special protection area and further shall evaluate whether—

"(A) the proposed special protection area is a recharge zone for significant volumes of ground water with drinking water supply potential;

"(B) the ground water which is recharged through the proposed special protection area is of high quality;

"(C) portions within the sole or principal source area are already contaminated with toxic organics, nutrients, salts, or other pollutants;

"(D) maintenance of high quality in the ground water recharged through the proposed special protection area would have significant economic, social, and ecological benefits for the sole or principal source area; and

"(E) degradation of ground water recharged through the proposed special protection area would have significant economic, social, and ecological costs for the area.

"(e) Within one hundred and eighty days following receipt of a petition under this section, the Governor, considering the criteria set forth in subparagraphs (A) through (E) of subsection (d)(2), shall approve or disapprove the petition. If the Governor approves such petition, he shall—

"(1) propose the boundaries of the special protection area;

"(2) designate or, if necessary, establish a planning entity to develop a comprehensive management plan (hereinafter in this section referred to as the 'plan') for the special protection area with adequate representation of municipalities to assure their participation throughout the planning process;

"(3) establish technical and citizens advisory committees, hold hearings, and take other appropriate steps to assure and encourage public participation; and

"(4) establish procedures for review, approval, and adoption of the plan pursuant to State law and offer assistance to municipalities and other public agencies with authority, pursuant to State law, to implement the plan.

"(f)(1) Pursuant to approval of the petition as set forth in subsection (e), the Governor shall submit to the Administrator—

"(A) proposed boundaries of the special protection area; and

"(B) a description of the planning entity and the technical and citizens advisory committees.

"(2) Within sixty days after submission of the items referred to in paragraph (1) to the Administrator, the Administrator shall approve or disapprove the Governor's proposed boundaries and the designated planning entity.

"(3) The Administrator may approve the Governor's proposed boundaries and the designated planning entity if he finds that—

"(A) the boundaries are based on the criteria set forth in subparagraphs (A) through (E) of subsection (d)(2) of this section and the purposes of section 1424(e); and

"(B) the planning entity has the authority, pursuant to State law, and the technical expertise to prepare the plan.

"(4) If the Administrator disapproves either the Governor's proposed boundaries or the designated planning entity, he shall submit his reasons for disapproval to the Governor. The Governor may resubmit his request at his discretion.

"(5) If the Administrator approves the Governor's proposed boundaries and the designated planning entity, he may provide to the State, on a matching basis, a grant of 50 per centum of the costs incurred in preparing the petition and developing the plan. The designated planning entity, through the Governor, shall be eligible for such planning funds for a period not to exceed two years.

"(g)(1) A planning entity designated under this section shall be authorized and directed to prepare a comprehensive management plan consistent with the purposes of this Act for the special protection area. In order for a plan to qualify for funding under this Act, such plan shall be designed to maintain the quality of the ground water recharged through the special protection area through maintenance, to the maximum extent possible, of the natural vegetative and hydrogeological conditions. Such plan shall include but not be limited to—

"(A) a determination of the quality of the existing ground water recharged through said special protection area and the natural recharge capabilities of the special protection area watershed;

"(B) an identification of existing and potential point and nonpoint sources of ground water degradation, ground water flow patterns, and the relationship between surface water management and ground water recharge;

"(C) recommendations for ground water quality standards designed to maintain existing ground water quality or improve existing ground water quality if prevailing conditions fail to meet drinking water standards, pursuant to this Act and State law;

"(D) a map showing the detailed boundary of the special protection area;

"(E) a resource assessment which suggests the amount, location, and type of human development and activity which the ecosystem can sustain while still maintaining existing ground and surface water quality and protecting unique ecological features related to maintenance of water quality;

"(F) proposal of limits on Federal, State, and local government, financially assisted activities and projects which, directly or indirectly, may contribute, in any way whatsoever, to any degradation of such ground water or any loss of natural surface and subsurface infiltration or purification capability of the special protection area watershed;

"(G) development of a comprehensive statement of land use management as it pertains to the maintenance and enhancement of ground water quality and quantity;

"(H) proposal of limits on land uses in the special protection area which might have an adverse impact on water quality, recharge capabilities, or both;

"(I) consideration and proposal of specific techniques, including, but not limited to clustering, transfer of development rights, and other innovative measures sufficient to achieve the objectives of this section;

"(J) consideration of the establishment of a State institution to facilitate and assist in funding a development transfer credit system;

"(K) proposal to designate specific areas within the special protection area suitable and appropriate for public acquisition or fee or less than fee interests;

"(L) a program for State and local implementation of the plan described in this subsection in a manner that will insure the continued, uniform, consistent protection of the special protection area in accord with the purposes of this section.

"(2) During the development of the comprehensive management plan, the planning entity shall—

"(A) consult with appropriate officials of any municipality or State or Federal agency which has jurisdiction over lands and waters within the area;

"(B) transmit any draft and final plan to all appropriate municipalities for review and comment;

"(C) consult with the officials of any municipality which has jurisdiction over lands and waters within the boundaries of the special protection area;

"(D) consult with interested professional, scientific, and citizen organizations;

"(E) consult with the technical and citizen advisory committees which shall be established by the Governor; and

"(F) conduct public hearings, pursuant to State law, at places within the special protection area, and at such places as may be appropriate, for the purpose of providing interested persons and municipalities with an opportunity to comment on any aspect of the plan.

"(h) Upon completion of the process set forth in subsection (g) or an equivalent process acceptable to the Governor and the Administrator, the planning entity shall submit the plan to the Governor for review. The Governor shall approve or disapprove the plan. In his review of the plan, the Governor shall consider whether—

"(1) the plan will achieve the stated water quality objectives of the plan and this section and protect the ecological value of the special protection area which may be significant to maintain water quality;

"(2) the plan requires the exercise of land use and zoning measures to the greatest extent practicable to regulate the use of land and water resources in a manner consistent with the purposes of this section;

"(3) the planning entity has afforded adequate opportunity, including public hearings, for public involvement in the preparation and review of the plan, and has considered such review and comment in the plan as submitted to him;

"(4) written assurances have been received from appropriate municipalities that the recommended implementation program identified in the plan will be initiated within a reasonable time after the approval of the plan by the Administrator;

"(5) the necessary authority and resources exist, pursuant to State law, to assure implementation of the plan at the State and local level; and

"(6) a separate management entity should be designated or established, pursuant to State law, to implement the plan.

"(i)(1) The Governor shall submit a plan approved pursuant to subsection (h) to the Administrator for review. Within one hundred and twenty days, the Administrator shall approve the plan or submit in writing to the Governor his reasons for not approving it. If approval is not given, the Governor shall have ninety days to resubmit a modified plan to the Administrator. In his review, the Administrator shall consider the criteria set forth in subsection (g)(1), and after consultation with the Secretary of Defense, shall determine whether the national defense mission of military installations or related production facilities within, contiguous or adjacent to the special protection area have been adequately provided for.

"(2) If the Administrator approves the plan, he may provide to the State or the appropriate subdivision thereof on a matching basis a grant of 50 per centum of the costs of implementing certain features of the plan including but not limited to public land acquisition within the special protection area and a land credit exchange institution, pursuant to State law, but in no case shall the grant exceed $20,000,000.

"(j)(1) There are authorized to be appropriated to carry out subsections (e) and (g) for development of the plan, and for making grants under subsection (f)(5), $10,000,000 for each of the years ending September 30, 1984; September 30, 1985; and September 30, 1986.

"(2) There are authorized to be appropriated for grants to implement the plan pursuant to subsection (i)(2), $5,000,000 in the year ending September 30, 1984; $20,000,000 in the year ending September 30, 1985; and $50,000,000 for each of years ending September 30, 1986 and September 30, 1987.

"(3) Funds authorized under this subsection shall only be used to carry out the activities set forth in this section. No funds authorized in this subsection may be used to carry out activities authorized by the Clean Water Act, the Resource Conservation and Recovery Act, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, or other sections of the Safe Drinking Water Act.

"(k) For the purposes of this section:

"(1) the term 'plan' means the comprehensive management plan developed pursuant to subsection (g) or an equivalent process approved by the Governor of the State and the Administrator.

"(2) The term 'land credit exchange institution' means any institution established under State law to facilitate the exchange, transfer, acquisition, and donation of development rights, conservation easements, or other partial interests in land.

"(3) The term 'recharge' means the downward flow of water to the water table."

SOLE SOURCE AQUIFER PROTECTION ACT—SUMMARY OF THE BILL

The bill sets forth the following procedures for developing and implementing a plan to protect the recharge area of a sole source aquifer:

(1) Petition. A local government would submit a petition to the Governor setting forth the proposed boundaries of a "Special Protection Area" and the rationale for designating such an area in terms of water supply potential.

(2) Governor's approval. The Governor must decide whether or not to pursue the petition. If so, state officials would work with local governments to propose new boundaries, justify the designation, and name a planning authority to be responsible for developing the comprehensive management plan. Then, the Governor would submit the petition to the EPA Administrator.

(3) Preliminary EPA approval. If the EPA Administrator determines that the petition meets certain minimum technical requirements and that the planning authority is technically qualified, then the Administrator could approve the petition. An approved petition would qualify the state for matching funds for planning assistance.

(4) Comprehensive plan. The planning authority designated by the Governor would have two years to develop a comprehensive management plan. It would be required to work closely with all units of government responsible for implementing various parts of the plan.

(5) State approval. The Governor would have to demonstrate how the State and local governments would implement the plan. Thus, agreements would have to be reached at the local level before the Federal government would even consider involvement. Once the Governor approved the comprehensive management plan developed by the planning authority, he would submit the Plan to EPA.

(6) EPA approval. The Administrator would judge the merits of the proposal based on how effectively the Plan would protect the groundwater and how the state would implement the Plan. If the EPA Administrator were to approve the Plan, then the state would be eligible for a matching grant of up to $20 million to implement certain features of the Plan including but not limited to land acquisition.

The Federal Government would not interfere with local land use decisions but rather would provide technical guidance and consistency in the formulation of regional groundwater protection plans.

A total of $155 million would be authorized over a four-year period.

The "Sole Source Aquifer Protection Act" is drafted as an amendment to the Safe Drinking Water Act of 1974.

SOLE SOURCE AQUIFERS

DESIGNATED AREAS

1. Edwards Underground Reservoir, San Antonio, Texas.
2. Spokane Valley-Rathdrum Prairie Aquifer, Idaho and Washington.
3. Northern Guam.
4. Nassau and Suffolk Counties, New York.
5. Fresno County, California.
6. Biscayne Aquifer, Florida.
7. Western Essex and Southeastern Morris Counties, New Jersey.
8. Maryland Piedmont Aquifer—Montgomery, Frederick, Howard, Carroll Counties, Maryland.
9. Whidbey and Camano Island, Washington.
10. Cape Cod, Massachusetts.

PETITIONS UNDER REVIEW

1. Scotts Valley, California.
2. Upper Santa Cruz Basin, Arizona.
3. Ava-Altar Basin, Arizona.
4. Snake Plain Aquifer, Idaho.
5. Carrizo-Wilcox Aquifer, Bastrop County, Texas.
6. Delaware Basin, New Mexico and Texas.
7. Niagaran Aquifer, Wisconsin.
8. Baton Rouge, Louisiana.
9. Volusia-Floridan Aquifer, Florida.
10. New Castle County, Delaware.
11. York County-Piedmont Region, Pennsylvania.
12. Coastal Plain Aquifer, New Jersey.
13. Ridgewood, New Jersey.
14. Upper Rockaway, New Jersey.
15. Schenectady Aquifer, New York.
16. Vestal, New York.
17. Sardinia, New York.
18. Kings and Queens Counties, New York.
19. Block Island, Rhode Island.
20. Nantucket Island, Massachusetts.●

● Mr. D'AMATO. Mr. President, Senator MOYNIHAN and I are introducing a bill which amends the Safe Drinking Water Act. This act addresses the serious and growing problem of ground water contamination. Much of our Nation's water source is in jeopardy due to this increasing trend of contamination. If we are to heed the predictions and warnings of the experts, we must now take steps to insure the United States does not experience a water crisis like the energy crisis of the seventies.

Ground water for potable water supplies is depended on by almost all nations. Throughout this country, there is mounting scientific evidence of ground water contamination. Unfortunately, this contamination is usually irreversible.

In 16 Massachusetts communities, 25 communities in Pennsylvania, and 22 communities in New York, public water supplies have been discovered to be contaminated. Due to organic contamination, about 100 drinking wells surrounding a landfill in Jackson Township, N.J., have been closed. Under the Rocky Mountain Arsenal near Denver, Colo., 30 square miles of the shallow aquifer table are contaminated by chemical byproducts from the manufacture of pesticides and herbicides. A number of domestic stock and irrigation wells have been temporarily abandoned and two have been permanently closed. Unless we act to preserve the quality of its aquifers, Long Island's ground water contamination problem may become a critical one.

Three aquifers are depended on by Long Island residents for their water supplies; 2.8 million people currently depend solely on these three aquifers as a source of drinking water. This dependence creates a potentially critical situation. Plentiful rainfall combined with highly porous soils, maximize the potential for contaminants to leak into the ground water. Furthermore, some parts of Long Island are in overdraft. This, coupled with saltwater intrusion is a problem.

Through the authority of the Safe Drinking Water Act, the Environmental Protection Agency has designated the aquifers underlying Long Island as sole source. This means, that they are the sole or principal source of drinking water for the area. If contaminated, it would create a significant hazard to public health. Nevertheless, contamination has occurred from many sources. Some of these leaking landfill dumpsites, aging gasoline storage tanks, failing septic tank systems, accidental, illegal, or improperly regulated discharges, and lastly, runoff and drainage from agricultural areas.

Most of the pollutants recently detected in ground water are in minute amounts. Because of this, scientists and toxicologists are uncertain about the health effects of consuming water contaminated with trace levels of organic substances.

However, some believe that the cumulative effect has increased the risk of illness and cancer. The health of Long Island residents and the future economic growth of Long Island is contingent on the prevention of further ground water pollution. There must be prudent watershed management involving Federal, State, and local participation in order to accomplish this goal. On Long Island, this policy will involve the cooperative development and management of a comprehensive plan to protect the Long Island Pine Barrens. Beneath the Pine Barrens, there is the most important and least polluted ground water.

This bill provides for a partnership among Federal, State, and local offices. The role of the Federal Government will primarily be one of coordination, technical, and financial assistance. This bill provides for the establishment of designated special protection areas which contain sole source aquifers. The designation of these areas will assure that sole source areas are protected and managed in such a way as to maintain or improve existing wate quality. This amendment also authorized $180 million for planning and implementation of plans for the special protection areas and land acquisition. The States will match Federal funds dollar for dollar.

It is now time for Congress to focus on the critical problems facing the water quality of our Nation. The solution presented by this bill will prevent the degradation of water quality. The price of prevention is well worth the cost of insuring perhaps our country's most precious resource—water.●

By Mr. GORTON and Mr. JACKSON:

S. 1112. A bill to modify the city waterway navigation project, Tacoma Harbor, Wash., to redefine the project boundaries; to the Committee on Environment and Public Works.

PROJECT BOUNDARIES OF TACOMA HARBOR WATERWAY

● Mr. GORTON. Mr. President, today I am pleased to introduce with Senator JACKSON legislation authorizing the modification of the City Waterway Federal navigation channel project located in Tacoma Harbor in the State of Washington.

Senator JACKSON and I introduced similar legislation during the last session of Congress but, unfortunately, the bill was not acted upon before the adjournment. The city of Tacoma is still anxious to redefine the navigation channel boundaries so that it may proceed with the development of the waterway area.

The City Waterway Federal project was established in 1905. It was a major shipping terminal waterway for Commencement Bay and the city of Tacoma for many years. As facilities at Commencement Bay expanded and new waterways were developed, City Waterway was no longer competitive for shipping terminal development because it was too shallow and too narrow. As a result, most of the shipping terminals left City Waterway and for several decades the frontage of this waterway was left to decay. In the mid-1970's, the city of Tacoma adopted a plan to reclaim and redevelop the waterway for marina facilities and restaurants. More than 700 recreational moorage spaces have already been developed and another 700 spaces are planned. The approval of the waterway project modification request will help maintain the momentum of the city's redevelopment efforts.

The city filed a formal request for Federal project modification with the Seattle district engineer of the U.S. Army Corps of Engineers in March 1979. Since that time, the corps has completed a review of the request and has issued a feasibility report and an environmental assessment dated November 1981. The report recommends approval of the requested modification. Gen. J. K. Bratton, Chief of Engineers, has concurred with the recommendations of the district and division engineers.

This legislation would remove the need for Federal project designation in the targeted marina development areas and it would relieve the corps of its obligation for maintenance dredging. There has been no dredging of the City Waterway since 1948 and the city has informed me that there is no foreseeable need for maintenance dredging. Project depths are naturally being maintained.

Mr. President, the legislation we are introducing today will not directly result in any changes to the physical appearance of the waterway; it will not affect existing commercial navigation in any way; and it will not adversely affect any remaining industrial or terminal facilities on the waterway. It will simply change a line on a map.

The requested modification will have the following positive economic and physical impacts on the city's development program for the area: it will encourage more new marina development in conformance with the city program; it will relieve certain bonding requirements which are now a deterrent to marina developers; it will provide immediate relief to two marinas already completed; and it will facilitate development of new street improvements serving the waterway.

The Corps of Engineers, the city of Tacoma, and the Port of Tacoma have all reviewed this proposal and concurred that the modification should be approved. I urge my colleagues to join me in supporting prompt enactment of this legislation so that the city of Tacoma can proceed with the redevelopment of the waterway area.●

● Mr. JACKSON. Mr. President, I am pleased to join Senator GORTON in introducing legislation which would modify the existing Federal project in City Waterway, Tacoma Harbor.

When the downtown channel was created, it was used primarily for commercial navigation. Recently, however, the city has encouraged redevelopment of City Waterway's shoreline for public use. But it is anticipated that redevelopment would reduce the useful width of the Federal project from 500 to 300 feet.

So potential developers are required to post a bond to insure removal of the structures within the Federal channel should this be necessary to restore full navigation use of the waterway. The city feels this bond requirement to be a financial burden that discourages potential developers. Modification of the channel boundaries would place the area planned for development outside of the bond requirement area.

Finally, it should be noted that the requested modification will not directly result in any changes in the physical appearance of the waterway. Existing commercial navigation will not be affected. And any remaining industrial or terminal facilities on the waterway will not be adversely affected. This legislation, as Senator GORTON stated, will simply change a line on a map.

Therefore, Mr. President, I urge the Senate Committee on Public Works to move quickly on this legislation.●

By Mr. D'AMATO:

S. 1113. A bill to amend the Internal Revenue Code of 1954 to provide that tax-exempt interest shall not be taken into account in determining the amount of social security benefits to be taxed; to the Committee on Finance.

DETERMINATION OF TAXABLE LEVEL OF SOCIAL SECURITY BENEFITS

● Mr. D'AMATO. Mr. President, I am introducing today, a bill to repeal the inclusion of tax-exempt bond interest in the calculation of the income threshold for taxation of security benefits. My bill will remove an unfair and unjust burden that would otherwise be placed on municipal and State governments, all property taxpayers and, most egregiously, on the middle-income elderly. The Congress has endeavored to protect the integrity of social security by passing the recommendations made by the National Commission on Social Security Reform. Despite these good intentions, however, I believe the Congress erred in adding to the Commission's recommendations what amounts to an unconstitutional, improper and unfair tax to be borne primarily by the middle-class taxpayers and senior citizens of our society. If my bill is approved, this intolerable situation would be rectified.

As originally conceived, the rationale for including tax-exempt interest in the threshold for taxation of social security benefits was to increase Federal revenues and require the affluent to carry more of the burden. These are admirable goals and ones which I support. In general, actions to reduce the national debt should be applauded. However, as with most revenue raising measures, costs are incurred. In this case, the costs far exceed the benefit of possible, but far from certain, slightly higher Federal revenues. On the one hand, this provision provides a real handicap for middle-class savers. On the other hand, as a revenue raising mechanism the amendment is completely ineffectual. The Federal tax base will not be enlarged. In fact, Treasury revenues will be marginally reduced.

Congress has saved social security and for this it should be commended. Nevertheless, Mr. President, I cannot sit idlely by while Americans, both the retired and those who are still working, unnecessarily bear the brunt of this legislation. In short, my goal is to ameliorate the onerous penalty imposed by the inclusion of tax-exempt interest in the income threshold without exacerbating the Federal budget deficit.

Mr. President, allow me to outline the positive results my bill will achieve by repealing the ridiculous provision to include interest income on tax-exempt bonds when calculating income levels for the taxation of social security benefits. Most evident of these, is preserving the viability of the municipal bond market, and reducing interest costs which will ultimately be absorbed by payers of State and local taxes, that is, homeowners. Current

legislation would encourage municipal bond holders to purchase high yielding taxable securities. This represents a real cost to cities and States currently strapped by budget shortfalls.

I have had conversations with many municipal finance officers who have quantified the current law's impact on their respective budgets.

Bob Odell, treasurer of the city of Los Angeles, estimated that at a minimum, $1 million of additional taxes per year will have to be levied. This is a cost that has no corresponding benefit.

David Shullman, commissioner of finance for Westchester County, N.Y., estimated that the cost of the county's taxpayers would annually be $300,000. Current law is clearly doing nothing more than attempting to shift the Federal budget deficit to State and local taxpayers.

I spoke to Karl White, director of finance for the city of San Antonio. He stated that San Antonio would incur an additional $5 million in interest costs annually. But the provision is only intended to raise at a maximum $5 million for the Treasury over the next 7 years.

It is disastrous to increase the burden on cities and States when Federal grants are being reduced. Obviously, Congress goal should not be to further constrict financing avenues previously open to State and local governments. The provision encourages people not to buy lower yielding municipal securities and will thus bleed our cities dry.

In order to attract new funds with this new provision in force, municipal bonds would have to be priced at a premium to better compete in the market with taxable securities. This is not an esoteric fact. The Municipal Finance Officers Association (MFOA) has projected a national "impact ranging from $299 million to $598 million annually" if tax-exempt bond interest is included in the adjusted gross income of retirees for calculation of the social security income threshold. This is a disaster of immense proportions.

The MFOA further estimates that the higher interest costs would conservatively run between 25 and 50 basis points, or from one-quarter of 1 percent to one-half of 1 percent. To put this in a proper perspective, Richard Dixon, chief of budget, county of Los Angles, stated that the county's annual external financing needs are $1 billion. He estimated that the added interest rate associated with the provision would be 50 basis points. This amounts to $5 million in increased interest costs in the first year. Of course, this figure is compounded in each succeeding year. If we assume that 75 percent of the county's external financing needs are met with long-term bonds, the $5 million figure grows to $13.75 million in the second year, and $22.5 million in the third year, and so on. The current law will mortgage the future of local government. This is not what New Federalism is all about.

In the case of the county of Los Angeles, the higher interest rates cannot be passed on in taxes because of proposition 13. Richard Dixon told me that by statute the only services that could be cut to absorb the increased interest costs are fire, police, and schools. As the costs are compounded, these serives will be reduced exponentially. This is wrong. We cannot destroy the infrastructure of our State and city services.

Who would pay for the added interest costs? How are municipal expenses recovered? From one source—State and local taxpayers will foot the bill. And, to the extent that electric utilities issue pollution control bonds via municipalities, ratepayers will pay the added costs. The intolerable result is that individuals will pay once through higher utility bills and again through increased taxes. Can we in good conscience during a time of economic hardship raise taxes and utility bills?

Municipalities do have an alternative to raising taxes: reduce capital outlays. This, of course, would lead to a further deterioration of existing city and State services. In this case, local leadership must make the painful choice of deciding the essential city service that must be trimmed. In most major cities, police, fire, and school services cannot be cut further without endangering the public well-being. As it is, these essential services are operating on a shoestring. Is it worth jeopardizing the safety of our citizens in the name of raising a mere pittance for the Treasury? Who in this Chamber desires to reduce the educational opportunities available to our young people?

My bill, Mr. President, will eliminate a burden that also will be borne by the middle-income elderly of our society. The provision states, that in determining gross income for purposes of taxing social security benefits, total taxable income is added to tax-exempt interest plus half of the social security benefits received. If this figure is over $25,000—$32,000 for a married couple—then half the amount of the individual's social security benefits over the threshold is added to taxable income and taxed at the marginal tax rate. For example, if a person has $20,000 of pension income, no tax-exempt income and $10,000 of social security benefits, adjusted gross income would be $25,000. Given this, social security benefits would not be taxed.

However, if this same individual has $20,000 of pension income, $5,000 of tax-exempt income, $10,000 of social security benefits then adjusted gross income would be $30,000. In this case, $650 of tax would be paid on the social security benefits over $25,000, or $2,250. The interest-free income of $5,000 pushed adjusted gross income over the threshold level. This amounts to a tax on tax-exempt income. As it stands now, there exists a tremendous incentive for the middle class to sell their municipal or State bonds and buy higher yielding taxable securities. Existing legislation punishes middle-class retirees for investing their savings in the cities in which they reside. Where will cities obtain funds if their own residents will not invest?

In another example, a married couple with $27,000 of pension income, $1,000 of a tax-free interest, $10,000 of social security benefits would have adjusted gross income of $33,000. This figure is $1,000 over the $32,000 threshold established for a married couple only because of the inclusion of tax-exempt income. The resulting tax on social security benefits is $145. This amounts to a 14.5-percent marginal tax rate on previously tax-free bonds, a married couple may be forced to choose between paying taxes or going without heat or electricity. Only an idiot would consciously pay tax on a supposed tax-free security. Mr. President, our Nation's elderly should not be responsible to a greater degree than other citizens for reducing the Federal budget deficit.

People who put their life savings in municipal bonds already are absorbing a 2½-percentage point reduction in yield. The spread between AA rated municipal bonds and similar quality corporate bonds is running today at 263 basic points. Municipal bond investors thus sacrifice a 28-percent reduction in yield by not buying taxable securities. We are now imposing on these same elderly citizens up to an additional 15-percent reduction in return, for a total penalty of 43 percent. What is going to be the impact of this ugly tax? These same investors, already overburdened by taxes, will exert their collective economic muscle and sell municipal bonds. And who could blame them. Cities and States will be denied the necessary financing for essential services. Police, fire, and water facilities will deteriorate for lack of funding. We will be the ones responsible unless this disgraceful provision is stricken. The Members of Congress must act to protect city and State services, lower property taxes and maintain the financial integrity of local government.

In essence, Mr. President, current legislation will tax previously sacrosanct—since 1913—State and municipal bonds. Furthermore, this will only impact middle-class retirees near the gross income threshold. The wealthy will not be dealt any penalty. A single

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person or married couple with $100,000 of taxable income will pay taxes on half their social security benefits regardless of the amount of State or municipal bond interest they earn. There is no equity in the current system. Why punish the old lady barely making ends meet and let the rich off easy?

It has been estimated by the Joint Committee on Taxation that only a scant $5 million over 7 years will be raised by this ridiculous provision. It is my belief that even this tiny amount is overstated. Let us go back to the example of an unmarried individual with pension income of $25,000 and tax-free interest income of $500 for total gross income of $25,500. Rather than pay tax on social security benefits this person will sell his bonds that are currently priced at a discount and take a principal loss. In this way gross income would be reduced to $25,000 and taxes otherwise paid on social security benefits would be eliminated. But by selling a bond at a discount, taxable income is reduced and Federal revenues depleted. Mr. President, the Treasury would actually lose money.

Quite frankly, Mr. President, I question the ability of the IRS to keep track of most individuals' tax-exempt interest income. Most currently outstanding municipal bonds are in bearer form and thus difficult to trace. The IRS would be virtually powerless to deter people that decided not to report their tax-free income. In an effort to recover these few dollars the IRS would have to add further detail to existing tax forms. I see no reason to further complicate what is already an unfathomable situation.

I have serious doubts whether the IRS can simplify this highly complicated provision. The average taxpayer will not be able to comprehend it. More likely than not, the honest individual will unknowingly fill the required form out wrong. Is all this worth doing for no additional revenues? The answer is unequivocally no.

Finally, the inclusion of tax-free interest in calculating the threshold for taxation of social security benefits is nothing more than taxing municipal bonds. This, Mr. President, is unconstitutional. The Supreme Court has consistently held that the Federal Government cannot, under the Constitution, impair State and local borrowing power. Precedent was established back in 1894 in the Pollack against Farmers Loan & Trust Co. case. Actually there were two Pollack decisions: The first invalidated portions of the 1894 income tax law that included the taxation of State and local bond interest income, and the second opinion nullified the entire tax law under review.

The Supreme Court made it clear in the Pollack decisions that any infringement on State and local borrowing power is unconstitutional. Again, when the 16th amendment was taken up in Congress, taxation of previously tax-free bonds was promptly dismissed. Later, in 1923, congressional intent was clear in prohibiting taxation of municipal bonds. At that time, Congress considered a constitutional amendment to permit the taxation of tax-exempt interest income. The 1923 amendment was approved by the House but did not pass the Senate.

As previously stated, the inclusion of tax-exempt interest income in determining the threshold for taxing social security benefits would raise the cost of borrowing by municipalities up to 50 basis points. Clearly this would impair the ability of municipalities to raise money. It is also tantamount to a tax on State and local bond interest income. I see no reason to become embroiled in a serious constitutional question over an issue of marginal value—only $5 million over 7 years for the mere appearance of equity. Allowing this provision to remain on the books would be a dangerous precedent.

In summary, Mr. President, my bill would return some equity to social security reform. The middle-class aged of our society will heave a sigh of relief. So will the State and municipal governments across the Nation that would be forced to either raise money at a higher cost or defer capital improvements. As a result, all taxpayers will be relieved of further burgeoning State and local taxes. Moreover, a constitutional conflict will be avoided. All this will be accomplished without depriving the Treasury of needed revenues.

Mr. President, I ask unanimous consent that the table on this issue be included in its entirety in the RECORD. I also ask unanimous consent that this vital legislation be reprinted in its entirety in the RECORD.

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

S. 1113

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) paragraph (2) of section 86(b) of the Internal Revenue Code of 1954 (defining modified adjusted gross income) is amended to read as follows:

"(2) MODIFIED ADJUSTED GROSS INCOME.—For purposes of this subsection, the term 'modified adjusted gross income' means adjusted gross income determined without regard to this section and sections 221, 911, 931, and 933.".

(b) The amendments made by subsection (a) shall take effect as if included in the amendment made by section 121(a) of the Social Security Amendments of 1983.

INCREASED BORROWING COSTS FOR STATE AND LOCAL GOVERNMENTS RESULTING FROM H.R. 1900

[In thousands of dollars]

	Estimated 1982 long- and short-term tax-exempt debt issued	Estimated annual increase in State and local government borrowing costs	
		Low (0.25 percent)	High (0.50 percent)
Alabama	1,810,141	4,525	9,051
Alaska	2,081,625	5,204	10,408
Arizona	2,816,365	7,041	14,082
Arkansas	905,536	2,264	4,528
California	10,179,461	25,449	50,897
Colorado	3,300,524	8,251	16,503
Connecticut	1,821,701	4,554	9,109
Delaware	647,478	1,619	3,237
Florida	6,383,228	15,958	31,916
Georgia	2,557,148	6,393	12,786
Hawaii	651,372	1,628	3,257
Idaho	111,156	278	556
Illinois	5,193,304	12,983	25,967
Indiana	1,768,725	4,422	8,844
Iowa	665,331	1,663	3,327
Kansas	879,794	2,199	4,399
Kentucky	1,964,197	4,910	9,821
Louisiana	3,802,505	9,506	19,013
Maine	557,354	1,393	2,787
Maryland	2,396,307	5,991	11,982
Massachusetts	3,684,334	9,211	18,422
Michigan	3,073,446	7,684	15,367
Minnesota	2,462,827	6,157	12,314
Mississippi	1,101,827	2,755	5,509
Missouri	1,171,480	2,929	5,857
Montana	406,232	1,016	2,031
Nebraska	968,029	2,420	4,840
Nevada	1,031,827	2,580	5,159
New Hampshire	427,253	1,068	2,136
New Jersey	3,889,733	9,724	19,449
New Mexico	1,385,662	3,464	6,928
New York	8,455,203	21,138	42,276
North Carolina	3,117,377	7,793	15,587
North Dakota	384,301	961	1,922
Ohio	3,839,358	9,598	19,197
Oklahoma	1,458,179	3,645	7,291
Oregon	1,462,411	3,656	7,312
Pennsylvania	3,945,621	9,864	19,728
Rhode Island	310,200	775	1,551
South Carolina	2,647,272	6,618	13,236
South Dakota	248,372	621	1,242
Tennessee	1,843,409	4,609	9,217
Texas	10,526,240	26,316	52,631
Utah	1,144,817	2,862	5,724
Vermont	343,552	859	1,718
Virgina	2,762,000	6,905	13,810
Washington	4,584,938	11,462	22,325
West Virginia	388,446	971	1,942
Wisconsin	1,631,027	4,078	8,155
Wyoming	545,049	1,363	2,725
Total	119,733,674	299,334	598,668

By Mr. MATSUNAGA:

S. 1115. A bill to amend titles XVIII and XIX of the Social Security Act to treat certain sensory and communication aids as medical and other health services, and for other purposes; to the Committee on Finance.

HANDICAPPED INDEPENDENCE ASSISTANCE ACT OF 1983

Mr. MATSUNAGA. Mr. President, I am today introducing legislation for the benefit of severely visually impaired, hearing impaired, and vocally impaired persons, to allow them more easily to enter the job market as productive wage earners. My bill would extend medicare coverage to include advanced sensory and communication aids, with the clear provision that the States may cover this technology under their medicaid programs, but would not be required to do so.

Mr. President, access to sensory and communication aids would allow disabled persons to perform more effectively in the job market and would significantly increase their opportunity

to secure gainful employment. Over the past decade, numerous studies have shown that the use of sensory aids open many new job opportunities for the blind and visually impaired population. This fact should not be surprising when one considers the number of job categories in our labor market dependent upon technology for the storage and display of information. It is estimated that 60 million of the Nation's 110 million job stations in the year 1990 will be electronically based. In most of these job stations, the workers will depend upon electronic equipment for the acquisition and manipulation of printed information. The information either will be in the form of computer printouts or CRT displays. The use of specialized sensory aids makes these job situations as accessible to blind and visually impaired individuals as they are to nondisabled persons.

Mr. President, it is interesting to note, that during this time of high national unemployment, two of the major job categories with an abundance of openings are those of computer science and word processing—two fields open to blind and visually impaired individuals when appropriate sensory aids are available.

The use of high-gain amplification equipment with specially designed FM systems can provide severely hearing impaired individuals with auditory information otherwise unavailable. Such equipment can greatly prolong the competitive employment of many hearing impaired individuals long after the impairment becomes severe. In many situations, these sensory aids can eliminate the need for early retirement of these people.

The use of hand-held speech synthesizers permit vocally impaired individuals to communicate with others in job situations. Without them, the inability to communicate stands between these people and competitive employment.

These are just some examples of devices available to handicapped persons which would allow them to function normally in a work situation. Other equipment, for instance, can produce raised letters from printed words.

The primary problem today, however, is the availability of these necessary devices to the potential users. The expense necessary to demonstrate competitiveness is too high; thus, many individuals remain on welfare rather than competing for employment. By underwriting this expense to achieve such employment, we can reduce welfare costs and increase tax revenues to the Government at the same time. Indeed, the anticipated costs of this legislation would be offset substantially by additional revenues and reduced welfare costs.

Mr. President, in view of the major cutbacks in disability programs and vocational rehabilitation programs, it is time for Congress to act so that the individual purchase of such equipment can be made feasible for disabled persons. During the 1970's, many blind and visually impaired individuals were able to obtain employment through the assistance of State vocational rehabilitation agencies which purchased for them sensory aids needed in the employment situation. The vast majority of these aids were purchased through funds allocated for the social security beneficiary rehabilitation program and the vocational rehabilitation program. These funds have been reduced severely over the past 2 years with extreme hardship being felt by disabled individuals eligible for these programs. Many State agencies have virtually terminated the procurement and assignment of sensory aids during this period because of the lack of funds. Thus, numerous disabled individuals have not been able to apply for or obtain employment.

Mr. President, these persons are talented and capable people who want to work and make their contribution to society. For the sake of our Nation's well-being and economic prosperity, we must take steps so we may benefit from their significant talents and abilities. I believe my bill, which would make sensory and communication devices more readily available, would have long-term benefits for disabled persons, and for society as a whole. I urge my colleagues to support this legislation. I ask unanimous consent that the full text of my bill be printed in the RECORD.

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

S. 1115

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Handicapped Independence Assistance Act of 1983".

FINDINGS

SEC. 2. The Congress finds that—

(1) the increased availability and use of technologically advanced sensory and communication aids, equipment, and devices by individuals who are blind, severely visually impaired, deaf, severely hearing impaired, or vocally impaired would reduce the handicaps of such individuals with respect to employment, education, and self-care.

(2) such sensory and communication aids, equipment, and devices would open many new job opportunities for their users, but are beyond the financial means of many such individuals; and

(3) although payment for such aids, equipment and devices is not expressly prohibited by statutes authorizing Federal health insurance programs. regulations of both Federal and State agencies result in widespread denials of such payments.

AMENDMENTS TO SOCIAL SECURITY ACT

SEC. 3. (a)(1) Section 1861(s) of the Social Security Act is amended—

(A) by redesignating paragraphs (11) through (14) as paragraphs (12) through (15) respectively;

(B) by striking out "and" at the end of paragraph (9);

(C) by striking out the period at the end of paragraph (10) and inserting in lieu thereof "; and"; and

(D) by inserting after paragraph (10) the following new paragraph:

"(11) sensory and communication aids designed to substantially reduce or eliminate handicaps caused by blindness, deafness, a severe hearing or visual impairment, or the inability to communicate vocally, other than eyeglasses, hearing aids, or other services excluded under section 1862(a)(7).".

(2) Section 1864(a) of such Act is amended by striking out "paragraph (11) and (12)" and inserting in lieu thereof "paragraphs (12) and (13)".

(b) Section 1862(a)(1) of such Act is amended—

(1) by striking out "and" at the end of subparagraph (B);

(2) by striking out the semicolon at the end of subparagraph (C) and inserting in lieu thereof ", and"; and

(3) by adding at the end thereof the following new subparagraph:

"(D) in the case of items and services described in section 1861(s)(11), which are not reasonable and necessary for reducing or eliminating handicaps caused by blindness, deafness, a severe hearing or visual impairment, or the inability to communicate vocally;".

(c) Section 1833 of such Act is amended by adding at the end thereof the following new subsection:

"(k) With respect to expenses incurred for items and services described in section 1861(s)(11), no more than $5,000 in any calendar year, and no more than $15,000 in any five consecutive calendar years, shall be considered as incurred expenses for purposes of subsections (a) and (b).".

(d) Section 1905(a)(12) of such Act is amended by inserting after "devices" the following: ", including sensory and communication aids described in section 1861(s)(11)".

(e) The amendments made by this Act shall be effective with respect to items and services furnished on or after January 1, 1984.

By Mr. DIXON (for himself and Mr. PERCY):

S. 1119. A bill to amend the Natural Gas Pipeline Policy Act of 1978 to establish natural gas pipelines as common carriers, and for other purposes; to the Committee on Energy and Natural Resources.

COMMON CARRIER LEGISLATION

● Mr. DIXON. Mr. President, I am introducing legislation today which would bring about a commonsense solution to the natural gas crisis this country is currently facing. This measure, if enacted, would provide immediate relief to gas consumers in the form of price decreases reaching as high as 25 percent in the first year.

During this past relatively mild winter, we had an abundant oversupply of gas totaling more than 2.2 trillion cubic feet (tcf). In 1982, the total natural gas consumed by Americans

was 18.5 trillion cubic feet. Most of the 2.2 tcf is unused because of the existing contractual relationship between pipelines and producers that cause higher prices to be paid by the end-users of the gas—the households, schools, and industrial plants—while cheaper gas remains shut in.

The plan I am introducing will change the status of pipelines to that of common carriers—the same as for trucks and oil pipelines. By making pipelines common carriers, the vital first step toward restoring commonsense to the natural gas market has been taken. Common carriage would introduce competition to this segment of the natural gas industry and increase the ability of distributors to purchase directly from producers at the lowest available price.

The measure would allow local utilities to purchase gas directly from producers instead of the current practice of utilities purchasing gas from pipelines. Utilities could then shop around for the cheapest gas available and then ship the gas through the pipelines. The pipelines would be allowed a fair rate of return on their investment. Under this scenario, Illinois consumers of natural gas could receive an average saving of 17 percent on their bills, for example.

Common carriage of natural gas, under this measure, does not attempt to address the pricing issue many of the other natural gas measures have addressed. Price savings in this act are based on direct sales of gas, not title I of the Natural Gas Pricing Act. Consequently, common carriage is compatible with either of the two major pricing issues being discussed in the Senate Energy and Natural Resources Committee.

I am proud of the support this bill already has received from many Members of the Illinois congressional delegation. In particular, I would like to thank Senator CHARLES PERCY and Representatives TOM CORCORAN and PAUL SIMON for their support of this concept. Throughout the drafting of this bill, the chairman of the Illinois Commerce Commission, Philip O'Connor, and his staff provided the delegation with constant assistance.

I look forward to its early consideration so that natural gas prices can decline under this commonsense approach to a very complex problem.

Our objective is price relief for natural gas consumers, Mr. President. No draft of a bill is perfect and its contents are certainly subject to reveiw and negotiation. All of us who are interested in this concept stand ready to work with our colleagues and all interested parties in accomplishing our objective.●

● Mr. PERCY. Mr. President, I am pleased today to join my colleague, ALAN DIXON, in introducing the Natural Gas Consumer Access Amendments of 1983. This bill is based upon a proposal developed by the Illinois Commerce Commission and its chairman, Philip O'Connor. A similar bill was introduced last week in the House of Representatives by serveral members of the Illinois delegation.

Simply put, the O'Connor proposal turns pipelines into common carriers, mainly providing natural gas transportation services, rather than buying and selling the gas themselves. It creates an open market for what would be called free access gas, with utilities and other purchasers able to shop around and make contracts directly with producers.

This is an interesting and thoughtful concept, and one which deserves careful study as we in the Congress develop a sound strategy for our natural gas dilemma. With consumer prices rising sharply at the same time low-cost gas is going begging, plainly something is wrong. While this proposal is not necessarily the solution to this problem, it plainly adds to the debate. Like many new ideas, it is bound to be controversial, as it will make us all think about the natural gas market in a different context. We need some fresh thinking, however—and it is in this spirit that I introduce the bill today.

What will the bill's effects be on the State of Illinois, and other gas consuming States in our situation? The jury is still out on that point, as far as I am concerned, and I look forward to an open and far-reaching debate to help us find the answer.

One fact that we have to keep in mind about Illinois is that our consumers have access to some of the lowest-priced gas in the Nation. Natural gas prices for residential consumers in Chicago are well below the national average, for example. At the same time, some of our pipelines—and all of our utilities in the central part of the State—are stuck with some of the highest-priced gas anywhere to be found. Overpriced Algerian LNG is a case in point.

What we need to do is find a way to back away from Algerian LNG and other overpriced gas, but without losing access to the low-priced old gas supplies that have helped keep consumer prices from rising even higher. We are concerned that if all old gas were up for grabs—even at controlled prices—Illinois could stand to lose more than it gains.

With this in mind, we are introducing a bill that treats pipelines as common carriers, but with a narrow definition of free access gas. It does not allow producers to back out of old gas contracts with pipelines or distribution companies. It guarantees that any gas purchaser with an old gas contract would not be subject to unilateral action by anyone upstream.

In effect, it offers an extra measure of protection for Illinois and similar States. If there is any additional low-cost gas to be bought—or any high-cost gas to rid ourselves of—we could do it under this bill. But we would not have to risk what we already have. And when you consider that we already have more low-cost gas than almost anyone else, we think that makes sense for Illinois.

I think it is useful for the course of the public debate for many different approaches to be out on the table. What we need is a wider public discussion of the costs and benefits of all possible solutions to our natural gas dilemma.●

ADDITIONAL COSPONSORS

S. 24

At the request of Mr. HUDDLESTON, the name of the Senator from Colorado (Mr. HART) was added as a cosponsor of S. 24, a bill to provide emergency credit assistance to farmers, and for other purposes.

S. 41

At the request of Mr. DURENBERGER, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. 41, a bill to extend the revenue sharing program for local governments through fiscal year 1986.

S. 57

At the request of Mr. SPECTER, the name of the Senator from Wisconsin (Mr. KASTEN) was added as a cosponsor of S. 57, a bill to amend title 18 of the United States Code relating to the sexual exploitation of children.

S. 62

At the request of Mr. SASSER, the name of the Senator from North Carolina (Mr. HELMS) was added as a cosponsor of S. 62, a bill to provide for the issuance of a commemorative stamp to honor the dedication of the Vietnam Veterans Memorial.

S. 107

At the request of Mr. THURMOND, the name of the Senator from Florida (Mrs. HAWKINS) was added as a cosponsor of S. 107, a bill to establish the Veterans' Administration as an executive department..

S. 108

At the request of Mr. GRASSLEY, the names of the Senator from Minnesota (Mr. DURENBERGER) was added as a cosponsor of S. 108, a bill to amend the Internal Revenue Code of 1954 to encourage contributions of equipment to postsecondary vocational education programs and to allow a credit to employers for vocational education courses taught by an employee without compensation and for temporary employment of full-time vocational educational instructors.

S. 137

At the request of Mr. ROTH, the name of the Senator from Ohio (Mr. GLENN) was added as a cosponsor of S. 137, a bill to amend the Internal Revenue Code of 1954 to continue to allow mortgage bonds to be issued.

S. 152

At the request of Mr. JEPSEN, the name of the Senator from Pennsylvania (Mr. HEINZ) was added as a cosponsor of S. 152, a bill to amend the Internal Revenue Code of 1954 to provide an investment tax credit for certain soil and water conservation expenditures.

S. 175

At the request of Mr. DECONCINI, the name of the Senator from North Carolina (Mr. EAST) was added as a cosponsor of S. 175, a bill to amend title 17 of the United States Code to exempt the private noncommercial recording of copyrighted works on video recorders from copyright infringement.

S. 237

At the request of Mr. WALLOP, the name of the Senator from West Virginia (Mr. BYRD) was added as a cosponsor of S. 237, a bill to amend the Internal Revenue Code of 1954 to provide for the establishment of reserves for mining land reclamation and for the deduction of amounts added to such reserves.

S. 249

At the request of Mr. PACKWOOD, the name of the Senator from Hawaii (Mr. MATSUNAGA) was added as a cosponsor of S. 249, a bill entitled the "Employee Educational Assistance Extension Act".

S. 275

At the request of Mr. JEPSEN, the name of the Senator from Alabama (Mr. DENTON) was added as a cosponsor of S. 275, a bill to provide an increase in the compensation of certain pay grades of the uniformed services in order to provide a minimal offset against inflation.

S. 287

At the request of Mr. EAGLETON, the name of the Senator from Hawaii (Mr. MATSUNAGA) was added as a cosponsor of S. 287, a bill to establish the Harry S. Truman National Historic Site in the State of Missouri, and for other purposes.

S. 332

At the request of Mr. SASSER, the name of the Senator from Oregon (Mr. HATFIELD) was added as a cosponsor of S. 332, a bill for the relief of John Smitherman.

S. 372

At the request of Mr. RANDOLPH, his name was withdrawn as a cosponsor of S. 372, a bill to promote interstate commerce by prohibiting discrimination in the writing and selling of insurance contracts, and for other purposes.

S. 407

At the request of Mr. NUNN, the name of the Senator from Georgia (Mr. MATTINGLY) was added as a cosponsor of S. 407, a bill to improve the enforcement of except administration laws, and for other purposes.

S. 425

At the request of Mr. DENTON, the name of the Senator from Florida (Mrs. HAWKINS) was added as a cosponsor of S. 425, a bill to provide equal access and opportunity to public school students who wish to meet voluntarily for religious purposes.

S. 432

At the request of Mr. RANDOLPH, the name of the Senator from Texas (Mr. TOWER) was added as a cosponsor of S. 432, a bill to amend the Clean Water Act to extend the 1984 compliance date for certain recently established requirements.

S. 444

At the request of Mr. DURENBERGER, the name of the Senator from Wisconsin (Mr. KASTEN) was added as a cosponsor of S. 444, a bill to provide that registration and polling places for Federal elections be accessible to handicapped and elderly individuals, and for other purposes.

S. 512

At the request of Mr. NICKLES, the name of the Senator from Colorado (Mr. ARMSTRONG) was added as a cosponsor of S. 512, a bill to repeal the Powerplant and Industrial Fuel Use Act of 1978.

S. 518

At the request of Mr. CHAFEE, the name of the Senator from Arkansas (Mr. PRYOR) was added as a cosponsor of S. 518, a bill to establish a program of grants administered by the Environmental Protection Agency for the purpose of aiding State and local programs of pollution abatement and control.

S. 567

At the request of Mr. THURMOND, the names of the Senator from New Hampshire (Mr. HUMPHREY), and the Senator from North Carolina (Mr. HELMS) were added as cosponsors of S. 567, a bill to amend title 38, United States Code, to authorize reimbursement for the reasonable charge for chiropractic services provided to certain veterans.

S. 578

At the request of Mr. SIMPSON, the name of the Senator from South Carolina (Mr. THURMOND) was added as a cosponsor of S. 578, a bill to amend title 38, United States Code, to provide for adult day health care services for veterans, to authorize the Veterans' Administration to administer a community residential care program, to establish a presumption of service connection for former prisoners of war suffering from dysthymic disorder and to revise and clarify eligibility for reimbursement of expenses of travel for Veterans' Administration health care.

S. 663

At the request of Mr. ARMSTRONG, the name of the Senator from Maine (Mr. COHEN) was added as a cosponsor of S. 663, a bill to prohibit the payment of certain agriculture incentives to persons who produce certain agricultural commodities on highly erodible land.

S. 764

At the request of Mr. WARNER, the names of the Senator from Mississippi (Mr. COCHRAN), and the Senator from South Dakota (Mr. ABDNOR) were added as cosponsors of S. 764, a bill to assure the continued protection of the traveling public in the marketing of air transportation, and for other purposes.

S. 786

At the request of Mr. PRESSLER, the name of the Senator from Kansas (Mr. DOLE) was added as a cosponsor of S. 786, a bill to amend title 38, United States Code, to establish a service connection presumption for certain diseases caused by exposure to herbicides or other environmental hazards or conditions in veterans who served in Southeast Asia during the Vietnam era.

S. 842

At the request of Mr. WEICKER, the name of the Senator from Minnesota (Mr. DURENBERGER) was added as a cosponsor of S. 842, a bill to amend the Internal Revenue Code of 1954 to provide tax incentives for the issuance of small business participating debentures.

S. 858

At the request of Mr. THURMOND, the names of the Senator from North Dakota (Mr. ANDREWS), the Senator from Florida (Mrs. HAWKINS), the Senator from Colorado (Mr. ARMSTRONG), the Senator from Virginia (Mr. TRIBLE), and the Senator from Ohio (Mr. GLENN) were added as cosponsors of S. 858, a bill to recognize the organization known as the National Association of State Directors of Veterans Affairs, Inc.

S. 859

At the request of Mr. THURMOND, the name of the Senator from Florida (Mrs. HAWKINS) was added as a cosponsor of S. 859, a bill to amend title 38, United States Code, to require the continued payment of disability compensation at an unreduced rate pending review and appeal of a determination to reduce or discontinue such compensation by reason of a change in service-connected or employability status or in physical condition in the case of any veteran whose disability has been rated as total for a period of at least 10 years ending on the date such determination was made, who files a statement of disagreement with

such determination, and who requests such continued payment, and for other purposes.

S. 919

At the request of Mr. DOMENICI, the name of the Senator from Alabama (Mr. HEFLIN) was added as a cosponsor of S. 919, a bill to amend the Equal Access to Justice Act, and for other purposes.

S. 980

At the request of Mr. WALLOP, the name of the Senator from Arkansas (Mr. PRYOR) was added as a cosponsor of S. 980, a bill to amend the Federal Mine Safety and Health Amendments Act of 1977 to provide that the provisions of such act shall not apply to the surface mining of stone, clay, and sand work.

S. 1043

At the request of Mr. WEICKER, the name of the Senator from North Dakota (Mr. BURDICK) was added as a cosponsor of S. 1043, a bill to amend the Internal Revenue Code of 1954 to provide tax incentives for small business.

S. 1050

At the request of Mr. BYRD, the name of the Senator from Oregon (Mr. HATFIELD) was added as a cosponsor of S. 1050, a bill to amend the Arms Export Control Act to provide increased control by the Congress over the making of arms sales.

SENATE JOINT RESOLUTION 10

At the request of Mr. TSONGAS, the name of the Senator from Arkansas (Mr. PRYOR) was added as a cosponsor of Senate Joint Resolution 10, joint resolution proposing an amendment to the Constitution of the United States relative to equal rights for women and men.

SENATE JOINT RESOLUTION 74

At the request of Mr. GARN, the name of the Senator from Alabama (Mr. DENTON) was added as a cosponsor of Senate Joint Resolution 74, joint resolution to express the sense of the Congress that the United States should promote the goal of strategic stability and reduce the risk of nuclear war through a balanced program of force modernization together with negotiations to achieve substantial, verifiable, and militarily significant reductions to equal levels in the nuclear arsenals of both superpowers.

SENATE CONCURRENT RESOLUTION 24

At the request of Mrs. HAWKINS, the names of the Senator from Minnesota (Mr. DURENBERGER), and the Senator from Rhode Island (Mr. CHAFEE) were added as cosponsors of Senate Concurrent Resolution 24, concurrent resolution expressing the sense of the Congress that the people of the United States should observe the month of May 1983 as "Older Americans Month."

SENATE RESOLUTION 113

At the request of Mr. BAUCUS, the name of the Senator from South Carolina (Mr. THURMOND), was added as a cosponsor of Senate Resolution 113, resolution expressing the sense of the Senate that the Secretary of Agriculture should delay implementation of the legislation authorizing deductions from proceeds from the sale of milk under the dairy price support program.

SENATE CONCURRENT RESOLUTION 26—RELATIVE TO FUNDING OF MX MISSILE DEVELOPMENT AND DEVELOPMENT OF BASING MODE

Mr. HATFIELD submitted the following concurrent resolution; which was referred to the Committee on Appropriations:

S. CON. RES. 26

Resolved by the Senate (the House of Representatives concurring), That the House of Representatives and the Senate of the United States approve the obligation and expenditure of funds appropriated in Public Law 97-377 for MX missile procurement and full-scale engineering development of a basing mode for the MX missile.

Mr. HATFIELD. Mr. President, I send to the desk a concurrent resolution and ask for its appropriate referral.

Mr. President, this concurrent resolution is in accordance with the terms of subsection (7) of title V of the Department of Defense Appropriations Act, 1983, enacted as part of Public Law 97-377, the continuing resolution for fiscal year 1983 passed last December. As Senators will recall, the terms of the continuing resolution "fenced" funds for MX missile procurement and development of a basing mode pending the findings of the President's Commission on Strategic Forces and a report to Congress by the President on the MX missile, possible alternatives to the MX missile, and possible alternative ICBM basing modes. The President's commission reported last week, and the President's report was delivered to Congress yesterday.

Mr. President, the wording of the concurrent resolution I introduce today is specified by Public Law 97-377. The act also specifies that the resolution is to be referred to the Committee on Appropriations, which will be discharged from consideration of the resolution if it has not reported the measure within 45 calendar days of its referral. Public Law 97-377 makes further stipulations as to consideration of the concurrent resolution on the Senate floor, and I direct the attention of my colleagues to those provisions.

My submission of this resolution does not mean that I support the MX missile or the latest recommendation for its basing mode. I do not. I submit this resolution pursuant to the law, and to expedite the decision of the Congress on this issue.

The Committee on Appropriations will hold hearings on the resolution in the first week of May. Exact dates, times, and room numbers will be announced later. It is my intention to have the resolution reported to the Senate in time for floor consideration prior to the Memorial Day recess, if that is the leadership's desire.

Mr. President, I ask unanimous consent that the President's letter of transmittal be printed in the RECORD at this point.

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

THE WHITE HOUSE,
Washington, D.C., April 19, 1983.

Hon. MARK O. HATFIELD,
Chairman, Committee on Appropriations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: On January 3, 1983, I established a bipartisan Commission to respond to the issues raised by the Congress regarding the Peacekeeper missile, possible alternatives to the Peacekeeper, and possible alternative ICBM basing modes. The report, which the Commission submitted to me, was delivered to you last week. Attached is a classified report prepared by the Department of Defense submitted pursuant to the provisions of subsection (7) of Title V of the Department of Defense Appropriations Act, 1983, enacted as part of P.L. 97-377. The attached document addresses the issues set out in subsection (7).

I am pleased to report to you that the distinguished group of Americans who served on the Commission have unanimously agreed on a package of actions, which I strongly support, and on which Secretary Weinberger, the Joint Chiefs of Staff, Secretary Shultz and the National Security Council have joined with me in supporting. They are as follows:

(1) Improve as a first priority the command, control, and communications for our strategic forces; continue with high priority the Trident submarine and D-5 missile programs; and continue the bomber and air-launched cruise missile efforts as planned.

(2) Proceed with the immediate production of the Peacekeeper missile, and deployment of 100 such missiles in existing Minuteman silos in the Francis E. Warren AFB area, which I propose as the alternative basing plan required by P.L. 97-377. Specifically, the first 50 missiles will replace the Minuteman missiles in the 400th Strategic Missile Squadron (SMS). In turn, the second 50 will replace the Minuteman missiles in the 319th SMS. I have chosen Francis E. Warren AFB because the existing silos at that location offer the best operational considerations.

(3) Commence engineering design of a small, single warhead ICBM. If strategic and technical considerations warrant, such a missile could be ready for full-scale development in 1987 and potential deployment in the early 1990's.

(4) Expand research into, and undertake the most rigorous examination of, all forms of defense against ballistic missiles. This includes work on penetration aids.

(5) Undertake a specific program to resolve uncertainties regarding silo and shelter hardness, a study of fratricide effects, and investigation of different types of land-

based vehicles and launchers, particularly hardened vehicles.

Finally, I reconfirm that I am fully committed to continue to pursue ambitious and objective arms reduction negotiations with a goal of agreements that are balanced, promote stability in time of crisis, constitute meaningful force reductions, and are verifiable. As you know, our proposals to secure reductions of all types of weapons are before the Soviets in many forums.

I urge the Congress to join me now in this bipartisan effort to settle on a modernization plan for our strategic forces. For more than a decade, each of four administrations has made proposals for arms control and modernization that have become embroiled in political controversy.

Balancing a number of factors, the members of the Commission, the Secretary of Defense, Joint Chiefs of Staff, and I have all had to take fresh looks at our previous positions. Despite the range of views these groups have held in the past, we are presenting to you a unanimous view on this vital issue. Your support for the consensus can unite us in taking a major step forward in our common search for ways to ensure national security.

Sincerely,

RONALD REAGAN.

SENATE RESOLUTION 118—RELATING TO THE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Mr. HOLLINGS (for himself, Mr. WEICKER, Mr. PACKWOOD, Mr. PELL, Mr. BENTSEN, Mr. JACKSON Mr. TSONGAS, Mr. RIEGLE, Mr. HUDDLESTON, Mr. INOUYE, Mr. LAUTENBERG, Mr. KENNEDY, Mr. FORD, Mr. CHILES, Mr. MATSUNAGA, Mr. STENNIS, and Mr. LONG submitted the following resolution; which was referred to the Committee on Commerce, Science, and Transportation:

S. RES. 118

Whereas the National Oceanic and Atmospheric Administration is one of the foremost scientific agencies in the United States and throughout the world;

Whereas the oceanic and atmospheric research, weather services, environmental expertise, coastal management knowledge, and fishery conservation and management skills of NOAA scientists, engineers, and technical experts benefit all Americans;

Whereas the Administration has recommended the elimination of nearly 1600 NOAA jobs for the next fiscal year and a reduction of well over $100 million in annual funding for NOAA;

Whereas for the third consecutive year, the President has proposed termination of the highly successful Coastal Zone Management and Sea Grant programs (including the very effective marine extension service), the closing of the top-rated Great Lakes Environmental Research Laboratory, and the elimination of the undersea research program;

Whereas the President's budget calls for deactivation of nearly half the oceanic research fleet, serious reductions in geodesy programs, and heavy reductions in ocean pollution and ocean dumping research;

Whereas the President proposes a 40 percent cut in the National Marine Fisheries Service, including the termination of Saltonstall-Kennedy funding for development of our fishing industry, the closure of 19 fish hatcheries on the Columbia River, cuts of almost 60 percent in funding for the Regional Fishery Management Councils, elimination of state grant programs involving commercial and anadromous research, termination of nonhatchery aquaculture research, the undermining of fishery habitat work, and the deep cutback of data collection and analysis;

Whereas the President's budget recommends the elimination of agricultural weather services and the fruit frost program, a 50 percent cut in fire weather services, and the elimination of the second polar-orbiting satellite;

Whereas the effectiveness of NOAA's highly regarded, world-class laboratories is being impaired by funding cuts, reflected by the Administration's proposal to reduce NOAA R&D to $149 million in FY 1984, from a high of $204 million in FY 1980;

Whereas the Administration has curtailed severely the weather modification research and development program in NOAA that could some day save countless lives, avoid injuries, and save billions of dollars;

Whereas improvements in weather forecasting have been hindered and thereby public safety threatened because necessary R&D in advanced satellite sensing of the atmosphere and oceans has been curtailed;

Whereas the President had decided to transfer to the private sector the weather satellites essential to the productivity, health, and safety of our nation, without having performed cost analyses or consulted with the Congress or experts in satellite meteorology;

Whereas the Department of Commerce has announced a review of 3500 jobs in NOAA to determine whether they can be eliminated and their duties shifted to private contractors;

Whereas the Administration is conducting a contract study of the National Weather Service to determine how to pare back its full-time staff; and

Whereas the services and programs of NOAA exemplify the kind of public infrastructure that is essential for the well-being of the nation: Now, therefore, be it

Resolved, That it is the sense of the Senate that the National Oceanic and Atmospheric Administration shall be maintained as a scientifically sound, reliable, world-class Federal institution with adequate funding and personnel to provide the science and services necessary to safeguard the American people's interests and the nation's future in the oceans and the atmosphere, so that

The production of protein desperately needed by this nation and the world can be maintained for years to come through wise fisheries management and utilization;

The use of our coastal resources can be conserved for future generations and the nation's economic development enhanced through balanced coastal zone management and through coastal and ocean research;

The lives and property of the American people can be safeguarded and economic losses reduced through the maintenance of a strong National Weather Service and meteorological satellite systems operated by the government in the public interest;

The health of our ocean and atmospheric systems which provide the fundamentals of life on this planet can be maintained, through knowledge and understanding;

Our research and protection systems for those intelligent life forms dependent on the seas can be furthered as a sign of our being a civilized and caring nation;

And the existing partnership between Federal, state, and private universities and research institutions can be enhanced to pool resources and knowledge of our coastal, ocean, and atmospheric resources for the greater good of the nation;

Resolved further, That it is the sense of the Senate that NOAA's institutional integrity be preserved and enhanced through comprehensive authorization legislation for all NOAA responsibilities and through sufficient appropriations pursuant to such authorization legislation.

Mr. HOLLINGS. Mr. President, I am introducing today a Senate resolution directed at the administration's misguided treatment of the National Oceanic and Atmospheric Administration, and I ask unanimous consent that the full text of the resolution be printed in the RECORD.

NOAA is a victim of the destructive policy of cutting the discretionary civilian programs on the pretext of balancing a budget that is driven mainly by major entitlement and defense expenditures. This agency provides a wide variety of scientific research and services of benefit to our entire society. Yet the administration's proposed budget cuts for NOAA are more than $100 million below the agency's base level of funding.

In addition, this year the administration is proposing to eliminate some 1,600 positions at NOAA and will be reviewing thousands more with an eye to contracting them out to the private sector. When coupled with the negative stereotypes about Government employees which are laced throughout administration rhetoric, these funding and personnel reduction policies have a devastating impact on the morale of NOAA's scientists, engineers, and other technical experts. As our recent experience with the Environmental Protection Agency has taught us, perhaps the most serious repercussion that flows from such policies is the departure from public service of superior employees and the demoralized job performance of the work force that remains.

This is the third year running that deep cuts in NOAA's funding have been pursued by this administration. And this is the third year running that I have opposed such proposals. Since NOAA's creation in 1970, I have nursed its budget carefully as a member of the Commerce Committee and the State, Justice, Commerce Appropriations Subcommittee, and even in our present austere times, I do not believe the Nation can afford to stay the administration's present course with respect to NOAA.

Many of the specifics of the latest budget estimate are laid out before you in this resolution. There is no point in repeating them now. However, a quick glance at the proposed actions listed in the resolution will tell you readily that the people who prepared

the budget have riveted their attention on short-term savings. Yet the bulk of NOAA's activities have a direct bearing on our future well-being. Take the coastal zone management and sea grant programs, for example, two programs slated for termination that administration spokesmen have acknowledged to be successful. At our Commerce Committee hearings in February, we received not a single iota of information that the vitality of these programs could be maintained without Federal funding. I wonder if anyone preparing the budget considered the long-term savings to the Nation that can be generated by the greater uniformity, efficiency, and equity fostered by CZM in the management of the numerous, growing, and often conflicting uses of our coastal areas. I also wonder if there is any realization that Federal money invested in the sea grant program is investment in the Nation's future—badly needed seed money for the education of scientists and engineers and for research supporting the long-term viability and utilization of our natural resources.

The fisheries portion of the budget is another case in point. Since the United States declared 200-mile fisheries jurisdiction in 1976, considerable progress has been made toward the husbanding of these resources for their full use by our citizens for years to come. The administration's proposed 40-percent cut in funding for marine fisheries amounts to a repudiation of these gains. It is ironic that hard on the heels of this proposal was the President's recent proclamation of 200-mile economic zone jurisdiction. The proclamation, which reaffirms the U.S. claim to fish and other marine animals off our coast, will be an empty gesture if the U.S. Government fails to invest adequate funds in the work of the agency with the responsibility for these resources, NOAA's National Marine Fisheries Service.

In the weather arena, we see other illustrations of a lack of a complete understanding by administration officials regarding the significance of NOAA's activities to the public interest. I question whether much thought has been devoted to the lives and property that can be saved with better forecasts of weather and floods. And I wonder if these officials fathom the importance of understanding acid rain, of anticipating the effect of increased carbon dioxide in the atmosphere, and of grasping the full implications of man-produced gases on our stratosphere's ozone shield. I also doubt whether they have stopped to think about the many ways that improvements in climate and weather forecasting can produce more business revenue in the future. As the testimony of several witnesses at Commerce Committee hearings suggested, there may be greater economic opportunity for the private sector if we keep the weather satellites under the operation of Government than if we transfer them to a private operator.

Mr. President, I urge my colleagues to evaluate the administration's budget proposal for NOAA in light of the fundamental requirements of our people and businesses. I also urge them to consider the great expense that will be required in the future to rebuild the Federal Government's capacity to provide the important services that are proposed for elimination or major reduction. This resolution is meant to emphasize the multiplicity of ways that the National Oceanic and Atmospheric Administration touches our lives and to point out the need to maintain its standard of professional excellence.

SENATE RESOLUTION 119—RELATING TO RECENT EVENTS IN THE MIDDLE EAST

Mr. D'AMATO (for himself, Mrs. HAWKINS, Mr. DECONCINI, Mr. BOSCHWITZ, Mr. MURKOWSKI, Mr. HECHT, Mr. MOYNIHAN, Mr. RIEGLE, Mr. LAUTENBERG, Mr. INOUYE, Mr. SPECTER, Mr. DODD, and Mr. PRESSLER) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 119

Whereas Israel, the only stable democratic nation in the Middle East, is a proven and trusted ally of the United States;

Whereas the security interests of Israel and the United States are closely linked;

Whereas the Soviet Union has engaged in an unprecedented arms buildup in the Middle East;

Whereas the Soviet Union has supplied nations of the region, hostile to Israel, with advanced fighter aircraft and other sophisticated weaponry which seriously upsets the military balance in the Middle East;

Whereas the policies pursued by the Soviets and their allies in the region pose a clear and immediate threat to the security of Israel;

Whereas the United States has formally committed itself to continue to maintain Israel's defensive strength through the supply of advanced types of equipment such as the F-16 aircraft;

Whereas the Joint Chiefs of Staff of the United States have endorsed the sale of F-16 aircraft to Israel;

Resolved, That is the sense of the Senate of the United States of America that the United States should, without any further delay, proceed with the sale and delivery of F-16 aircraft to Israel.

● Mr. D'AMATO. Mr. President, I rise today to express my deep sense of concern over recent events in the Middle East, a region of vital interest to the United States.

The expansionist policies pursued by the Soviet Union in that area pose a direct and immediate threat to the security of Israel, the only stable democratic nation in that volatile region; and to world stability. Today, the Soviets are engaged in an unprecedented military buildup in the Middle East. Thousands of Soviet military personnel are stationed in the area. The Kremlin has initiated a program of arms transfers which seriously threatens to upset the tenuous military balance which exists in the region.

Recent Soviet arms deliveries have included T-72 tanks, self-propelled 122-millimeter and 155-millimeter howitzers, BM-21 Kaytusha rocket launchers, SAM-6 and SAM-9 antiaircraft missiles as well as advanced fighter aircraft, armored personnel carriers, and heavy tanks. In addition, the Soviets have installed a number of SAM-5 antiaircraft missile sites including those at Dumayer and Homs in Syria. These highly sophisticated weapons systems which are capable of knocking out a fighter plane more than 150 miles away, are clearly intended for offensive purposes. These SAM-5 missile systems, manned by Soviet soldiers, have never before been deployed outside of the Soviet Union.

Despite an expression of concern by Secretary of State Shultz and other high-level officials, the administration continues to block the sale of F-16 aircraft vital to the defense of Israel, our most reliable ally in the region.

This action raises serious questions with regard to U.S. commitment to that nation, strategically located near the southern flank of NATO and within reach of the valuable resources of the Persian Gulf.

The United States formally committed itself to continue maintaining Israel's defensive strength through the supply of advanced equipment such as the F-16 aircraft during the mid-1970's. In 1977, Israel presented a formal request to the United States for 150 F-16 aircraft. After a thorough and comprehensive review by military experts, it was determined that the United States should provide Israel with these advanced aircraft in order to preserve Israel's qualitative margin of superiority. Despite these findings, the United States has refused to proceed with this sale.

Meanwhile, the Middle East has become a virtual outpost of Soviet hegemony. Their activities in the region have gone on unchecked.

It is imperative that the United States realize its commitment to Israel. As President Reagan indicated during his campaign for the Presidency, "We must rebuild our lost reputation for trustworthiness. We must again become a nation that can be relied upon to live up to its commitments."

It is important that the United States, particularly during this period of great uncertainty in the Middle East, remain firm in its support of Israel. Failure to provide this necessary moral and material support for

this important ally would have disastrous consequences not only for the United States but for all those committed to democratic principles. Furthermore, such an action would raise serious questions regarding U.S. commitment to our other allies.

The United States must send a clear signal to the Soviets and their allies that we will not abandon our friends during time of need.

Therefore, I have submitted the resolution which expresses the sense of the Senate that the United States, without any further delay, should proceed with the sale and delivery of F-16 aircraft to Israel.●

AMENDMENTS SUBMITTED

RECIPROCAL TRADE AGREEMENTS

KASTEN AMENDMENT NO. 1179

Mr. KASTEN proposed an amendment to the motion of Mr. DOLE to recommit the bill (S. 144) to insure the continued expansion of reciprocal market opportunities in trade, trade in services, and investment for the United States, and for other purposes; as follows:

I move to amend the motion of the Senator from Kansas to recommit S. 144 to the Committee on Finance by striking out the matter proposed to be added by clause (2) of the motion and inserting in lieu thereof the following:

TITLE II—WITHHOLDING ON INTEREST, DIVIDENDS, AND PATRONAGE DIVIDENDS

SEC. 201. AMENDMENT OF 1954 CODE.

Except as otherwise expressly provided, whenever in this title an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

SEC. 202. DELAY IN WITHHOLDING ON INTEREST AND DIVIDENDS.

Section 308 of the Tax Equity and Fiscal Responsibility Act of 1982 (relating to effective dates and special rules involving withholding on interest and dividends) is amended—

(1) by striking out subsection (a) and inserting in lieu thereof the following:

"(a) IN GENERAL.—Except as otherwise provided in this section, the amendments made by this subtitle shall apply to interest, dividends, and patronage dividends paid or credited after June 30, 1987.

"(b) WITHHOLDING ON INTEREST, DIVIDENDS, AND PATRONAGE DIVIDENDS NOT TO TAKE EFFECT IF COMPLIANCE SUBSTANTIALLY IMPROVES.—

"(1) STUDY BY COMPTROLLER GENERAL.—The Comptroller General of the United States shall conduct a study with respect to the collection of taxes on interest, dividends, and patronage dividends.

"(2) DETERMINATION OF PERCENTAGE OF COMPLIANCE.—In connection with the study under paragraph (1), the Comptroller General shall compute the percentage determined by dividing—

"(A) the amount of interest, dividends, and patronage dividends which the Comptroller General reasonably estimates was shown on returns of tax imposed by subtitle A of the Internal Revenue Code of 1954—

"(i) which were required to be filed by individuals for taxable years which begin in 1985, and

"(ii) which were filed within the time prescribed by law (determined with regard to any extension) and before August 15, 1986, by

"(B) the aggregate amount of interest, dividends, and patronage dividends which the Comptroller General reasonably estimates was required to be shown on returns described in subparagraph (A) (without regard to clause (ii) thereof).

"(3) REPORT TO CONGRESS.—Not later than January 1, 1987, the Comptroller General shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate the results of the study conducted under paragraph (1) and the percentage determined under paragraph (2).

"(4) WITHHOLDING NOT IMPLEMENTED IF COMPLIANCE SUBSTANTIALLY IMPROVED.—

"(A) IN GENERAL.—If the percentage determined under paragraph (2) is 95 percent or greater, then the amendments made by this subtitle shall not apply to any interest, dividends, or patronage dividends paid or credited after June 30, 1987.

"(B) WITHHOLDING TO APPLY IF COMPLIANCE NOT SUBSTANTIALLY IMPROVED AND CONGRESS AGREES.—If subparagraph (A) does not apply, the amendments made by this subtitle shall apply to any interest, dividends, or patronage dividends paid or credited after June 30, 1987, only if both Houses of Congress adopt, before April 1, 1987, a concurrent resolution, the matter after the resolving clause of which is as follows: 'That the Congress approves of the determination of the Comptroller General under section 308(a)(2) of the Tax Equity and Fiscal Responsibility Act of 1982 that the compliance percentage for payment of taxes on interest, dividends, and patronage dividends is less than 95 percent.'.

"(C) EXPEDITED PROCEDURE.—

"(i) EXPEDITED RULES TO APPLY.—The rules of subsections (c) through (g) of section 151 of the Trade Act of 1974 (19 U.S.C. 2191) shall apply to a resolution described in subparagraph (B)(ii) in the same manner as such rules apply to an implementing revenue bill, except that subsection (e)(3) of such section 151 shall not apply and such resolution, upon introduction in the Senate and the House of Representatives, shall be referred to the Committee on Finance and the Committee on Ways and Means, respectively.

"(ii) IN GENERAL.—The provisions of this subparagraph are enacted by the Congress—

"(I) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such they are deemed a part of the rules of each House, respectively and they supercede other rules only to the extent that they are inconsistent therewith, and

"(II) with full recognition of the constitutional right of either House to change the rules at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

"(5) ACTION BY COMPTROLLER IF CONGRESS DISAPPROVES EARLIER REPORT.—If both Houses of Congress do not adopt the resolution described in paragraph (4)(B)(ii) before April 1, 1987—

"(A) the Comptroller General shall, not later than January 1, 1988, resubmit the percentage determined under paragraph (2) (taking into account any revised data) and report such percentage to the committees described in such paragraph, and

"(B) if the percentage is less than 95 percent, the amendments made by this subtitle shall apply to interest, dividends, or patronage dividends paid or credited after June 30, 1988, if both Houses of Congress, before April 1, 1988, adopt a resolution described in paragraph (4)(B)(ii).

"(6) DEFINITIONS.—For purposes of this subsection, the terms 'interest', 'dividends', and 'patronage dividends' have the same meanings given such terms by sections 6049(b), 6042(b), and 3454(c) of the Internal Revenue Code of 1954, respectively.", and

(2) by redesignating subsections (b), (c), and (d) as subsections (c), (d), and (e), respectively.

SEC. 203. APPLICATION OF BACKUP WITHHOLDING RULES TO CERTAIN PAYMENTS.

(a) IN GENERAL.—Section 3402(s) (relating to extension of withholding to certain payments where identifying number not furnished or inaccurate) is amended by adding at the end thereof the following new paragraph:

"(6) SPECIAL RULES FOR BACKUP WITHHOLDING ON INTEREST, DIVIDENDS, AND PATRONAGE DIVIDENDS NOT REPORTED ON RETURN.—

"(A) IN GENERAL.—If the Secretary determines that any payee failed—

"(i) to include in any return of tax required to be filed for any taxable year more than $50 of any backup withholding payments which—

"(I) are described in clause (iii), (iv), or (vi) of paragraph (3)(A) of this subsection, and

"(II) are required to be included in such return, or

"(ii) to file the return of tax in which such payments are required to be included,

the Secretary shall notify the payors of the payments described in subclause (I) of the requirement to deduct and withhold under paragraph (1) (but not the reason therefor).

"(B) NOTICE TO PAYEE.—

"(i) NOTICE BY SECRETARY.—At the same time as the Secretary notifies the payor under subparagraph (A), the Secretary shall notify the payee of—

"(I) the Secretary's determination under subparagraph (A) (and the reasons therefor), and

"(II) the requirement that the payor deduct and withhold tax under this subsection.

"(ii) 42-day period to respond.—The Secretary shall prescribe procedures which allow the payee to respond to the notice received under clause (i) within 42 days of receipt of such notice.

"(iii) NOTICE BY PAYOR.—Any payor required to withhold any tax under paragraph (1)(c) shall, at the time such withholding begins, notify the payee of such withholding.

"(C) CESSATION WITHHOLDING.—If—

"(i) there was no failure under subparagraph (A).

"(ii) any such failure (including the payment of any tax, penalty, or interest with respect to such failure) has been corrected, or

"(iii) the payee establishes to the satisfaction of the Secretary that any such failure will not occur again and that withholding under paragraph (1) would cause undue hardship to such payee,

then the Secretary shall notify payors withholding under paragraph (1)(C) to cease such withholding.".

(b) 20-PERCENT BACKUP WITHHOLDING IN CASES WHERE INTEREST, DIVIDENDS, AND PATRONAGE DIVIDEND PAYMENTS INVOLVED.—Section 3402(s)(5) (relating to definitions and special rules) is amended by adding at the end thereof the following new subparagraph:

"(K) WITHHOLDING AT 20 PERCENT IN FAILURE INVOLVING INTEREST, DIVIDENDS, OR PATRONAGE DIVIDENDS.—In the case of any withholding required under—

"(i) paragraph (1)(C), or

"(ii) subparagraph (A) or (B) of paragraph (1) to the extent the taxpayer identification number involved relates to a return described in clause (iii), (iv), (vi) of paragraph (3)(A),

paragraph (1) shall be applied by substituting '20 percent' for '15 percent'.".

(c) MINIMUM PENALTY FOR FAILURE TO IMPLEMENT BACKUP WITHHOLDING.—Section 6672 (relating to penalty for failure to collect and pay over tax etc.) is amended by adding at the end thereof the following new subsection:

"(c) MINIMUM PENALTY FOR FAILURE TO IMPLEMENT BACKUP WITHHOLDING.—In the case of any failure to deduct and withhold a tax under section 3402(s)(1)(C), there is hereby imposed a penalty equal to $100, less the amount of the penalty under subsection (a) with respect to such failure.".

(d) SECRETARY MAY REQUIRE PAYORS TO GET NOTICE.—Section 3402(s)(5) (relating to definitions and special rules), as amended by subsection (b), is amended by adding at the end thereof the following new subparagraph:

"(L) FORM OF NOTICE.—

"(i) IN GENERAL.—The Secretary may prescribe regulations which provide that notice may be given under paragraph (1) (B) or (C) by requiring payors to compare the tax identification numbers or names and taxpayer identification numbers of all payees of such payor with a list of such numbers or such names and numbers maintained by the Secretary and with respect to which withholding is required under this subsection.

"(ii) USE OF LIST BY PAYOR.—Any payor (or agent thereof) may use any information obtained from the list described in subparagraph (A) solely for the purpose of meeting any requirement of such payor under this subsection.

"(iii) CROSS REFERENCE.—For civil actions involving misuse of taxpayor return information, see section 7431.".

(e) CONFORMING AMENDMENTS.—Subsection (s) of section 3402 (relating to extension of withholding to certain payments where identifying number not furnished or inaccurate) is amended—

(1) in paragraph (1)—

(A) by striking out "or" at the end of subparagraph (A),

(B) by inserting "or" at the end of subparagraph (B), and

(C) by inserting after subparagraph (B) the following new subparagraph:

"(C) the Secretary notifies the payor under paragraph (6)(A),",

(2) by redesignating subparagraph (C) or paragraph (2) as subparagraph (D) and by inserting after subparagraph (B) of paragraph (2) the following new subparagraph:

"(C) FAILURE TO INCLUDE CERTAIN AMOUNTS IN INCOME.—In the case of any failure described in subparagraph (C) of paragraph (1), paragraph (1) shall apply to any backup withholding payment made during the period—

"(i) beginning on the 61st day after the day on which the payor was notified by the Secretary of such failure, and

"(ii) ending on the day on which the Secretary notifies the payor under paragraph (6)(C) to cease withholding.",

(3) in subparagraph (D) of paragraph (2), as redesignated by paragraph (2), by striking out "or (B)" in clause (i) and inserting in lieu thereof ", (B), or (C)", and

(4) by inserting "Or to Certain Interest, Dividend, or Patronage Dividend Payments Not Repored" after "inaccurate" in the caption thereof.

SEC. 204. RETURNS ON MAGNETIC TAPE.

Subsection (e) of section 6011 (relating to regulations requiring returns on magnetic tape, etc.) is amended—

(1) by inserting "(1) IN GENERAL.—" Before the first sentence thereof, and

(2) by adding at the end thereof the following new paragraph:

"(2) CERTAIN RETURNS MUST BE FILED ON MAGNETIC MEDIA.—In the case of any person who is required to file more than 50 returns under section 6042(a), 6044(a), or 6049(a) for any calendar year, all returns under such section shall be on magnetic media.".

SEC. 205. PENALTY FOR FAILURE BY PAYORS TO MEET CERTAIN REPORTING REQUIREMENTS.

(a) IN GENERAL.—Subsection (a) of section 6676 (relating to failure to supply identifying numbers) is amended by redesignating paragraph (2) as paragraph (3) and by inserting after paragraph (1) the following new paragraph:

"(2) PENALTY FOR FAILURE TO SUPPLY CORRECTION ON CERTAIN RETURNS.—

(A) IN GENERAL.—If any person—

"(i) is required to include in any return required to be filed under section 6042, 6044, or 6049 with respect to another person the taxpayer identification number of such other person, and

"(ii) fails to include such number or includes an incorrect number.

then, in lieu of any penalty under paragraph (1), such person shall pay a penalty for each such failure equal to the greater of (I) $50, or (II) 5 percent of the amount required to be included in the return to which such failure relates.

"(B) INCREASED PENALTY FOR SUBSTANTIAL NONCOMPLIANCE.—

"(i) IN GENERAL.—In the case of a person who is described in clause (ii) for any calendar year, subparagraph (A) shall be applied with respect to returns relating to such calendar year by substituting '$100' for '$50' and '10 percent' for '5 percent'.

"(ii) SUBSTANTIAL NONCOMPLIANCE.—For purposes of this subparagraph, a person is described in this clause if, with respect to such person, the sum of the number of failures under this paragraph and section 6652(a)(3) for any calendar year exceeds the lesser of—

"(I) 10,000, or

"(II) 15 percent of the number of returns required to be filed under section 6042, 6044, or 6049 by such person with respect to such calendar year.

"(C) NO PENALTY IN CERTAIN CASES.—No penalty shall be imposed under this paragraph—

"(i) if the taxpayer identification number included on the return is the number provided after December 31, 1982, under penalty of perjury, by the person with respect to whom such return relates unless, under regulations prescribed by the Secretary, such number is obviously incorrect, or

"(ii) for any period during which a person is waiting for receipt of a taxpayer identification number from the Secretary.".

(b) FAILURE TO FILE STATEMENTS.—Subsection (a) of section 6652 (relating to returns relating to information at source, payments of dividends, etc., and certain transfers of stock) is amended—

(1) in paragraph (1)(A)—

(A) by striking out clauses (ii), (iii), and (iv) and by redesignating clauses (v) and (vi) as clauses (ii) and (iii), and

(B) by striking out "6042 (e), 6044 (f), 6049 (e), or" in clause (iii), as so redesignated, and

(2) by adding at the end thereof the following new paragraph:

"(3) FAILURE TO FILE CERTAIN STATEMENTS.—

"(A) IN GENERAL.—In the case of any person who fails to file 1 or more returns or statements under section 6042, 6044, or 6049 on the date prescribed therefor (determined with regard to any extension of time for filing), such person shall pay (upon notice and demand by the Secretary and in the same manner as a tax) for each such failure an amount equal to the greater of—

"(i) $100, or

"(ii) 7.5 percent of the amount required to be reported on the statement.

"(B) INCREASED PENALTY FOR SUBSTANTIAL NONCOMPLIANCE.—In the case of a person who is described in section 6676(a)(2)(B)(ii), subparagraph (A) shall be applied by substituting '$200' for '$100' and '15 percent' for '7.5 percent'.".

SEC. 206. DUPLICATE STATEMENTS REQUIRED TO BE FURNISHED ON RETURN.

(a) INTEREST.—

(1) DUPLICATE STATEMENT REQUIRED ON RETURN.—Section 6049 (c) (relating to statements regarding payment of interest) is amended by adding at the end thereof the following new paragraph:

"(4) DUPLICATE STATEMENT TO BE INCLUDED IN RETURN OF PERSON WITH RESPECT TO WHOM INFORMATION IS FURNISHED.—A duplicate of the statement required to be furnished to a person under paragraph (1) shall be included with the return of the person receiving such statement for the taxable year which ends with or within the calendar year to which the statement relates.".

"(2) FORM AND METHOD OF MAILING STATEMENT.—Section 6049(c)(2) (relating to time statement must be furnished) is amended to read as follows:

"(2) TIME AND FORM OF STATEMENT.—The written statement under paragraph (1) shall—

"(A) be furnished (either in person or by first-class mail) to the person on or before January 31 of the year following the calendar year for which the return under subsection (a) was made, and

"(B) shall, under regulations prescribed by the Secretary, be in a form similar to the form of statements required under section 6041(d).".

"(b) DIVIDENDS.—

"(1) DUPLICATE STATEMENT REQUIRED ON RETURN.—Section 6042 of such Code (relating to returns regarding payments of dividends) is amended by adding at the end thereof the following new subsection:

"(e) DUPLICATE STATEMENT TO BE INCLUDED IN RETURN OF PERSON WITH RESPECT TO WHOM INFORMATION IS FURNISHED.—A duplicate of the statement required to be furnished to a person under subsection (c) shall

be included with the return of the person receiving such statement for the taxable year which ends with or within the calendar year to which the statement relates.".

(2) FORM AND METHOD OF MAILING STATEMENT.—The second sentence of section 6042 (c) (relating to time statement must be furnished) is amended to read as follows: "The written statement required under the preceding sentence shall be furnished (either in person or by first-class mail) to the person on or before January 31 of the year following the calendar year for which the return under subsection (a) was made, and shall, under regulations prescribed by the Secretary, be in a form similar to the form of statements required under section 6041 (d).".

(c) PATRONAGE DIVIDENDS.—

(1) DUPLICATE STATEMENT REQUIRED ON RETURN.—Section 6044 of such Code (relating to returns regarding payment of patronage dividends) is amended by adding at the end thereof the following new subsection:

"(f) DUPLICATE STATEMENT TO BE INCLUDED IN RETURN OF PERSON WITH RESPECT TO WHOM INFORMATION IS FURNISHED.—A duplicate of the statement required to be furnished to a person under subsection (e) shall be included with the return of the person receiving such statement for the taxable year which ends with or within the calendar year to which the statement relates.".

(2) FORM AND METHOD OF MAILING STATEMENT.—The second sentence of section 6044 (e) (relating to time statement must be furnished) is amended to read as follows: "The written statement required under the preceding sentence shall be furnished (either in person or by first-class mail) to the person on or before January 31 of the year following the calendar year for which the return under subsection (a) was made, and shall, under regulations prescribed by the Secretary, be in a form similar to the form of statements required under section 6041 (d).".

(d) PENALTIES FOR FAILURE TO INCLUDE STATEMENT ON RETURN.—

(1) IN GENERAL.—Section 6678 (relating to failure to furnish certain statements) is amended—

(A) by inserting "(a) IN GENERAL.—" before "In the case of",

(B) by adding at the end thereof the following new subsection:

"(b) FAILURE TO ATTACH STATEMENT TO A RETURN.—In the case of each failure to attach a statement to a return under section 6042(e), 6044(f), or 6049(c)(4), unless it is shown that such failure to due to reasonable cause and not to willful neglect, there shall be paid (upon notice and demand by the Secretary and in the same manner as tax) by the person failing to attach such statement $50 for each such failure, but the total amount imposed for all such failures during such calendar year with respect to any person shall not exceed $50,000.", and

(C) by inserting "or attach" after "furnish" in the heading thereof.

(2) CONFORMING AMENDMENT.—The table of sections for subchapter B of chapter 68 is amended by inserting "or attach" after "furnish" in the item relating to section 6678.

SEC. 207. PENALTY ON PAYEE FOR FAILURE TO REPORT.

(a) IN GENERAL.—Subchapter B of chapter 68 (relating to assessable penalties) is amended by adding at the end thereof the following new section:

"SEC. 6705. ADDITIONAL PENALTY ON TAXPAYERS WHO WILLFULLY ATTEMPT TO EVADE OR AVOID TAX ON INTEREST, DIVIDENDS, OR PATRONAGE DIVIDENDS.

"(a) CIVIL PENALTY.—If, for any taxable year—

"(1) any taxpayer fails to include on a return of tax the amount of any interest, dividends, or patronage dividends required to be included in such return, and

"(2) the Secretary establishes that the taxpayer willfully attempted to evade or avoid Federal tax on such interest, dividends, or patronage dividends,

then there is imposed on such taxpayer for such taxable year a penalty of $1,000.

"(b) PENALTY IN ADDITION TO OTHER PENALTIES.—The penalty imposed by subsection (a) shall be in addition to any other penalty imposed by law.".

(b) CONFORMING AMENDMENT.—The table or sections for subchapter B of chapter 68 is amended by adding at the end thereof the following new item:

"Sec. 6705. Additional penalty on taxpayers who willfully attempt to evade or avoid tax on interest, dividends, or patronage dividends.".

SEC. 208. MATCHING OF RETURNS BY THE SECRETARY OF THE TREASURY.

It is the sense of the Congress that—

(1) with respect to taxable years beginning after December 31, 1982, the Secretary of the Treasury or his delegate should implement a program which matches—

(A) information received by the Secretary under section 6042, 6044, or 6049 of the Internal Revenue Code of 1954 with respect to any person for any calendar year, with

(B) the return of the tax imposed by such code on such person in which the information described in subparagraph (A) is required to be included, and

(2) except in the case of taxpayers whose taxable year is not a calendar year, the Secretary of the Treasury or his delegate should, under any program implemented under paragraph (1), complete the matching of any information described in paragraph (1)(A) which is received for any calendar year within 10 months of the close of such calendar year.

SEC. 209. REPORT; AUTHORIZATION OF APPROPRIATIONS.

(a) SENSE OF SENATE WITH RESPECT TO REPORTING ON AVAILABILITY OF RESOURCES.—It is the sense of the Senate that not later than June 15, 1983, the Secretary of the Treasury or his delegate shall report to the Congress on the availability of resources to carry out any program implementing the amendments made by, or the provisions of, title II of this Act.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated such sums as may be necessary to carry out any program implementing the amendments made by, or the provisions of, title II of this Act and it is the sense of the Congress that such sums be appropriated.

SEC. 210. EFFECTIVE DATES.

(a) IN GENERAL.—Except as provided in this section, the amendments made by this title shall apply to taxable years beginning after December 31, 1982, and before the termination date.

(b) SPECIAL RULE FOR REPORTING PROVISIONS.—

(1) The amendments made by section 203 shall apply to payments made after June 30, 1983, and before the termination date.

(2) The amendments made by section 204 shall apply to returns for calendar years beginning after December 31, 1982, and before the termination date, except that the Secretary of the Treasury or his delegate may provide that such amendments shall not apply to any person for calendar year 1983 in any case where application of such amendments would cause undue hardship to such person.

(3) The amendments made by sections 205 and 206 shall apply to returns or statements the due date for which (without regard to extensions) is after December 31, 1982, and before the termination date.

(c) TERMINATION DATE DEFINED.—For purposes of this section, the term "termination date" means the date (if any) on which the amendments made by subtitle A of title III of the Tax Equity and Fiscal Responsibility Act of 1982 apply to interest, dividends, and patronage dividends under section 308 of such Act.

DOLE AMENDMENT NO. 1180

Mr. DOLE proposed an amendment to the amendment of Mr. KASTEN (No. 1179) to the motion of Mr. DOLE to recommit the bill S. 144, supra; as follows:

I move to amend the motion of the Senator from Wisconsin to amend the motion of the Senator from Kansas to recommit S. 144 to the Committee on Finance by striking out the matter proposed to be inserted by the amendment of the Senator from Wisconsin to the motion of the Senator from Kansas and inserting in lieu thereof the following:

TITLE II—WITHHOLDING ON INTEREST, DIVIDENDS, AND PATRONAGE DIVIDENDS

SEC. 201. AMENDMENT OF 1954 CODE.

Except as otherwise expressly provided, whenever in this title an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

SEC. 202. DELAY IN WITHHOLDING ON INTEREST AND DIVIDENDS.

Section 308 of the Tax Equity and Fiscal Responsibility Act of 1982 (relating to effective dates and special rules involving withholding on interest and dividends) is amended—

(1) by striking out subsection (a) and inserting in lieu thereof the following:

"(a) IN GENERAL.—Except as otherwise provided in this section, the amendments made by this subtitle shall apply to interest, dividends, and patronage dividends paid or credited after June 30, 1987.

"(b) WITHHOLDING ON INTEREST, DIVIDENDS, AND PATRONAGE DIVIDENDS NOT TO TAKE EFFECT IF COMPLIANCE SUBSTANTIALLY IMPROVES.—

"(1) STUDY OF COMPTROLLER GENERAL.—The Comptroller General of the United States shall conduct a study with respect to the collection of taxes on interest, dividends, and patronage dividends.

"(2) DETERMINATION OF PERCENTAGE OF COMPLIANCE.—In connection with the study under paragraph (1), the Comptroller General shall compute the percentage determined by dividing—

"(A) the amount of interest, dividends, and patronage dividends which the Comptroller General reasonably estimates was shown on returns of tax imposed by subtitle A of the Internal Revenue Code of 1954—

"(i) which were required to be filed by individuals for taxable years which begin in 1985, and

"(ii) which were filed within the time prescribed by law (determined with regard to any extension) and before August 15, 1986, by

"(B) the aggregate amount of interest, dividends, and patronage dividends which the Comptroller General reasonably estimates was required to be shown on returns described in subparagraph (A) (without regard to clause (ii) thereof).

"(3) REPORT TO CONGRESS.—Not later than January 1, 1987, the Comptroller General shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate the results of the study conducted under paragraph (1) and the percentage determined under paragraph (2).

"(4) WITHHOLDING NOT IMPLEMENTED IF COMPLIANCE SUBSTANTIALLY IMPROVED.—

"(A) IN GENERAL.—If the percentage determined under paragraph (2) is 95 percent or greater, then the amendments made by this subtitle shall not apply to any interest, dividends, or patronage dividends paid or credited after June 30, 1987.

"(B) WITHHOLDING TO APPLY IF COMPLIANCE NOT SUBSTANTIALLY IMPROVED AND CONGRESS AGREES.—If subparagraph (A) does not apply, the amendments made by this subtitle shall apply to any interest, dividends, or patronage dividends paid or credited after June 30, 1987, only if both Houses of Congress adopt, before April 1, 1987, a concurrent resolution, the matter after the resolving clause of which is as follows: 'That the Congress approves of the determination of the Comptroller General under section 308(a)(2) of the Tax Equity and Fiscal Responsibility Act of 1982 that the compliance percentage for payment of taxes on interest, dividends, and patronage dividends is less than 95 percent.'.

"(C) EXPEDITED PROCEDURE.—

"(i) EXPEDITED RULES TO APPLY.—The rules of subsections (c) through (g) of section 151 of the Trade Act of 1974 (19 U.S.C. 2191) shall apply to a resolution described in subparagraph (B)(ii) in the same manner as such rules apply to an implementating revenue bill, except that subsection (e)(3) of such section 151 shall not apply and such resolution, upon introduction in the Senate and the House of Representatives, shall be referred to the Committee on Finance and the Committee on Ways and Means, respectively.

"(ii) IN GENERAL.—The provisions of this subparagraph are enacted by the Congress—

"(I) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such they are deemed a part of the rules of each House, respectively and they supercede other rules only to the extent that they are inconsistent therewith, and

"(II) with full recognition of the constitutional right of either House to change the rules at anytime, in the same manner, and to the same extent as in the case of any other rule of that House.

"(5) ACTION BY COMPTROLLER IF CONGRESS DISAPPROVES EARLIER REPORT.—If both Houses of Congress do not adopt the resolution described in paragraph (4)(B)(ii) before April 1, 1987—

"(A) the Comptroller General shall, not later than January 1, 1988, resubmit the percentage determined under paragraph (2) (taking into account any revised data) and report such percentage to the committees described in such paragraph, and

"(B) if the percentage is less than 95 percent, the amendments made by this subtitle shall apply to interest, dividends, or patronage dividends paid or credited after June 30, 1988, if both Houses of Congress, before April 1, 1988, adopt a resolution described in paragraph (4)(B)(ii).

"(6) DEFINITIONS.—For purposes of this subsection, the terms 'interest', 'dividends', and 'patronage dividends' have the same meanings given such terms by sections 6049(b), and 3454(c) of the Internal Revenue Code of 1954, respectively.", and

(2) by redesignating subsections (b), (c), and (d) as subsections (c), (d), and (e), respectively.

SEC. 203. APPLICATION OF BACKUP WITHHOLDING RULES TO CERTAIN PAYMENTS.

(a) IN GENERAL.—Section 3402(s) (relating to extension of withholding to certain payments where identifying number not furnished or inaccurate) is amended by adding at the end thereof the following new paragraph:

"(6) SPECIAL RULES FOR BACKUP WITHHOLDING ON INTEREST, DIVIDENDS, AND PATRONAGE DIVIDENDS NOT REPORTED ON RETURN.—

"(A) IN GENERAL.—If the Secretary determines that any payee failed—

"(i) to include in any return of tax required to be filed for any taxable year more than $50 of any backup withholding payments which—

"(I) are described in clause (iii), (iv), or (vi) of paragraph (3)(A) of this subsection, and

"(II) are required to be included in such return, or

"(ii) to file the return of tax in which such payments are required to be included.

the Secretary shall notify the payors of the payments described in subclause (I) of the requirement to deduct and withhold under paragraph (1) (but not the reason therefor).

"(b) NOTICE TO PAYEE.—

"(i) NOTICE BY SECRETARY.—At the same time as the Secretary notifies the payor under subparagraph (A), the Secretary shall notify the payee of—

"(I) the Secretary's determination under subparagraph (A) (and the reasons therefor), and

"(II) the requirement that the payor deduct and withhold tax under this subsection.

"(ii) 45-DAY PERIOD TO RESPOND.—The Secretary shall prescribe procedures which allow the payee to respond to the notice received under clause (i) within 45 days of receipt of such notice.

"(iii) NOTICE BY PAYOR.—Any payor required to withhold any tax under paragraph (1)(C) shall, at the time such withholding begins, notify the payee of such withholding.

"(C) CESSATION OF WITHHOLDING.—If—

"(i) there was no failure under subparagraph (A),

"(ii) any such failure (including the payment of any tax, penalty, or interest with respect to such failure) has been corrected, or

"(iii) the payee establishes to the satisfaction of the Secretary that any such failure will not occur again and that withholding under paragraph (1) would cause undue hardship to such payee,

then the Secretary shall notify payors withholding under paragraph (1)(C) to cease such withholding.".

(b) 20-PERCENT BACKUP WITHHOLDING IN CASES WHERE INTEREST, DIVIDENDS, AND PATRONAGE DIVIDEND PAYMENTS INVOLVED.—Section 3402(s)(5) (relating to definitions and special rules) is amended by adding at the end thereof the following new subparagraph:

"(K) WITHHOLDING AT 20 PERCENT IN FAILURE INVOLVING INTEREST, DIVIDENDS, OR PATRONAGE DIVIDENDS.—In the case of any withholding required under—

"(i) paragraph (1)(C), or

"(ii) subparagraph (A) or (B) of paragraph (1) to the extent the taxpayer identification number involved relates to a return described in clause (iii), (iv), or (vi) of paragraph (3)(A), paragraph (1) shall be applied by substituting '20 percent' for '15 percent'.".

(c) MINIMUM PENALTY FOR FAILURE TO IMPLEMENT BACKUP WITHHOLDING.—Section 6672 Irelating to penalty for failure to collect and pay over tax, etc.) is amended by adding at the end thereof the following new subsection:

"(c) MINIMUM PENALTY FOR FAILURE TO IMPLEMENT BACKUP WITHHOLDING.—In the case of any failure to deduct and withhold a tax under section 3402(s)(1)(C), there is hereby imposed a penalty equal to $100, less the amount of the penalty under subsection (a) with respect to such failure.".

(d) SECRETARY MAY REQUIRE PAYORS TO GET NOTICE.—Section 3402(s)(5) (relating to definitions and special rules), as amended by subsection (b), is amended by adding at the end thereof the following new subparagraph:

"(L) FORM OF NOTICE.—

"(i) IN GENERAL.—The Secretary may prescribe regulations which provide that notice may be given under paragraph (1) (B) or (C) by requiring payors to compare the tax identification numbers or names and taxpayer identification numbers of all payees of such payor with a list of such numbers or such names and numbers maintained by the Secretary and with respect to which withholding is required under this subsection.

"(ii) USE OF LIST BY PAYOR.—Any payor (or agent thereof) may use any information obtained from the list described in subparagraph (A) solely for the purpose of meeting any requirement of such payor under this subsection.

"(iii) CROSS REFERENCE.—For civil actions involving misuse of taxpayer return information, see section 7431.".

(e) CONFORMING AMENDMENTS.—Subsection (s) of section 3402 (relating to extension of withholding to certain payments where identifying number not furnished or inaccurate) is amended—

(1) in paragraph (1)—

(A) by striking out "or" at the end of subparagraph (A),

(B) by inserting "or" at the end of subparagraph (B), and

(C) by inserting after subparagraph (B) the following new subparagraph:

"(C) the Secretary notifies the payor under paragraph (6) (A),",

(2) by redesignating subparagraph (C) of paragraph (2) as subparagraph (D) and by inserting after subparagraph (B) of paragraph (2) the following new subparagraph:

"(C) FAILURE TO INCLUDE CERTAIN AMOUNTS IN INCOME.—In the case of any failure described in subparagraph (C) of paragraph (1), paragraph (1) shall apply to any backup withholding payment made during the period—

"(i) beginning on the 61st day after the day on which the payor was notified by the Secretary of such failure, and

"(ii) ending on the day on which the Secretary notifies the payor under paragraph (6).

(C) to cease withholding.",

(3) in subparagraph (D) of paragraph (2), as redesignated by paragraph (2), by striking out "or (B)" in clause (i) and inserting in lieu thereof ", (B), or (C)", and

(4) by inserting "Or to Certain Interest, Dividend, or Patronage Dividend Payments Not Reported" after "Inaccurate" in the caption thereof.

SEC. 204. RETURNS ON MAGNETIC TAPE.

Subsection (e) of section 6011 (relating to regulations requiring returns on magnetic tape, etc.) is amended—

(1) by inserting "(1) IN GENERAL.—" before the first sentence thereof, and

(2) by adding at the end thereof the following new paragraph:

"(2) CERTAIN RETURNS MUST BE FILED ON MAGNETIC MEDIA.—In the case of any person who is required to file mor than 50 returns under section 6042(a), 6044(a), or 6049(a) for any calendar year, all returns under such section shall be on magnetic media.".

SEC. 205. PENALTY FOR FAILURE BY PAYORS TO MEET CERTAIN REPORTING REQUIREMENTS.

(a) IN GENERAL.—Subsection (a) of section 6676 (relating to failure to supply identifying numbers) is amended by redesignating paragraph (2) as paragraph (3) and by inserting after paragraph (1) the following new paragraph:

"(2) PENALTY FOR FAILURE TO SUPPLY CORRECTION ON CERTAIN RETURNS.—

"(A) IN GENERAL.—If any person—

"(i) is required to include in any return required to be filed under section 6042, 6044, or 6049 with respect to another person the taxpayer identification number of such other person, and

"(ii) fails to include such number or includes an incorrect number.

then, in lieu of any penalty under paragraph (1), such person shall pay a penalty for each such failure equal to the greater of (I) $50, or (II) 5 percent of the amount required to be included in the return to which such failure relates.

"(B) INCREASED PENALTY FOR SUBSTANTIAL NONCOMPLIANCE.—

"(i) IN GENERAL.—In the case of a person who is described in clause (ii) for any calendar year, subparagraph (A) shall be applied with respect to returns relating to such calendar year by substituting '$100' for '$50' and '10 percent' for '5 percent'.

"(ii) SUBSTANTIAL NONCOMPLIANCE.—For purposes of this subparagraph, a person is described in this clause if, with respect to such person, the sum of the number of failures under this paragraph and section 6652(a)(3) for any calendar year exceeds the lesser of—

"(I) 10,000, or

"(II) 15 percent of the number of returns required to be filed under section 6042, 6044, or 6049 by such person with respect to such calendar year.

"(C) NO PENALTY IN CERTAIN CASES.—No penalty shall be imposed under this paragraph—

"(i) if the taxpayer identification number included on the return is the number provided after December 31, 1982, under penalty of perjury, by the person with respect to whom such return relates unless, under regulations prescribed by the Secretary, such number is obviously incorrect, or

"(ii) for any period during which a person is waiting for receipt of a taxpayer identification number from the Secretary.".

(b) FAILURE TO FILE STATEMENTS.—Subsection (a) of section 6652 (relating to returns relating to information at source, payments of dividends, etc., and certain transfers of stock) is amended—

(1) in paragraph (1) (A)—

(A) by striking out clauses (ii), (iii), and (iv) and by redesignating clauses (v) and (vi) as clauses (ii) and (iii), and

(B) by striking out "6042 (e), 6044 (f), 6049 (e), or" in clause (iii), as so redesignated, and

(2) by adding at the end thereof the following new paragraph:

"(3) FAILURE TO FILE CERTAIN STATEMENTS.—

"(A) IN GENERAL.—In the case of any person who fails to file 1 or more returns or statements under section 6042, 6044, or 6049 on the date prescribed therefor (determined with regard to any extension of time for filing), such person shall pay (upon notice and demand by the Secretary and in the same manner as a tax) for each such failure an amount to the greater of—

"(i) $100, or

"(ii) 7.5 percent of the amount required to be reported on the statement.

"(B) INCREASED PENALTY FOR SUBSTANTIAL NONCOMPLIANCE.—In the case of a person who is described in section 6676 (a) (2) (B) (ii), subparagraph (A) shall be applied by substituting '$200' for '$100' and '15 percent' for '7.5 percent'.".

SEC. 206. DUPLICATE STATEMENTS REQUIRED TO BE FURNISHED ON RETURN.

(a) INTEREST.—

(1) DUPLICATE STATEMENT REQUIRED ON RETURN.—Section 6049 (c) (relating to statements regarding payment of interest) is amended by adding at the end thereof the following new paragraph:

"(4) DUPLICATE STATEMENT TO BE INCLUDED IN RETURN OF PERSON WITH RESPECT TO WHOM INFORMATION IS FURNISHED.—A duplicate of the statement required to be furnished to a person under paragraph (1) shall be included with the return of the person receiving such statement for the taxable year which ends with or within the calendar year to which the statement relates.".

(2) FORM AND METHOD OF MAILING STATEMENT.—Section 6049(c)(2) (relating to time statement must be furnished) is amended to read as follows:

"(2) TIME AND FORM OF STATEMENT.—The written statement under paragraph (a) shall—

"(A) be furnished (either in person or by first-class mail) to the person on or before January 31 of the year following the calendar year for which the return under subsection (a) was made, and

"(B) shall, under regulations prescribed by the Secretary, be in a form similar to the form of statements required under section 6041 (d).".

(b) DIVIDENDS.—

(1) DUPLICATE STATEMENT REQUIRED ON RETURN.—Section 6042 of such Code (relating to returns regarding payments of dividends) is amended by adding at the end thereof the following new subsection:

"(e) DUPLICATE STATEMENT TO BE INCLUDED IN RETURN OF PERSON WITH RESPECT TO WHOM INFORMATION IS FURNISHED.—A duplicate of the statement required to be furnished to a person under subsection (c) shall be included with the return of the person receiving such statement for the taxable year which ends with or within the calendar year to which the statement relates.".

(2) FORM AND METHOD OF MAILING STATEMENT.—The second sentence of section 6042(c) (relating to time statement must be furnished) is amended to read as follows: "The written statement required under the preceding sentence shall be furnished (either in person or by first-class mail) to the person on or before January 31 of the year following the calendar year for which the return under subsection (a) was made, and shall, under regulations prescribed by the Secretary, be in a form similar to the form of statements required under section 6041(d).".

(c) PATRONAGE DIVIDENDS.—

(1) DUPLICATE STATEMENT REQUIRED ON RETURN.—Section 6044 of such Code (relating to returns regarding payment of patronage dividends) is amended by adding at the end thereof the following new subsection:

"(f) DUPLICATE STATEMENT TO BE INCLUDED IN RETURN OF PERSON WITH RESPECT TO WHOM INFORMATION IS FURNISHED.—A duplicate of the statement required to be furnished to a person under subsection (e) shall be included with the return of the person receiving such statement for the taxable year which ends with or within the calendar year to which the statement relates.".

(2) FORM AND METHOD OF MAILING STATEMENT.—The second sentence of section 6044(e) (relating to time statement must be furnished) is amended to read as follows: "The written statement required under the preceding sentence shall be furnished (either in person or by first-class mail) to the person on or before January 31 of the year following the calendar year for which the return under subsection (a) was made, and shall, under regulations prescribed by the Secretary, be in a form similar to the form of statements required under section 6041(d).".

(d) PENALTIES FOR FAILURE TO INCLUDE STATEMENT ON RETURN.—

(1) IN GENERAL.—Section 6678 (relating to failure to furnish certain statements) is amended—

(A) by inserting "(a) IN GENERAL.—" before "In the case of",

(B) by adding at the end thereof the following new subsection:

"(b) FAILURE TO ATTACH STATEMENT TO A RETURN.—In the case of each failure to attach a statement to a return under section 6042(e), 6044(f), or 6049(c)(4), unless it is shown that such failure is due to reasonable cause and not to willful neglect, there shall be paid (upon notice and demand by the Secretary and in the same manner as tax) by the person failing to attach such statement $50 for each such failure, but the total amount imposed for all such failures during such calendar year with respect to any person shall not exceed $50,000.", and

(C) by inserting "or attach" after "furnish" in the heading thereof.

(2) CONFORMING AMENDMENT.—The table of sections for subchapter B of chapter 68 is amended by inserting "or attach" after "furnish" in the item relating to section 6678.

SEC. 207. PENALTY ON PAYER FOR FAILURE TO REPORT.

(a) IN GENERAL.—Subchapter B of chapter 68 (relating to assessable penalties) is amended by adding at the end thereof the following new section:

"SEC. 6705. ADDITIONAL PENALTY ON TAXPAYERS WHO WILLFULLY ATTEMPT TO EVADE OR AVOID TAX ON INTEREST, DIVIDENDS, OR PATRONAGE DIVIDENDS.

"(a) CIVIL PENALTY.—If, for any taxable year—

"(1) any taxpayer fails to include on a return of tax the amount of any interest, dividends, or patronage dividends required to be included in such return, and

"(2) the Secretary establishes that the taxpayer willfully attempted to evade or avoid Federal tax on such interest, dividends, or patronage dividends,

then there is imposed on such taxpayer for such taxable year a penalty of $1,000.

"(b) PENALTY IN ADDITION TO OTHER PENALTIES.—The penalty imposed by subsection (a) shall be in addition to any other penalty imposed by law.".

(b) CONFORMING AMENDMENT.—The table of sections for subchapter B of chapter 68 is amended by adding at the end thereof the following new item:

"Sec. 6705. Additional penalty on taxpayers who willfully attempt to evade or avoid tax on interest, dividends, or patronage dividends.".

SEC. 208. MATCHING OF RETURNS BY THE SECRETARY OF THE TREASURY.

It is the sense of the Congress that—

(1) with respect to taxable years beginning after December 31, 1982, the Secretary of the Treasury or his delegate should implement a program which matches—

(A) information received by the Secretary under section 6042, 6044, or 6049 of the Internal Revenue Code of 1954 with respect to any person for any calendar year, with

(B) the return of the tax imposed by such Code on such person in which the information described in subparagraph (A) is required to be included, and

(2) except in the case of taxpayers whose taxable year is not a calendar year, the Secretary of the Treasury or his delegate should, under any program implemented under paragraph (1), complete the matching of any information described in paragraph (1)(A) which is received for any calendar year within 10 months of the close of such calendar year.

SEC. 209. REPORT; AUTHORIZATION OF APPROPRIATIONS.

(a) SENSE OF SENATE WITH RESPECT TO REPORTING ON AVAILABILITY OF RESOURCES.—It is the sense of the Senate that not later than June 15, 1983, the Secretary of the Treasury or his delegate shall report to the Congress on the availability of resources to carry out any program implementing the amendments made by, or the provisions of, title II of this Act.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated such sums as may be necessary to carry out any program implementing the amendments made by, or the provisions of, title II of this Act and it is the sense of the Congress that such sums be appropriated.

SEC. 210. EFFECTIVE DATES.

(a) IN GENERAL.—Except as provided in this section, the amendments made by this title shall apply to taxable years beginning after December 31, 1982, and before the termination date.

(b) SPECIAL RULES FOR REPORTING PROVISIONS.—

(1) The amendments made by section 203 shall apply to payments made after June 30, 1983, and before the termination date.

(2) The amendments made by section 204 shall apply to returns for calendar years beginning after December 31, 1982, and before the termination date, except that the Secretary of the Treasury or his delegate may provide that such amendments shall not apply to any person for calendar year 1983 in any case where application of such amendments would cause undue hardship to such person.

(3) The amendments made by sections 205 and 206 shall apply to returns or statements the due date for which (without regard to extensions) is after December 31, 1982, and before the termination date.

(c) TERMINATION DATE DEFINED.—For purposes of this section, the term "termination date" means the date (if any) on which the amendments made by subtitle A of title III of the Tax Equity and Fiscal Responsibility Act of 1982 apply to interest, dividends, and patronage dividends under section 308 of such Act.

MELCHER AMENDMENT NO. 1181

Mr. MELCHER proposed an amendment to the motion of Mr. BAKER to waive the Congressional Budget Act of 1974 with respect to the consideration of S. 144, supra, as follows:

At the end of the motion add: Further, under Section 904(b) I move to waive the relevant section contained in titles 3 or 4 of the Budget Act for this amendment on this bill or any other bill considered by the Senate in this session of Congress.

BANKRUPTCY REFORM ACT

HELMS AMENDMENTS NOS. 1182 THROUGH 1192

(Ordered to lie on the table.)

Mr. HELMS submitted 11 amendments intended to be proposed by him to the bill (S. 1013) to amend title 28 of the United States Code regarding jurisdiction in bankruptcy proceedings, and to establish new Federal judicial positions; as follows:

AMENDMENT NO. 1182

On page 14, beginning with line 1, strike out all to line 1 on page 20.

On page 20, line 1, strike out "Title IV" and insert in lieu thereof "Title III".

On page 20 through page 34, redesignate sections 401 through 418 as sections 301 through 318, respectively.

On page 34, lines 13 and 14, strike out "408, 409, 410, and 412" and insert in lieu thereof "308, 309, 310, and 312".

AMENDMENT NO. 1183

At the end thereof, add the following:

TITLE —JUDGESHIPS

SECTION . (a) There is hereby created a Joint Committee of Judicial Conduct (hereafter in this Part referred to as the "Joint Committee").

(b) The Joint Committee shall be composed of ten members as follows:

(1) five Members of the Senate, appointed by the President pro tempore of the Senate, three from the majority party and two from the minority party; and

(2) five Members of the House of Representatives appointed by the Speaker of the House of Representatives, three from the majority party and two from the minority party.

(c) Vacancies in the membership of the Joint Committee shall not affect the power of the remaining members to execute the functions of the Joint Committee and shall be filled in the same manner as in the case of the original appointment.

(d) The Joint Committee shall select a chairman and a vice chairman from among its members at the beginning of each Congress. The vice chairman shall act in the place and stead of the chairman in the absence of the chairman. The chairmanship and the vice chairmanship shall alternate between the Senate and the House of Representatives with each Congress. The chairman during each even-numbered Congress shall be selected by the Members of the House of Representatives on the Joint Committee from among their number and the chairman during each odd-numbered Congress shall be selected by the Members of the Senate on the Joint Committee from among their number. The vice chairman during each Congress shall be chosen in the same manner from the House of Congress other than the House of Congress of which the chairman is a member.

SEC. . The Joint Committee shall review the official conduct including the decisions of Federal judges and shall report the results of its review to the Senate and the House of Representatives, including recommended articles of impeachment whenever it determines the conduct of a Federal judge fails to meet the standard of good behavior.

(a) For the purposes of this subsection, the term "Federal judges" shall include all judges of all courts of the United States, all Justices of the Supreme Court and the Chief Justice of the United States, during active service.

(b) For the purpose of this subsection, the term "good behavior" has the same meaning as that term has in section 1, article II of the Constitution of the United States. Conduct failing to meet the standard of good behavior includes:

(1) abuse of judicial authority;

(2) improper exercise of the judicial function;

(3) neglect or refusal to perform the duties of office;

(4) usurpation of the authority of the Congress, the President or the States;

(5) exercise of will instead of judgment by substituting the pleasure of the judge for that of the legislature—either Congress or the ratifiers of the Constitution of the United States, as the case may be—rather than declaring the sense of the law; and

(6) any other conduct which constitutes a failure to meet the standard of good behavior at common law at the time of the adoption of the Constitution of the United States.

(c) The Joint Committee shall review the official conduct of each Federal judge every ten years.

(1) For Federal judges appointed after the date of enactment of this Act, the Joint Committee shall review the official conduct of each Federal judge on the tenth anniversary of his appointment and every ten years thereafter.

(2) The Joint Committee shall divide all Federal judges other than those included in subsection (c)(1) by lot into ten equal groups and review the official conduct of the members of one such group during each of the ten years next following the enactment of this Act, one group of Federal judges per year. Beginning with the eleventh year following the enactment of this Act, the Joint Committee shall review the official conduct of each Federal judge who shall have been placed in one of the ten groups described by this subsection on the tenth anniversary of its original review of that judge and every ten years thereafter.

SEC. 103. The Joint Committee, or any duly authorized subcommittee thereof, is authorized to sit and act at such places and times during sessions, recesses, and adjourned periods of Congress, to require by subpena or otherwise the attendance of such witnesses and the production of such books, papers, and documents, to administer

such oaths and affirmations, to take such testimony, to produce such printing and binding, and to make such expenditures, as it deems advisable. The Joint Committee may make such rules respecting its organization and procedures as it deems necessary, except that no recommendation shall be reported from the Joint Committee unless a majority of the Joint Committee assent. Subpenas may be issued over the signature of the chairman of the Joint Committee or of any member designated by him or by the Joint Committee, and may be served by such person or persons as may be designated by such chairman or member. The chairman of the Joint Committee or any member thereof may administer oaths or affirmations to witnesses.

SEC. 104. (a) In carrying out its functions under section 102 of this subtitle, the Joint Committee is authorized, by record vote of a majority of the members of the Joint Committee—

(1) to appoint, on a permanent basis, without regard to political affiliation and solely on the basis of fitness to perform their duties, not more than ten professional staff members and not more than six clerical staff members;

(2) to prescribe their duties and responsibilities;

(3) to fix their pay at respective per annum gross rates not in excess of the highest rate of basic pay, as in effect from time to time, of the General Schedule of section 5332(a) of title 5, United States Code; and

(4) to terminate their employment as the Joint Committee may deem appropriate.

(b) In carrying out any of its functions under this title, the Joint Committee is authorized to utilize the services, information facilities, and personnel of the departments and establishments of the Government, and to procure the temporary (not to exceed one year) or intermittent services of experts or consultants or organizations thereof by contract at rates of pay not in excess of the per diem equivalent of the highest rate of basic pay set forth in the General Schedule of section 5332 of title 5, United States Code, including payment of such rates for necessary traveltime.

SEC. 105. The Joint Committee shall keep a complete record of all Joint Committee actions, including a record of the votes on any question on which a record vote is demanded. All records, data, charts and files of the Joint Committee shall be the property to the Joint Committee and shall be kept in the offices of the Joint Committee or such other places as the Joint Committee may direct.

SEC. 106. The expenses of the Joint Committee shall be paid from the contingent fund of the House of Representatives, from funds appropriated for the Joint Committee, upon vouchers approved by the chairman.

SEC. 107. Notwithstanding any determination or review by the Joint Committee on Judicial Conduct, or any provision of this Act, nothing in this title shall in any way derogate from the obligation of the House of Representatives to impeach Federal officers, including judges, as set forth in the Constitution of the United States. The procedures established by this title are cumulative and are not intended to replace any other procedures concerning impeachment of Federal judges or any other Federal officers.

SEC. . The fourth undesignated paragraph of section 331 of title 28, United States Code, is amended to read as follows:

"The conference shall make a comprehensive survey of the condition of business in the courts of the United States and prepare plans for assignment of judges to or from circuits or districts where necessary, and shall submit suggestions to various courts, in the interest of uniformity and expedition of business.".

SEC. . (a) Section 332(a) of title 28, United States Code, is amended to read as follows:

"(a) The chief of each circuit shall call, at least twice in each year and at such places as he may designate, a council of the circuit judges for the circuit, in regular active service, at which he shall preside. Each circuit judge, unless excused by the chief judge, shall attend all sessions of the council.".

(b) Section 332(c) of title 28, United States Code, is amended by striking out "semiannually" and inserting in lieu thereof "quarterly".

(c) Section 332(d) of title 28, United States Code, is amended to read as follows:

"(d) Each judicial council shall make all necessary orders for the effective and expeditious administration of the business of the courts within its circuit. The district judges shall promptly carry into effect all orders of the judicial council.".

(d)(1) The section heading for section 332 of title 28, United States Code, is amended to read as follows:

"§ 332. Judicial Councils".

(2) The item relating to section 332 in the section analysis for chapter 15 of title 28, United States Code, is amended to read as follows;

"332. Judicial councils.".

SEC. . (a) Section 372 of title 28, United States Codes, is amended by striking subsection (c).

(b) The section heading for section 372 of title 28, United States Code, is amended to read as follows:

"§ 372. Retirement for disability; substitute judge on failure to retire".

(c) The item relating to section 372 in the section analysis for chapter 17 of title 28, United States Code, is amended to read as follows:

"372. Retirement for disability; subsitute judge on failure to retire.".

SEC. . Section 604 of title 28, United States Code, is amended by striking subsection (h).

AMENDMENT No. 1184

On page 14, beginning with line 2, strike all to line 1 on page 20 and insert in lieu thereof the following:

SEC. . Section 2254(a) of title 28, United States Code, is amended to read as follows:

"(a) The Supreme Court, a Justice thereof, a circuiit judge, or a district court shall entertain an application for a writ of habeas corpus on behalf of a person in custody pursuant to a judgment of a State court only on a ground which presents a substantial Federal constitutional question, and then only if—

"(1) it was not previously raised and determined,

"(2) there has been no fair and adequate opportunity to raise it and have it determined, and

"(3) it cannot thereafter be raised and determined in a proceeding in the State court, by an order or judgment subject to review by the Supreme Court of the United States on a writ of certiorari.".

SEC. 420. Section 636(b)(1)(B) of title 28, United States Code, is amended to read as follows:

"(B) a judge may also designate a magistrate to conduct hearings, including evidentiary hearings, except evidentiary hearings in cases brought pursuant to section 2254 of this title, and to submit to a judge of the court proposed findings of fact and recommendations for the disposition, by such judge, of any motion excepted in subparagraph (A), of applications for post trial relief made by individuals convicted of criminal offenses and of prisoner petitions challenging conditions of confinement.".

AMENDMENT No. 1185

On page 34, after line 14, add the following new sections:

SEC. 419. Section 2254 (a) of title 28, United States Code, is amended to read as follows:

"(a) The Supreme Court, a Justice thereof, a circuit judge, or a district court shall entertain an application for a writ of habeas corpus on behalf of a person in custody pursuant to a judgment of a State court only on a ground which presents a substantial Federal constitutional question, and then only if—

"(1) it was not previously raised and determined,

"(2) there has been no fair and adequate opportunity to raise it and have it determined, and

"(3) it cannot thereafter be raised and determined in a proceeding in the State court, by an order or judgment subject to review by the Supreme Court of the United States on a writ of certiorari.".

SEC. 420. Section 636(b)(1)(B) of title 28, United States Code, is amended to read as follows:

"(B) a judge may also designate a magistrate to conduct hearings, including evidentiary hearings, except evidentiary hearings in cases brought pursuant to section 2254 of this title, and to submit to a judge of the court proposed findings of fact and recommendations for the disposition, by such judge, of any motion excepted in subparagraph (A), of applications for post trial relief made by individuals convicted of criminal offenses and of prisoner petitions challenging conditions of confinement.".

AMENDMENT No. 1186

On page 14, beginning with line 2, strike all to line 1 on page 20 and insert in lieu thereof the following:

SEC. . (a) Chapter 81 of title 28, United States Code, is amended by adding at the end thereof the following new section:

"§ 1259. Appellate jurisdiction; limitations.

"(a) Notwithstanding the provisions of sections 1253, 1254, and 1257 of this chapter, the Supreme Court shall not have jurisdiction to review, by appeal, writ of certiorari, or otherwise, any case arising out of any State statute, ordinance, rule, regulation, practice, or any part thereof, or arising out of any Act interpreting, applying, enforcing, or effecting any State statute, ordinance, rule, regulation, or practice which relates to voluntary prayer, Bible reading, or religious meetings in public schools or public buildings.".

"(b) As used herein, 'voluntary' means an activity in which a student is not required to participate by school authorities.".

(b) The section analysis of chapter 81 of title 28 is amended by adding at the end thereof the following new item:

"1259. Appellate jurisdiction; limitations.".

SEC. . (a) Chapter 85 of title 28, United States Code, is amended by adding at the end thereof the following new section:

"§ 1364. Limitations on jurisdiction.

"Notwithstanding any other provision of law, the district courts shall not have jurisdiction of any case or question which the Supreme Court does not have jurisdiction to review under section 1259 of this title.".

(b) The section analysis at the beginning of chapter 85 of title 28 is amended by adding at the end thereof the following new item:

"1364. Limitations on jurisdiction.".

SEC. . The amendments made by this title shall take effect on the date of enactment, except that such amendments shall not apply to any case which, on such date of enactment, was pending in any court of the United States.

AMENDMENT NO. 1187

On page 34, after line 14, add the following new sections:

TITLE

SEC. . (a) Chapter 81 of title 28, United States Code, is amended by adding at the end thereof the following new section:

"§ 1259. Appellate jurisdiction; limitations.

"(a) Notwithstanding the provisions of sections 1253, 1254, and 1257 of this chapter, the Supreme Court shall not have jurisdiction to review, by appeal, writ of certiorari, or otherwise, any case arising out of any State statute, ordinance, rule, regulation, practice, or any part thereof, or arising out of any Act interpreting, applying, enforcing, or effecting any State statute, ordinance, rule, regulation, or practice which relates to voluntary prayer, Bible reading, or religious meetings in public schools or public buildings.".

"(b) As used herein, 'voluntary' means an activity in which a student is not required to participate by school authorities.".

(b) The section analysis of chapter 81 of title 28 is amended by adding at the end thereof the following new item:

"1259. Appellate jurisdiction; limitations.".

SEC. . (a) Chapter 85 of title 28, United States Code, is amended by adding at the end thereof the following new section:

"§ 1364. Limitations on jurisdiction.

"Notwithstanding any other provision of law, the district courts shall not have jurisdiction of any case or question which the Supreme Court does not have jurisdiction to review under section 1259 of this title.".

(b) The section analysis at the beginning of chapter 85 of title 28 is amended by adding at the end thereof the following new item:

SEC. . The amendments made by this title shall take effect on the date of enactment, except that such amendments shall not apply to any case which, on such date of enactment, was pending in any court of the United States.

AMENDMENT NO. 1188

On page 14, beginning with line 2, strike all to line 1 on page 20 and insert in lieu thereof the following:

SEC. . (a) This section may be cited as the "Public School Equal Protection Act of 1983".

STATEMENT OF FINDINGS AND PURPOSE

(b) The Congress finds that the assignment and transportation of students to public schools on the basis of race, color, or national origin by the inferior Federal courts—

(I) violates constitutional and legal guarantees that individuals shall not be denied equal protection of the law;

(II) disrupts the public educational process;

(III) undermines the American tradition of neighborhood schools;

(IV) contributes to the resegregation of public schools;

(V) imposes unnecessary safety risks to public school children;

(VI) undermines support for public education;

(VII) interferes with the right of parents to make decisions regarding the education of their children;

(VIII) disrupts racial harmony by characterizing and classifying students on the basis of race or color and assigning them to schools on such basis;

(IV) diverts significant amounts of financial resources away from direct improvement of the quality education;

(X) usurps the responsibilities and traditional functions of State and local authorities to provide an educational system meeting the needs of the community;

(XI) undermines the public respect for the Federal judiciary and its system of administering law and justice.

AUTHORITY

(c) The Congress, pursuant to its authority and powers granted under artilce III of the Constitution, and under section 5 of the fourteenth amendment of the Constitution, enacts the provisions of the Act in order to protect public school students against discrimination on the basis of race, color, or national origin.

LIMITATION ON THE JURISDICTION OF INFERIOR FEDERAL COURTS WITH RESPECT TO THE ASSIGNMENT OR TRANSPORTATION OF STUDENTS AND FORMAL DISSOLUTION OF PREVIOUSLY ENTERED ORDERS

(d)(I) Chapter 155 of title 28 of the United States Code (relating to the congressional power to limit the injunctive power of inferior Federal courts and relating to three judge courts) is amended by adding before section 2283 the following new section:

"SEC. 2282. JURISDICTION; LIMITATIONS.

"(a) Notwithstanding any other provision of law, no inferior court of the United States nor any judge of any inferior court of the United States shall have jurisdiction to issue or to continue in effect any injunction, writ, process, order, rule, judgment, decree, or command or any portion thereof—

"(1) requiring the assignment or transportation of any student to a public elementary or secondary school operated by a State or local educational agency for the purpose of altering the racial or ethnic composition of the student body at any public school, or for any other purpose;

"(2) requiring any State or local educational agency to close any school and to transfer the students from the closed school to any other school for the purpose of altering the racial or ethnic composition of the student body at any public school, or for any other purpose.

"(3) precluding any State or local educational agency from fulfilling any provision of any contract between it and any member of the faculty or administration of any public school it operates specifying the public school where the member of the faculty or administration is to perform his duties under the contract.

"(b)(1) For the purpose of this section the term "local educational agency" means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State or such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools. Such term also includes any other public institution or agency having administrative control and direction of a public elementary or secondary school.

"(2) For the purpose of this section the term 'State educational agency' means the State board of education or other agency or officer primarily responsible for State supervision of public elementary and secondary schools, or, if there is no such officer or agency, an officer or agency designated by the Governor or by State law."

(II) The section analysis of chapter 155 of title 28 of the United States code is amended by inserting before the item for section 2283 the following new item:

"2282. Jurisdiction; limitations."

AMENDMENT OF REMOVAL PROVISIONS

(e) Chapter 89 of title 28 of the United States Code (relating to district courts' removal of cases from State courts) is amended by adding after section 1455(c) the following new subsection:

"(d) A civil action in any State court including a demand for judgment for any relief described in section 2282(a) of this title may not be removed to any district court of the United States."

SEPARABILITY

(f) If any provision of this Act or the application of any such provision to any person or circumstance is held invalid, the remainder of the provision of this Act and the application of such provisions to other persons or circumstances shall not be affected thereby.

EFFECTIVE DATE

(g) The provisions of this Title shall be effective on July 1, 1983.

AMENDMENT NO. 1189

On page 34, after line 14, add the following new sections:

TITLE

SEC. . (a) This section may be cited as the "Public School Equal Protection Act of 1983".

STATEMENT OF FINDINGS AND PURPOSE

(b) The Congress finds that the assignment and transportation of students to public schools on the basis of race, color, or national origin by the inferior Federal courts—

(I) violates constitutional and legal guarantees that individuals shall not be denied equal protection of the law;

(II) disrupts the public educational process;

(III) undermines the American tradition of neighborhood schools;

(IV) contributes to the resegregation of public schools;

(V) imposes unnecessary safety risks to public school children;

(VI) undermines support for public education;

(VII) interferes with the right of parents to make decisions regarding the education of their children;

(VIII) disrupts racial harmony by characterizing and classifying students on the basis of race or color and assigning them to schools on such basis;

(IV) diverts significant amounts of financial resources away from direct improvement of the quality education;

(X) usurps the responsibilities and traditional functions of State and local authorities to provide an educational system meeting the needs of the community;

(XI) undermines the public respect for the Federal judiciary and its system of administering law and justice.

(c) The Congress, pursuant to its authority and powers granted under article III of the Constitution, and under section 5 of the fourteenth amendment of the Constitution, enacts the provisions of the Act in order to protect public school students against discrimination on the basis of race, color, or national origin.

LIMITATION ON THE JURISDICTION OF INFERIOR FEDERAL COURTS WITH RESPECT TO THE ASSIGNMENT OR TRANSPORTATION OF STUDENTS AND FORMAL DISSOLUTION OF PREVIOUSLY ENTERED ORDERS

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"(1) requiring the assignment or transportation of any student to a public elementary or secondary school operated by a State or local educational agency for the purpose of alerting the racial or ethnic composition of the student body at any public school, or for any other purpose;

"(2) requiring any State or local educational agency to close any school and to transfer the students from the closed school to any other school for the purpose of altering the racial or ethnic composition of the student body at any public school, or for any other purpose;

"(3) precluding any State or local educational agency from fulfilling any provision of any contract between it and any member of the faculty or administration of any public school it operates specifying the public school where the member of the faculty or administration is to perform his duties under the contract.

"(b)(1) For the purpose of this section the term "local educational agency" means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State or such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools. Such term also includes any other public institution or agency having administrative control and direction of a public elementary or secondary school.

"(2) For the purpose of this section the term 'State educational agency' means the State board of education or other agency or officer primarily responsible for State supervision of public elementary and secondary schools, or, if there is no such officer or agency, an officer or agency designated by the Governor or by State law."

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"(d) A civil action in any State court including a demand for judgment for any relief described in section 2282(a) of this title may not be removed to any district court of the United States."

SEPARABILITY

(f) If any provision of this Act or the application of any such provision to any person or circumstance is held invalid, the remainder of the provision of this Act and the application of such provisions to other persons or circumstances shall not be affected thereby.

EFFECTIVE DATE

(g) The provisions of this Title shall be effective on July 1, 1983.

AMENDMENT NO. 1190

At the end thereof, add the following:

SEC. . (a) Chapter 81 of title 28, United States Code, is amended by adding at the end thereof the following new section:

"§ 1259. Appellate jurisdiction; limitations.

"Notwithstanding the provisions of sections 1253, 1254, and 1257 of this chapter the United States Supreme Court shall not have jurisdiction to review, by appeal, writ of certiorari, or otherwise, any case wherein any party claims the abridgement by a State, or by any political subdivision, agency, or any other authority of a State, of any right secured by the first eight amendments to the Constitution of the United States.".

(b) The table of sections for chapter 81 of such title 28 is amended by adding at the end thereof the following new item:

"1259. Appellate jurisdiction; limitations.".

AMENDMENT NO. 1191

At the end thereof, add the following:

SEC. . (a) Chapter 85 of title 28, United States code, is amended by adding at the end thereof the following new section:

"§ 1365. Limitations on jurisdiction.

"Notwithstanding any other provision of law, the district courts shall not have jurisdiction of any case or question which the Supreme Court does not have jurisdiction to review under section 1259 of this title.".

(b) The table of sections for chapter 85 of such title 28 is amended by adding at the end thereof the following new item:

"1365. Limitations on jurisdiction.".

AMENDMENT NO. 1192

At the end thereof, add the following:

PART B—EXCLUSIONARY RULE

SEC. . (a) Chapter 223 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 3505. Elimination of exclusionary rule as it pertains to the fourth amendment.

"Evidence otherwise admissible in a Federal criminal proceeding shall not be excluded on the grounds that such evidence was obtained in violation of the fourth amendment to the Constitution of the United States.".

(b) The table of sections for chapter 223 of title 18, United States Code, is amended by adding at the end thereof the following new item:

"§ 3305. Elimination of the exclusionary rule as it pertains to the fourth amendment.".

LONG AMENDMENT NO. 1193

Mr. LONG proposed an amendment to the agreement (No. 1179) proposed by Mr. KASTEN to the motion of Mr. DOLE to recommit the bill S. 144, supra; as follows:

On page 16, lines 7 through 32, in lieu of section 210, insert the following:

SEC. 210. EFFECTIVE DATES AND REPEAL OF WITHHOLDING ON INTEREST AND DIVIDENDS.—

"(a) Notwithstanding any other provision of this title, sections 201 through 209 of this title are hereby null and void.

"(b) Subtitle A of title III of the Tax Equity and Fiscal Responsibility Act of 1982 (relating to withholding on interest and dividends) is hereby repealed, and the Internal Revenue Code of 1954 shall be applied as if subtitle A of title III of such Act (and the amendments made thereby) had not been enacted."

NOTICES OF HEARINGS

SUBCOMMITTEE ON WATER AND POWER

Mr. NICKLES. Mr. President, I would like to announce for the information of the Senate and the public the scheduling of a public hearing before the Subcommittee on Water and Power for Monday, May 2, beginning at 9 a.m. in room SD-138 of the Dirksen Senate Office Building. The subcommittee will receive testimony on S. 622, to authorize the Secretary of the Interior to undertake feasibility investigations; S. 662, to provide for confirmation of the repayment contract of the Dallas Creek participating project of the Upper Colorado storage project; S. 805, to amend the act of July 28, 1954 (68 Stat. 575), to authorize the Secretary of the Interior to construct, operate, and maintain the Santa Margarita project, California, and for other purposes; and S. 818, to authorize the replacement of existing pump casings in Robert B. Griffith water project pumping plants 1A and 2A (formerly the southern Nevada water project), and for other purposes.

Those wishing to testify or who wish to submit written statements for the hearing record should write to the Subcommittee on Water and Power, Committee on Energy and Natural Resources, room SD-360, Washington, D.C. 20510.

For further information regarding this hearing you may wish to contact Mr. Russ Brown of the subcommittee staff at 224-2366.

ADDITIONAL STATEMENTS

RECOVERY WILL DEFUSE THE DEBT BOMB

● Mr. HUMPHREY. Mr. President, yesterday's edition of the New York Times contained words of encouragement to myself and like-minded individuals who do not believe that the solution to the international debt problem lies in an expansion of the resources of the International Monetary Fund. It was reported that a classified report to the President has concluded that a sustained economic recovery in the industrial world will defuse the debt bomb by providing active markets for the exports of LDC's and other troubled debtors.

There are certain caveats to this assessment, Mr. President, yet none that seriously alter its fundamental premise. For instance, it is reportedly stipulated that the U.S. recovery must be genuine, and that it must not be accompanied by renewed inflation. Both of these factors are the responsibility of this administration and this Congress, and both must be taken seriously in the interests of our own economy and those of our trading partners. The third disclaimer requires that the adjustment programs prescribed by the IMF be tailored to the ability of the nations to comply with them. In other words, Mr. President, if the IMF does its job and we do ours, it is the conclusion of this Presidential panel that economic recovery alone will ease the Third World debt burden sufficiently so as to render unnecessary any comprehensive program to address the problem.

One of the most profound steps that we can take to insure the longevity of this essential recovery, Mr. President, is to reject the IMF quota increase and keep the $8.5 billion involved where they belong: in our own credit markets, where they will be used by domestic borrowers in the interest of economic expansion and increased employment both at home and abroad.

I ask that the article appear in the RECORD.

The article follows:

[From the New York Times, Apr. 19, 1983]

HOPE STIRS FOR WORLD DEBT RELIEF

(By H. Erich Heinemann)

A Government study, ordered by President Reagan, of the foreign debt crisis has apparently concluded that the problem will be solved by economic recovery among the major industrial nations.

This finding is likely to play a critical role in determining the American negotiating position at the seven-nation economic summit conference to be held at Williamsburg, Va., in late May. It would argue, for example, against any major new initiatives to deal with the debt problem.

However, according to officials who have read the 28-page, double-spaced third draft of the classified report, there are strong dissents to this optimistic view from both the Central Intelligence Agency and the staff of the National Security Council. Both agencies are said to be quite concerned about the ability of developing countries to keep up with their debt repayment. According to one account, these agencies argue that the problem could become unmanageable in the next 12 to 18 months, even with fairly strong economic recovery.

OUTSTANDING DEBT: $600 BILLION

Developing nations owe roughly $600 billion to governments and commercial banks. A lot of this debt is being renegotiated because it cannot be paid on time. Widespread defaults could undermine the stability of many of the world's largest banks.

The Administration study—known informally as "NSD-3," for National Security Directive Three—is scheduled for delivery to William P. Clark, President Reagan's national security adviser, by the end of this week, officials said.

According to one official, the key conclusion of the draft report is that "the medium-term prospects for improvement in the debtors' financial position are quite good." He added, "A recovery in the industrial countries should allow rapid growth of developing countries' exports, providing an opportunity to reduce debt service rations and resume economic growth." Debt service ratios are usually calculated by measuring required payments of interest and principal on international debts in relation to income from exports.

But the draft report also warns; "This estimate will change sharply if industrial countries fail to achieve a sustained recovery. And even with a steady recovery, there will be a risk of political instability in the L.D.C.'s," or less-developed countries.

ANALYSES BY FOUR WORKING GROUPS

The report is titled "Approach to the International Debt Situation—A Policy Overview." It was based, Government officials said, on analyses prepared by four working groups drawn from a variety of Federal agencies.

These groups covered (1) political and security considerations, (2) implications of alternative debt scenarios for United States economic recovery, (3) trade and trade policy and (4) "alternative proposals" for American policy. The alternative economic projections in the report were prepared under the direction of Paul R. Krugman, international policy economist on the staff of the President's Council of Economic Advisers.

Mr. Krugman, reached by telephone yesterday, said he could not discuss the report because it was classified. Other sources, however, said the Council of Economic Advisers had used a computer-based econometric model of the world economy patterned after the "interlink" system put together by the Organization for Economic Cooperation and Development. This method of anaylsis emphasizes the interdependence of all sectors of the world economy.

ALTERNATIVE OUTCOMES STUDIED

Four different possible outcomes were said to be analyzed in the draft report. Here are the so-called scenarios:

On the assumption that real economic growth among the industrial nations averages 4.2 percent annually over the next few years, one Government economists said, "the whole thing works out rather beautifully." But he cautioned that this growth rate would be "pretty rapid by recent standards."

If, instead, the industrial economies continue to stagnate—as they did from 1979 through 1982—and if real growth averages only 1.5 percent, then the problem would not be resolved. Rather, the ratio of international debt to gross national product in the developing countries would continue to rise, along with the ultimate risk of default.

A third alternative considers the possibility that there might be social or political limits on the degree of adjustment that the developing nations would be willing to accept to service their international debts. The word "adjustment" is often used to describe the domestic austerity programs prescribed by the International Monetary Fund as a precondition to obtaining temporary financing. Should the I.M.F.'s approach prove unacceptable, a Government economist said, the simulation shows that "the thing becomes explosive." He added: "We'll all go to hell very quickly. In 1984, already, it becomes unsustainable."

In the fourth hypothetical situation, inflation would ease the debt burden. The report projects the possibility of enough inflation to offset by 1988 all the gains of the last two years. In this projection, inflation would be back in the double-digit range by 1987 or 1988.

Under such circumstances, interest rates on the outstanding debt of the developing countries would rise in tandem with the acceleration in inflation. However, the real (inflation-adjusted) value of the debt would decline in relation to the real output of goods and services in the developing countries, including exports.●

SOVIET ATROCITIES IN AFGHANISTAN

● Mr. HELMS. Mr. President, the war of national liberation of the Afghan people against a Soviet occupying army rages on. Village to village, fire fight to strafing, from one Soviet atrocity and mass murder to another, the fight continues. Tragically, the American news media pays little attention to it. Many U.S. journalists, after all, are too busy minimizing Soviet involvement in Central America to chronicle the Russian war of extermination against Afghanistan.

A praiseworthy exception has been the Yale Free Press, a biweekly newspaper published by students and alumni of Yale University. Its April 8, 1983, issue contains eyewitness coverage of the Afghan war by two of the paper's staff, Gregory D'Elia and Charles Bork. Their excellent articles, "The Forgotten War" and "Spring Break in Afghanistan," should be required reading for those reporters from larger newspapers who have not been willing to run the risks of covering the carnage under the Pax Sovietica in Asia.

As a tribute to the two young journalists of the Yale Free Press, and for the information of those members of the Washington press corps who need to know more about the tragedy of Afghanistan, I ask that their articles be printed in the RECORD.

The articles follow:

[From the Yale Free Press, Apr. 8, 1983]

WHY AFGHANISTAN?

A new tendency toward isolationism is making itself felt in America today, a philosophy manifest in the nuclear disarmament movement and in the late anti-war movement. Those who demonstrate against the military are held up for admiration, praised for their "courage" and conviction.

But what courage does it take to oppose war? No one desires large-scale slaughter; most men are afraid to die. The difficult task is to determine when the course of human events demands that just men oppose what is being done to them—by force of arms, if necessary.

One million Afghans have been killed in the past four years. Millions more have fled their homes and their country to live in squalid refugee camps. Nearly all the able-bodied men of Afghanistan fight the Soviet occupation of their homeland. Our correspondents in that country reported that over and over again they were asked: "Why can't America help us?"

It can't be the money. The kinds of weapons the Afghans need cost very little—a few million dollars where so much is at stake.

Perhaps it is simply cowardice. After all, if we helped the Afghans, the Soviets might get mad, and we don't want that.

Or perhaps these people are just too strange. They wear strange clothes. They say strange prayers. They have darker skins. They are not like us. Why should we help them?

The American press has virtually ignored the conflict.

European journalists cross back and forth into Afghanistan frequently. Why are there no U.S. correspondents stationed with the freedom fighters in Afghanistan as there are "with the rebels in El Salvador?"

We have been told that we have learned the lesson of Vietnam: no longer shall America seek to impose its will on Third World nations.

But this is not what Vietnam teaches. Its lesson—which we have yet to learn—is that the agitations of a mob of unwashed, hallucinating adolescents can actually succeed in abetting the subjugation and genocide of a foreign people.

If we are not very careful, one day we will have to swallow the lesson of Afghanistan—that a bi-partisan coalition of well-meaning middle-aged liberal Democrats and Reagan Republicans can do the same thing.

THE FORGOTTEN WAR

(By Gregory D'Elia and Charles Bork)

Afghanistan has faded neatly from the public view. Yet inside that nation a Holy War rages to oust 130,000 Soviet troops which have occupied the country for more than three years.

In response to a broad-based popular resistance, the Soviets have moved to suppress the entire population.

Since they have failed to win an outright military victory, they now attack civil and military targets alike. The strategy is to devastate the subsistence base of the mujahedeen (Holy Warriors) operating within Afghanistan.

Soviet helicopters bombard villages, raze harvests, scatter anti-personnel mines, and attack livestock. Frequent accusations of chemical warfare have prompted U.N. investigations.

However, the freedom fighters continue their struggle defiantly, despite a shoestring budget. Limited to inferior arms—chiefly World War I rifles, captured Soviet Kalashnikovs and a handful of anti-tank weapons—the mujahedeen have still succeeded in improving their position since the Soviets invaded.

In fact, the mujahedeen are confident they will win the war. Their morale is very high, and already they have brought the forces of a modern superpower to an effective standstill. With better weapons they could decide the conflict.

In addition, practically the entire population is actively resisting the occupation.

A joke currently popular among Moscow's higher echelons runs:

Q: Why are we still in Afghanistan?

A: We're still looking for the people who invited us in.

Afghanistan is a valuable territory because of its strategic location and natural resources. Soviet troops now overlook the Persian Gulf and warm water ports. And the 4.5 million refugee population in bordering Iran and Pakistan contributes to the instability of the entire region.

In December 1979 the Soviets opted to intervene inside Afghanistan where a sympathetic communist regime was rapidly losing power. Soviet advisors had long been stationed in the country. Apparently they did not expect the strong resistance that the invasion encountered—even though Afghan fighters had repeatedly trounced an invading British Empire earlier in the century.

The Soviets do control cities, numerous airstrips, and a few central highways. But it is only by virtue of their armored helicopters that they maintain their domination, as the mujahedeen have no anti-aircraft capability.

The Soviets find themselves mired in a costly foreign war on difficult terrain. Morale is poor among the occupying army; often they sell arms secretly for extra food. Within the Afghan Government's conscripted army desertion is rampant.

Moreover, the Soviets face a genuine possibility of defeat—defeat which could have resounding consequences.

OVER SPRING BREAK

(By Gregory D'Elia)

("Over Spring Break," The Yale Free Press sent Charles Bork and Gregory D'Elia on a fact-finding expedition to Afghanistan. They spent five days with freedom fighters in the war-torn province of Paktia. The two entered the country secretly from Pakistan wearing turbans and traditional Afghan costume. The following piece, accompanied by a selection of Bork's photography, chronicles their five days inside Afghanistan.)

It was snowing the Sunday morning we passed into Afghanistan. We treaded a sharp and twisting trail across a white-capped mountain.

A dozen mujahedeen tramped alongside, guns and bullet belts slung about as casually as their cloaks and turbans. Freedom fighters streamed daily towards our destination, Paktia province, where a force of 10,000 Soviet troops had just embarked upon a clean-up mission.

We were leaving an Afghan refugee camp off Parichnar in Pakistan, after a two day visit. The camp was nearly empty. Almost every man of combat age had left for Afghanistan to counter the approaching assault. Paktia is perhaps Afghanistan's most traditional province. And tribal law is present to guide the native belligerent spirit: every family must provide a fighting man to the resistance for six months of the year.

Refugees established the camp more than four years back. Atrocities had begun even before the Soviets entered in response to their "Afghan invitation." After the Republic's overthrow in 1978 Taraki and the communist regime methodically terrorized the population. In Kabul they decimated the intellectual class and religious leadership. At least 20,000 vanished into Pulicharkhi, a prison of horrors likened to Pol Pot's Kampuchea. Thousands were bulldozed alive into the earth.

"Ya, dwa, dre." Hands cupped to his mouth, a young freedom fighter playfully mimicked government loudspeakers calling for surrender of the resistance. "Babrak, Babrak," another shouted a hundred meters up the mountain slope, invoking the name of the villified puppet president, Babrak Karmal.

Hours later in Paktia proper we stopped at an Islamic school. Adobe buildings swarmed with children of the vicinity's remaining families, chattering excitedly at our arrival. Mujahedeen (Holy Warriors) built the school to restore stability in the broken area. The curriculum of Pushto, Dari and Mathematics is one more attempt to discourage an exodus of refugees.

After customary cups of tea steeped with sugar the Headmaster dragged a rocket from some nearby bushes. It was about six feet in length and marked by Cyrillic script. It had landed at the school but had failed to explode. This kind of rocket sends out a shower of smaller bombs and shrapnel upon impact. If you were lucky enough to be lying down very close to it, the spray would sail safely over.

About fifty students, ages five to twenty, attend the center. They rely upon school supplies smuggled in from Pakistan by mujahedeen. Fighting remains sporadic. The Headmaster himself keeps a hefty submachine gun and frequently leads villagers and students into combat.

The snow had now become a heavy rain. A leaking matted roof meant a nighttime hike to dryer sleeping quarters. At a bombed-out village we camped within a mosque, where everyone set about to prayer. They would lay their colored cloaks upon the ground, bow to Mecca, kiss the floor, rise to their knees and stand again; while all the time they chanted invocations to Allah.

The mountain itself was a very steep precipice. We ascended a difficult zig-zag trail, plodding in snow to the knee. At the top we stopped to break bread according to Afghan custom.

On the opposite side a sharp slope assisted our rapid descent. Halfway down we halted at a tea shop, slipped off our boots, and entered upon a crowd of nearly twenty mujahedeen. Plastic stood in the windowframes in place of glass, which shatters during rocket attacks.

A hardened fighter, who requested anonymity, spoke of a failed attempt to assassinate Brezhnev. Twelve refugees had planned to interrupt a Soviet motorcade touring a non-aligned country in Southern Asia. They intended to overturn Brezhnev's armored limousine and douse it with alcohol for a flaming molotov cocktail. By chance, authorities pre-empted the plot; and in questioning suspects they submerged them in vats of water and inflicted electric shocks.

On the road again, Itebari pointed out camouflaged huts concealed in hillsides and caves that serve as air-raid shelters. Most folk had abandoned the central village, practically an Afghan ghost town now. Return is dangerous; Soviets descend from

helicopters to place mines in windows and doorways. We skirted bleak craters and photographed the shapes of houses left in rubble.

The scenes recurred: bombs and ruins, shrubs and camels, guns and peasants.

To the ring of frequent warning shots we approached the garrison of Charynaw at a miles's distance. Twelve to fifteen hundred troops and Soviet advisors occupy the post. However for two years freedom fighters have held the forces at bay. The enemy is surrounded, confined in a state of seige. The garrison relies entirely upon the invulnerability of roving helicopters for supply and relief.

Seven times Soviet convoys have tried to break the circle of mujahedeen. But fighters rallied to repulse each attempt. Now 10,000 Soviets were en route from Kardiz, the Paktia capital.

In the meantime the garrison had begun a calculated diversion. That day tanks and soldiers advanced 400 meters to a neighboring hillside, threatening to break out.

When we arrived we found the mujahedeen center buzzing with activity. A large abode complex, it was located about a cluster of abandoned homes and ruins. A dazed freedom fighter presented a limp and mutilated hand in welcome. Otherwise we made little stir.

They placed us inside a spacious, smokey room that was oppressively dark at five in the afternoon. Two horses stood quietly in the corner, and a few fighters paced intently in the chamber. Crashing mortars and crackling gunfire broke the silence.

They use the room as stable, mess hall, and barracks. With empty buildings everywhere, this attests to a general state of disorganization.

Someone complained that provincial leaders reject advice and fear outside influence. They especially mistrust the educated. People well remember the communists derived their leadership from Kabul universities.

Three days before, a seven hour bus ride had taken us out of Peshawar. Disguised in native dress we travelled to the border in silence with our two guides. To elude detection they had painted Bork's reddish beard black with a toothbrush and transferred our bags to mujahedeen on a later bus. We passed without incident through military checkpoints but authorities slyly exacted a "tax" upon the bags, a fee for which the carrier refused reimbursement. He adamantly insisted we were his guests.

At dawn we awoke within the mosque. Schoolchildren visited after tea; and Itebari, our translator, who had been a teacher before the war, delivered a brief lesson.

Although his family lives in a Peshawar refugee camp, Sher Mohammad Itebari travels widely inside Afghanistan throughout the year. He escorts journalists, carries medicine, teaches children, and fights the Russians.

Gunshots and drum beats carried messages through the village. Usually they signal helicopter bombardments and troop movements. But this morning the purpose was a birthday celebration.

After an hour's march over a snow-covered plain we stopped before a cluster of stone slabs and drooping flags. Against the thick mist and greyish mountains the cemetery made a somber scene. Flags hung above the graves of recent martyrs in the jihad. The colors were green and white. The mujahedeen have abandoned the blood red used during the wars against the British—red being the color of the new enemy.

We continued through a village at the foot of a mountain, careful to conceal our foreign features and equipment. A member of the radical fundamentalist faction resided in the village. We were travelling with the larger Moderate Alliance. Their differences of opinion can be dangerous.

The Soviets strive to promote collaboration among the villagers. They offer food, arms, and, most importantly, protection from their savage air strikes. Yet tribal areas are so close-knit that the Soviets meet with even less success than usual.

We slept on the hard earth floor to the sound of neighing horses. At one in the morning fifty mujahedeen filed into the room to ready themselves for fighting. Snapping rifle bolts and the chattering crowd made sleep impossible.

The mujahedeen are sometimes prone to translate an enthusiastic trust in Allah's assistance into reckless fighting. This is a Holy War, and 'martyrdom' brings eternal life in paradise. Thus they often scorn cautious tactics as betraying both cowardice and lack of faith in God.

Before dawn we arose to discover a different band of mujahedeen within the room. A group prayer obscured the light of the single kerosene lamp. They, too, were setting off for battle.

We climbed a sentry tower to observe the fighting. A ten-year-old boy looked on with us. He was waiting for a weapon, Itebari explained. When a rifle became available he would join the resistance forces. "He has not yet the fear," Itebari said.

The child's parents live at a refugee camp. They do not fear for his safety. Islam provides that, should he be killed in the holy war against the Soviets, he will have a place in Paradise and also the privilege of inviting his parents to join him.

At 8:00 am we took tea in a local shop. The owner produced a radio and we tuned in to BBC. Ronald Reagan was at it again. He had denounced communist expansion and had called upon the U.S. to safeguard Central America.

Meanwhile the mujahedeen anticipated an imminent air strike. They said the Soviets might bombard the headquarters to avenge the previous evening's casualties. Consequently they did not permit us to reenter the buildings.

We walked a quarter mile into surrounding ridges. A scorching sun had followed previous rains; the land was desiccated. The earthen colors of our clothing blended well with the terrain. At the sound of distant helicopter rotors we were to roll ourselves within our cloaks and impersonate rocks.

We waited three hours in the heat. I had little confidence in our plan of concealment. But Itebari insisted pilots would not detect our presence. They might level houses, scatter mines and exterminate flocks of sheep. But we would be invisible wrapped inside our Afghan capes.

The mujahedeen have little choice except to hide. Helicopters are the source of Soviet supremacy. With bulletproofed undersides, they are vulnerable to attack only when their upper halves are exposed, e.g. flying low through mountains. Otherwise they may roam free to suppress the Afghan population.

Anti-aircraft weapons could affect the war decisively. SAM-7's are inexpensive, they are handheld, and they are standard stock for Soviet-supplied insurgents throughout the world. But the West withholds this type of weapon and the Afghanis cannot comprehend the reason why.

In the early afternoon we returned from hiding and travelled to a nearby house. It belonged to Ayala Jan, age 34, a commander of 200 men. He lived there with his sons, brothers, father and wife. The remaining family was safe in refugee camps.

It appalled Ayala Jan to discover we had stayed in such cramped and restless quarters the previous night. He imposed every available hospitality in compensation. In contrast to our diet of boiled rice, potato broth and flat, dry bread (nan), we devoured a rare meal of hard-boiled eggs, salt and fresh milk. For dinner he promised to slaughter a chicken.

The entire household sat in attendance except for Ayala Jan's wife. By custom women stay apart from guests. However, we did see many at chores in the refugee camp: drawing water, cleaning rice, watching livestock, etc.

An elderly man looked upon us severely. He had a dark brown turban, a gnarled grey beard and an ancient British rifle over his lap.

"Why do Americans claim that they are friends of Afghan nation? Of Afghan freedom fighters and refugees?" he demanded through our translator.

The Americans think that "by making mouth" in assemblies they will force the Russians to leave Afghanistan. "But only by fighting can this happen," he explained.

The Karmal government has excellent weapons: tanks, fighter planes and helicopter gunships. But the freedom fighters have few anti-tank weapons, no anti-aircraft and very few bullets, he stated, indicating that the bullets in his belt were all that he owned.

"Many days we have no food, no arms, but still we are fighting," he said. The mujahedeen fight for religion and country, and will fight to the death of the very last Afghan, he added.

Western nations profess sympathy with the Afghan cause. Yet they do not provide badly needed arms while Afghan blood is spilt, he said.

"They are giving lies. They do not help us. They just say the same words every time, every time, every time . . ." he declared.

We replied we do not make U.S. policy. It was a feeble absolution of guilt because they could not help but regard us as ambassadors of the United States. Very few Americans visit Afghanistan. The conflict is both dangerous and inaccessible. At least for Americans—French, British and German journalists travel there frequently.

In the room there was a deserter fresh from the government garrison, he had slipped away during nightfighting three days before. Three straight years he had fought in the resistance. But the Soviets captured him. After imprisonment and torture, they conscripted him for service in the desertion-plagued army of Babrak Karmal.

The strenuous ordeal had drained his morale. He sat in silence, head bowed, in a distance corner of the room. He was indifferent, perhaps even hostile to our presence.

We marched outside to observe the deserter, Abdul Nabil, display his government uniform. He had a martial walk and shouted out, "Tasha Kur! Tasha Kur!" when addressed. Thank you Sir! He wore the brown wool uniform of the Afghan army and brace of grenades strung about his waist.

The garrison had issued him the bare minimum of equipment. Soldiers who prove their loyalty by membership in Parcham (the Communist Party) can rely upon an

extra pistol and a bullet proof vest, he claimed.

These vests protect against fire from the newer automatic weapons. Ironically, the rifles which date from World War I penetrate them due to their heavier bullets with greater stopping power. Soldiers using the vest, which covers to the knee, must maintain an upright position.

"We can tell who are the Russians—they cannot crawl; the Bulgarians—they throw down their weapons; the Cubans—now they are brave. But the Afghans—they fight best of all," Itebari had said one night in the refugee camp.

Afghan Government soldiers must yield to imported Soviet customs. Officers drill them in the ideas of the 'Revolution.' They teach that there is no God, they prohibit prayer, and they promote the consumption of alcohol in blatant violation of the Islamic creed, Nabi said.

Morale is not strong at the garrison. Many underfed soldiers peddle arms and ammunition for more food and cigarettes. Others even abet the resistance with active sabotage of government installations, he said.

However, there are a few soliders who accept the Soviet ways. These few attempt to justify the brutal suppression of the Afghan nation with visions of a golden industrial age, he stated.

They know even that chemical weapons are employed against the populace, he added bitterly.

Towards evening explosions were frequent and loud. Tanks were visible about the garrison positions. Bands of mujahadeen passed us regularly in their approach to the stronghold. They made a motley picture of guerilla war: antiquated rifles and bedraggled clothing. Yet these people have contained the Soviets, and at the turn of the century they drove out Her Majesty's expeditionary forces.

Throughout the day we had been told there would be much fighting in the night. When it was dark, Ayala Jan left us for the battle; and we mounted the roof to view the affair.

Brilliant ruby flashes screamed across the sky. Glaring spots of white light popped out on every side. There were giant blasts, ringing sounds, and the angry patter of machine guns. Then a lull, the faint glimmer of snow-capped mountains and a sky of piercing stars. And then the chaos would begin again.

Next morning we began our trek back to Pakistan. 10,000 Soviets were headed towards us, a day's distance away. Fighting was intense already. But if the approaching force could not be repelled, the battle would spread indiscriminatey.

We forded a river to return to our original route. Hiking was more difficult. Travelling towards the garrison there had always been bands of mujahadeen to provide a wary escort. And, moreover, they had helped us to transport equipment over the rugged mountains. Now there were five of us, each with a full load upon his back. One had suffered injuries from severe frostbite and was headed for the hospitals in Peshawar.

We marched for nearly nine hours that day. It was a fast pace and familiar scene: ruins, bombshells, cemeteries, shepherds and sheep. There were two mountains ahead.

We crossed the first mountain quickly. Our bodies were daily getting accustomed to the task. On the eastward slope we were amazed to discover how much easier it is to go down than up. The landscape itself was breathtaking. A heavy mist is common above Afghan terrain. But here the effect was even more acute and eerie.

A bit further on we deviated southwards from the standard trail. There had been a heavy firefight a few miles away, and Itebari wished to display the remains. He repeated many words of caution; we were to stick closely to the pathway. All about, the hills and fields were buried in a snowfall. "Butterfly bombs" lay insidiously concealed.

"Butterfly bombs" are a remarkable Soviet contribution to warfare. They consist of two plastic petals around an explosive charge, and are dropped from helicopters to a gentle landing on the ground. The seemingly intriguing toys spark a child's curiosity.

"Butterfly bombs" are representative of Soviet strategy: they do not admit to any difference between a civilian or military population, which is reasonable, since over 95 percent of the population opposes the Soviet regime. The Soviet response to guerrilla warfare is to terrorize the population, to attack the base of support for a resistance cause.

While they cannot break the resolve of the Afghan nation, the Soviets can still hope to demolish the base of subsistence for the mujahadeen. Thus they indiscriminately ravage harvests, bombard villages, and machine-gun sheep. Chemical warfare is reported, and it would certainly be consonant with this theme.

4.5 million refugees are reported in Iran and Pakistan. The Soviets claim both bandits and Western bribes are responsible. But this is patently absurd.

The Soviets themselves foster the exodus, which freedom fighters attempt to check. A depopulated Afghanistan can only feebly resist occupation. Fighters require a network of food, shelter and information to continue their struggle.

After a long stretch of careful footsteps we discovered a captured rocket launcher concealed within a glen. Some rockets were still intact, with many strewn about the ground. However, the central mechanism had been smashed.

Freedom fighters preserve the launcher as a war prize. Usually they convert Soviet vehicles to saleable scrap metal. We heard a tale of 62 tanks crushed in an avalanche caused by makeshift bombs. Each found its way to the Pakistan markets in dismantled form.

At dusk we reached the Islamic school. The Headmaster greeted us warmly. Now, he said, we were mujahadeen; and he repeated a very familiar prayer: "Thank the God that we are safe."

We left again at three in the morning for a nighttime mountain crossing. We were determined to make the refugee camp shortly after dawn so as to quickly arrange a return to Peshawar. We had been away a week.

The snow had mostly melted but the path was clogged with mud. Faint specks of light and shooting stars illuminated our passage towards the peak. And at the very top, the rocky plains below, gleamed the crescent moon upon the lights of Pakistan.●

AFL-CIO ISSUES THOUGHTFUL DEFENSE REPORT

● Mr. HART. Mr. President, the AFL-CIO Committee on Defense recently issued its interim report, and I would like to commend it to the attention of my colleagues.

The Committee on Defense has been engaged for some time on a major review of defense policy issues. It has heard 25 defense experts, traveled to several military bases, and given substantial time and effort to its task. Recently, it issued an interim report which addresses 28 separate defense issues and offers some very useful insights into our defense needs and problems.

Several of the points made in the interim report are, in my view, especially important. They include:

The Committee believes that the reliance on nuclear weapons to deter a conventional Soviet attack in Europe instead of matching Soviet conventional forces has produced an imbalance in the Western military posture which should be redressed.

The present structure of the Joint Chiefs of Staff is not conducive to the best strategic planning, and the committee believes the various proposals to remedy this problem should be studied.

While much of the debate over defense has centered on the value and affordability of "big ticket" weapons systems, the Committee believes, based on what we have learned so far, that the most seriously neglected aspect of national defense in the last decade has been the nuts and bolts of our military capability.

We believe improvements are needed in operations and maintenance, mobility, training and procurement procedures.

We are concerned about our merchant marine which has declined in the last 30 years from 1400 to 500 ships while the Soviet merchant marine has increased fivefold to 8000 vessels.

Mr. President, I think these and other points made by the AFL-CIO committee on defense are very much worthy of the attention of the Senate. I ask that the interim report be printed in full in the RECORD at the conclusion of my remarks.

The report referred to follows:

SUMMARY OF INTERIM REPORT, AFL-CIO COMMITTEE ON DEFENSE

(1) Since its creation a year ago, the Committee has held 16 meetings, heard 25 defense experts, observed military exercises at Fort Bragg, and sent a delegation to tour NATO facilities in the United Kingdom.

(2) Still, we have not covered every aspect of defense. Many defense issues are complex and technical, and we certainly do not consider ourselves defense experts. This, therefore, is an interim report. As we acquire more information and understanding, we will make additional report recommendations to the Council.

(3) We have come to some broad conclusions, which I will briefly summarize.

(4) First, the Committee examined the overall U.S.-Soviet military balance, in light of the trends of the 1970s, and concluded that these trends were disadvantageous to the United States and its NATO allies.

"During the decade of the 1970s, . . . the Soviet Union spent 40-50% more for defense than the United States. During this period, Soviet spending increased by 3-4% a year while U.S. defense spending declined about 2% a year."

Moreover, the Soviets spend proportionately more for weapons and less for personnel than the U.S. does.

(5) As the result of their massive buildup, the Soviets have eliminated clear-cut U.S. strategic nuclear superiority—even if they have not themselves achieved superiority. They have gained an advantage in intermediate nuclear missiles in Europe, and they outnumber the U.S. in conventional military strength.

(6) "The Committee believes that the increased ability of the Soviet Union to profit its military power far from its own border poses a potential threat not only in regions where the U.S. has important interests but to sea lanes that are vital to the flow of raw materials, trade, and, in the event of war, military supplies to our allies. Perhaps even more important is the political impact of growing Soviet military power and the pressure it exerts on other nations to accommodate to Soviet interests."

(7) As for the adequacy of U.S. strategy to meet this threat, the Committee believes that the reliance on nuclear weapons to deter a conventional Soviet attack in Europe instead of matching Soviet conventional forces has produced an imbalance in the Western military posture which should be redressed.

(8) We also believe that ways must be found to extend NATO's responsibilities from defending Europe alone to defending real alliance interests—for example, in the Persian Gulf.

(9) The present structure of the Joint Chiefs of Staff is not conducive to the best strategic planning, and the Committee believes the various proposals to remedy this problem should be studied.

(10) As for our strategic weapons systems, the Committee believes that the triad of land-, air- and sea-based systems should be maintained. Abandoning land-based missiles would encourage the Soviets to concentrate all their efforts on knocking out our sea-based systems, which are now invulnerable.

(11) Noting that the Executive Council in August 1979 had "conditioned its support for the MX on its basing mode being survivable to an adequate degree," and that a special commission has been appointed by the President to study the MX, the Committee concluded that "we remain to be convinced—and are open to argument—that an acceptable basing mode for the MX can be devised.

(12) "In keeping with our deep skepticism toward the doctrine of Mutual Assured Destruction as a credible, or moral, deterrent strategy, the Committee believes that, until nuclear weapons can be abolished altogether, accurate counterforce weapons—that is, weapons capable of destroying other weapons—are preferable to weapons systems that can only be used effectively against population centers."

(13) We, therefore, favor moving ahead with the Trident II submarines which, when equipped in 1989 with the D-5 ballistic missile system, will have "hard silo-killing" capability.

(14) The Committee noted the reservations of several experts about proceeding with the B-1 bomber, considering that "Stealth" aircraft will be available in several years. Others have proposed stretching out procurement of the B-1 for budgetary reasons. The Committee feels that:

"Whether either of these proposals is practical is influenced by when 'Stealth' will be available. The Reagan Administration originally estimated that 'Stealth' could be ready before 1990, but it now appears that, owing to changes in design, it may take longer . . . The Committee will seek clearer answers from the Administration as to when 'Stealth' can realistically be expected to be available and whether the timetable could be sped up if funds earmarked for the B-1 could be used for this purpose."

(15) To assess the state of U.S. conventional forces, the Committee invited leaders of the various services to explain their mission and to indicate whether they felt they had sufficient manpower and equipment to carry out their missions. Our interim report summarizes the major issues that arose in those discussions, including:

The best mix of ships in naval convoys.

The adequacy of training exercises in all the services.

The advantages and disadvantages of sophisticated as against simpler weapons.

Problems of maintaining unit cohesion and morale in the Army.

The ability of the All Volunteer Army to meet defense manpower needs, etc.

The Committee is not prepared, in this interim report, to make specific recommendations in this area, but will provide a more detailed report later.

"While much of the debate over defense has centered on the value and affordability of 'big ticket' weapons systems, the Committee believes, based on what we have learned so far, that the most seriously neglected aspect of national defense in the last decade has been the nuts and bolts of our military capability."

(17) We believe improvements are needed in operations and maintenance, mobility, training, and procurement procedures.

(18) We are concerned about our merchant marine which has declined in the last 30 years from 1,400 to 500 ships while the Soviet merchant marine has increased fivefold to 8,000 vessels.

(19) The erosion of our industrial base may result in bottlenecks in some industries as defense procurements mount, generating inflationary pressures that would otherwise not arise in our slack economy.

(20) This problem is aggravated by the erratic character of defense procurement, which also contributes to cost overruns and behind-schedule deliveries.

(21) With respect to the defense budget,

"The Committee believes that a moderate but steady and sustained growth in defense expenditures in the 1980s would be more effective in enhancing the nation's military capability—and in signalling our steadfastness of purpose—than huge spurts in spending followed, inevitably, by steep declines."

(22) Specifically, we propose that real growth in defense spending should be held within the range of 5 to 7% a year. A number of members of the Executive Council have expressed the strong opinion that the increase should be held to the lower end of this range. The Administration's 1984 budget would increase real defense spending to 9 to 10% a year.

(23) We are opposed to the Administration's plan to cut defense costs by freezing military and civilian pay and cost-of-living adjustments.

(24) The amounts that could be saved by holding real growth to 5 to 7% are based on estimates of the Congressional Budget Office and are spelled out in the Council statement on the budget.

(25) "The Committee proposes that, starting in July 1984, a special surtax to cover the real increases in defense spending should be levied on the corporate and individual income tax plus the income of the wealthy currently sheltered from taxation. Such a surtax should amount to approximately 3% in its first year and raise approximately $11 billion to $15 billion."

(26) Finally, with respect to arms control, the Committee believes that the Administration's proposal in the START talks to reduce warheads to 5,000 on each side "goes in the right direction and represents a credible negotiating position."

"One of the unforeseen consequences of the SALT process, with its emphasis on limiting strategic launchers, was that it encouraged both sides to increase the number of warheads on each delivery system—i.e., MIRVing. The Committee believes that arms negotiations with the Soviet Union must be aimed at reversing this process—i.e., at de-MIRVing. If both sides shifted to one-warhead missiles, their strategic forces would be more survivable and the nuclear balance would be more stable."

(27) As for the negotiations now underway on intermediate-range ballistics missiles in Europe, the Committee believes that the Administration's call for the "zero option"—the elimination of all such weapons—is a goal that merits support.

(28) In the months ahead, the Committee will continue to study the defense issues facing the nation, to acquire a growing base of information and understanding, and to make recommendations to the Executive Council as it develops a trade union approach to the all-important problem of achieving security and safeguarding free institutions in the nuclear age.●

ALASKA NATIONAL SPORT HUNTING ACT

● Mr. MURKOWSKI. Mr. President, I take this opportunity to belatedly thank my distinguished colleague from New York, Senator D'AMATO, for his support of S. 49, the Alaska National Sport Hunting Act of 1983. He joined 19 other Members of the Senate who have cosponsored this measure.

S. 49 reclassifies 12 million acres of national park in Alaska as national park preserve. Preserves only differ from parks in that sports hunting and trapping is permitted; the areas would remain closed to mining, mineral exploration, and other activities prohibited in national parks. The areas to be redesignated represent rich hunting grounds that were heavily used by sportsmen before they were withdrawn by President Carter in 1978. They are classified as national park land under the Alaska National Interest Lands Conservation Act, despite passage during consideration of the act of an amendment designating them as park preserve. If the Alaska hunting bill is passed, there would still remain 56 million acres of wilderness, 53 million acres of wildlife refuges and 20 million acres of national parks.

Senator STEVENS and I introduced this measure at the close of the last Congress, with the express aim of notifying the Senate of our intent to resubmit the legislation in this Congress. The Public Lands Subcommittee of the Energy and Natural Resources Committee held a hearing on S. 49 on

April 15, and I am working to have this bill reported from the committee prior to the July recess.

I look forward to working with Senator D'AMATO and with the other cosponsors to secure passage of S. 49.

Thank you, Mr. President.●

TRIBUTE TO THE HOOVER INSTITUTION

● Mr. WILSON. Mr. President, the palm trees of Palo Alto, Calif., shade the world's foremost center of documentation and research on problems of political, economic, and social change in the 20th century: the Hoover Institution on War, Revolution, and Peace.

On the campus of his alma mater, Stanford University, Herbert Hoover founded the institution as an archive for the valuable records of World War I and the 1917 Russian Revolution. Since then, the collection has grown to be the largest private archive of its kind in the United States.

In addition, the Hoover Institution boasts a team of the Nation's foremost scholars of international and domestic affairs. Five Nobel laureates are associated with the institution, including Dr. George J. Stigler, the 1982 winner of the prize in economics. The Hoover Institution's senior staff is known for a record of public service unique in the academic community. More than 35 scholars or former fellows have held distinguished posts in the Federal Government, including Dr. Philip C. Habib, a senior research fellow at the Hoover Institution and currently Special Envoy of the President to the Middle East.

The Hoover Institution is but one of the many assets of the State of California. I ask that a recent article from the Lebanon, Pa., Sunday Pennsylvanian be printed in the RECORD.

The article follows:

[From the Lebanon (Pa.) Sunday Pennsylvanian, Feb. 6, 1983]

HOOVER INSTITUTION—THE NATION'S FINEST

(By George Marotta)

The new 1982 Report of the Hoover Institution—just released—presents the evidence that the Institution is the leading center for advanced study and research on political, social, and economic change in the twentieth century. Dr. W. Glenn Campbell has been the Institution's Director since 1960. In releasing the Report, Dr. Campbell stated that "the Institution's superb scholarly staff, unrivaled record of public service, world-renowned library and archives, outstanding physical facilities, and solid financial base combine to make it unique among research organizations in the United States." Dr. Campbell can be justifiably proud of the Institution's achievements, for President Ronald Reagan (who has been an Honorary Fellow since 1975) has described it as "a valuable national resource" and "the brightest star in the constellation of think tanks."

The 1982 Report on the Institution describes its programs and vast library and archives in detail, and is a stunning illustration of why the Institution has been described as a "national asset" by Zbigniew Brzezinski, the former head of the National Security Council under President Carter.

SCHOLARLY STAFF

Our senior staff represents one of the finest groups of scholars in domestic and international studies in the United States and is the Institution's most important asset. Five Nobel laureates are associated with the Hoover Institution: Alexander Solzhenitsyn and economists Milton Friedman, George J. Stigler, Friedrich Hayek, and Kenneth Arrow. The excellence of academic achievement can also be measured by membership in distinguished societies, such as the National Academy of Sciences (8), the National Academy of Education (4) the American Association for the Advancement of Science (7), and the American Academy of Arts and Science (13).

In addition to academic achievement, the staff boasts a unique record for public service. More than 35 scholars or former Fellows have served in high-level executive and legislative branch positions in the U.S. government or as members of boards and commissions.

After serving during 1981 and the first part of 1982 as the Assistant to the President for Policy Development (Domestic Policy Advisor), Senior Fellow Martin Anderson now serves on both of the top domestic and international presidential advisory boards. Also serving on the President's Economic Policy Advisory Board are Senior Fellow Rita Ricardo-Campbell and Senior Research Fellow Milton Friedman. Director W. Glenn Campbell serves as Chairman of the President's Intelligence Oversight Board and is a member of the President's Foreign Intelligence Advisory Board (as is Martin Anderson). W. Glenn Campbell and Rita Ricardo-Campbell together have held a total of 10 presidentially appointed positions under three different presidents, an honor accorded few, if any, other couples in the United States.

Senior Research Fellow Philip C. Habib is the Special Envoy of the President to the Middle East; Senior Research Fellow Darrell M. Trent serves as Deputy Secretary of Transportation; Deputy Director Dennis L. Bark serves as a member of the President's Commission on White House Fellowships; Associate Director John H. Moore serves as a member of the Board of the National Science Foundation; and Richard V. Allen serves as Chairman of the Presidential Commission for the German-American Tricentennial.

Glenn Campbell has also served on the Board of the National Science Foundation, the largest foundation in the United States. Rita Ricardo-Campbell currently serves on the Council of the National Endowment for the Humanities, the major government foundation in this field. Glenn Campbell is currently Chairman of the Board of Regents of the University of California. He was the first academic from a private university ever to be appointed a member of that board, having been appointed in 1968 by then-Governor Ronald Reagan. The University of California has a budget of $4.5 billion and one of its nine campuses, Berkeley, was just rated first in the nation of Graduate School Faculty, and another campus, UCLA, was rated sixth.

There are so many academic superstars that space permits mention of only a few of the sixty resident fellows—Seymour Martin Lipset (political science, sociology), Sidney Hook (philosophy), Thomas Sowell (economics), Edward Teller (physics), as well as one Congressional Medal of Honor winner and two Presidential Medal of Freedom winners.

LARGEST PRIVATE ARCHIVE OF ITS KIND IN THE NATION

Many research institutes start by painting their name on the door and hiring a few people. The Hoover Institution began in 1919 when Herbert Hoover personally financed the collections of documentation to help scholars study the causes and consequences of World War I. From that beginning, collections have grown to a specialized library of one and one-half million published books and documents and an archive (unpublished papers), numbering over 4,300 collections (26 million documents). It is one of the finest collections in the world on political, economic, and social movements in the twentieth century. In addition to being used by resident fellows and university teachers, scholars come from across the United States and abroad to use the collections. They include Honorary Fellow Alexander Solzhenitsyn who, after using the collection, observed that "no serious scholar of Russian and Soviet history can bypass the Hoover Institution."

THE HOOVER INSTITUTION BUILDING COMPLEX

The facilities are idyllic for use by scholars in their academic pursuits. The three buildings of the Institution include a 285-foot tower housing over one million books; the Lou Henry Hoover Building, named after Mrs. Hoover, housing the East Asian collection; and the Herbert Hoover Memorial Building, our nation's only official memorial to former President Herbert Hoover, housing the archives, the Hoover Institution Press and research offices for the Institution's nationally acclaimed National Fellows Program and for scholars involved primarily in domestic studies. Although most scholars were previously content with a quiet room and a typewriter or pad and pencil, most now possess computer terminals for word processing and mathematical computations.

Located on the West Coast and in the heart of one of the nation's leading universities, the Institution enjoys unique advantages. Members of the faculties of Stanford University's schools and departments consult with Hoover Institution scholars on a regular basis, as do the members of the smaller research institutes in the social sciences and humanities also located on the Stanford University campus, such as the Center for Economic Policy Research. While these institutes lack the significant financial base and scholarly strengths of the Hoover Institution and do not enjoy the Institution's national and international reputation, their scholars are often invited to participate in the "Hoover Seminars," which feature such wellknown visitors as the Counselor to the President, Edwin Meese, the Secretary of Defense, and the Attorney General of the United States.

FUNDING

While many "think tanks" suffer from poor management, planning and funding, the excellent financial condition of the Hoover Institution attests to its foresighted and prudent management direction. Its financial reserves of almost $60 million, together with university support, book sales and annual gifts enable annual expenditures of almost $9 million. The size of the endowment and steady annual financial sup-

port for the Institution's documentation, research and publication programs help to ensure their continuance on a long-term basis.

The Hoover Institution and its unique role in American life, represents a legacy given to the United States by former President Hoover that has endured for more than six decades. The Institution's growth and development in the years and decades to come should continue to stimulate and challenge the thought of the best minds in the world.●

MILITARY COMMISSARIES

● Mr. GOLDWATER. Mr. President, once again that time of the year has come when it seems to be open season on any budget connected with the military. One of the first targets always leveled on are the military commissaries.

The commissaries provide for the man in uniform by taking recognition of the fact that his pay is way below comparable jobs outside of the military and that it is the duty of the Government to try and make up the best way they can this deficiency. I do not advocate a general raise in salaries to try to meet the private sector. I just suggest to my friends that they pay a little respect to the concept that we have heretofore nutured in this country, that we owe the men and women in uniform a debt, and one of the ways we can pay that debt is to make it a little easier for them to maintain a home, raise children, and live like the rest of us live.

I hope that there will not be any effort made to eliminate commissaries again this year. It would be disastrous following the decisions made by our President and the Secretary of Defense not to increase military salaries.

I ask that a column on this by the Association of the U.S. Army appear at this point in my remarks.

The article follows:

MILITARY COMMISSARIES—THEIR LOSS WOULD BE A SEVERE BLOW TO MILITARY POCKETBOOKS

Historically, the military commissary system grew out of the need to provide service families stationed at remote outposts with places to buy the necessities of life. For most service families stationed in the continental United States the original need for the commissaries was overtaken by the growth of civilian facilities. But, while the stores might no longer be the sole source of necessities, they have become the places at which military families can best afford to shop.

For longer than anyone in uniform can remember, recruiters have used the availability of commissary shopping as an arrow in their quiver of selling points for a military career. For just as long, Congress and the Department of Defense (and its various predecessors) have considered the savings derived from commissary shopping when attempting to judge the effectiveness of the military compensation system. It is now generally agreed that the service family shopping in the commissary can save 20 to 25 percent from the prices in civilian supermarkets.

From time to time there have been a number of proposals to close all or some of the commissaries. None of these proposals has succeeded because Congress knows the value of the stores to military families and realizes that, if the stores were closed, there would have to be a substantial pay increase to offset the military families' loss of buying power.

Now another potential threat to the commissaries has surfaced in the form of a staff recommendation prepared for the Private Sector Survey appointed by President Reagan and charged with finding ways for the government to save money—a very worthwhile mission. The recommendation has a long way to go—approval by the appointed members of the survey, by the President and the concurrence of Congress—and may never see the light of day. But the very existence of the recommendation is unsettling at a time when military pay may be frozen, and service members are uneasy about the future. The responsible parties should act immediately to lay this issue to rest, one hopes for the last time.●

LEW LEHRMAN ON MONEY AND ECONOMICS

● Mr. HELMS. Mr. President, the April 18 issue of Barron's magazine includes an interview with Lewis Lehrman, the past head of the Rite-Aid Corp., founder of the Lehrman Institute and, most recently, Republican candidate for Governor of New York.

The Barron's interview with Mr. Lehrman covers a number of subjects including the bond market and the stock market, but the most interesting from the point of view of public policy is the comments he makes on monetary policy.

As Mr. Lehrman points out, without a real change in our monetary policy, this Nation will not get low interest rates, full employment and real economic prosperity. That this is not understood in Washington is a major obstacle to making rational spending and taxation decisions. That we often confuse fiscal policy with monetary policy is one reason Congress' attempts to solve economic problems are so often counterproductive.

Mr. Lehrman's observations will be of help to all members interested in solving the economic problems of this Nation.

Mr. President, I ask that portions of the Barron's interview with Lew Lehrman be printed in the RECORD at this point.

The material follows:

[From the Barron's magazine, Apr. 18, 1983]

GOLDEN OPPORTUNITY

(Lewis Lehrman, a former honcho at Rite Aid Corp. and a speculator of some note, lost the race for New York's governor's mansion last fall. Undaunted, he's shifted his focus: yesterday, Albany; today, the nation's economic policy. He has some very definite and somewhat radical notions on what ought to be done in both the fiscal and monetary realms. A shirtsleeves intellectual, Lew likes to put his money where his mouth is—and right now that means in stocks.—Kathryn M. Welling.)

BARRON'S. Lew, what have you been doing since last November, other than licking your wounds?

Q. . . . Let the record show that he is very silent!

LEHRMAN. Well, I want to be very precise among so many eminent journalists! I began working on my book within a week of the campaign's end. Worked hard right through Christmas. It's done in manuscript form, although it needs a lot of editing. And I'm adding a few chapters. One on foreign policy and the defense budget.

Q. What's the book about?

A. A national policy for the 'Eighties—economic and foreign policy.

Q. Oh, a modest undertaking! And it was finished around Christmas?

A. I put the book aside when I decided that I had to learn a little bit more about what's going on with our allies, and maybe a little less about the main streets of New York. So I went off on a USIA-sponsored [U.S. Information Agency] trip to London, Paris, Frankfurt, Bonn, Berlin and Rome. I visited the defense ministries, the foreign ministries, the central banks to get caught up with what had gone on in Europe over the last 18 months. The gubernatorial race had lasted the better part of '81 and '82.

Q. So what makes the world go 'round?

A. Money. And its value has been falling relentlessly, but for a single month, since 1965. There is no case of the CPI declining in the last 18 years, except in the month that just ended. It has simply been a question of the relative rate of fall.

Q. You don't think we've kicked the inflation habit?

A. The engine of inflation could come to a permanent stop if the right policies are undertaken. Or it could easily continue.

Q. There's a choice, anyway. So, accordingly, what is your long-term view of bonds?

A. Well, there is no long term if this is merely a way station in the midst of an already generation-long great inflation.

Q. Let's turn to gold for a moment. A long time ago, you wrote that if there were excess cash around the world, the gold price would go up because the money people didn't know what to do with would be channelled into speculative markets—namely gold. You said that would be a sign that the central banks were pumping too much money into circulation. Nowadays, the Fed's creating credit at the rate of more than 10% annually, yet the gold price is meandering around $415 and doing nothing. Is the Fed creating too much credit and if so, why is gold so weak?

A. The theoretical paper to which you refer was an analysis and detailing of a model of a fully employed economy, where there is a secular inflation under way. For reasons of space, I did not consider the case of a non-inflationary economy at full employment, nor did I consider the case of an

underemployed economy with resources yet to be brought into production. In the full-employment case I used, in the absence of a monetary standard, the most sensitive of all prices, by all of our historical and empirical data, is the gold price. It is the principal indicator of excess cash balances being created by the monetary authority.

When the central bank is creating credit, or money, in excess of the desired level of cash balances in the markets for the purposes of production, then those excess cash balances will wash, generally, first into the gold market. That's the reason why, after the summer of 1982's switch in Fed policy, we observed the gold price moving very dramatically—and against all of the consensus opinion. And it is also the reason why, in November, the dollar began to fall in the foreign exchange markets. These were two very sensitive indicators of excess cash balances in the market.

Q. So you do think the Fed's creating too much credit?

A. I prefer to look at the monetary policy of the Federal Reserve System in terms of both the supply and the demand for credit. One of the great flaws of monetarism is that it looks only at the supply side, if you will, of the market for credit. If the supply of credit is equal to the level of credit actually desired for the purpose of production in the market, then the rate of interest will tend to be stable and so will the price level. It is only when the supply of credit being issued by the central bank exceeds the demand for credit by profitable producers in the market, that the price level will tend to rise and the value of money decline.

Q. Well, is gold fairly priced today?

A. At present prices, slightly underpriced relative to other traded commodities.

Q. How do you figure?

A. I think there is a way of specifying the conditions under which gold is overpriced or underpriced relative to other traded goods. If you believe as I do—and unlike neo-classical economists—that the formation of prices is largely a function of the cost of production, in the long run, then you simply have to search for the average of the costs of the marginal producers of the output to determine what, in fact, is the long-run equilibrium price.

Q. Backing up a bit, Lew, is the Fed creating too much money relative to the demand for it?

A. Between July of '82 and recently, I would say that the Federal Reserve was supplying the quantity of credit which was absolutely indispensable for maintaining the productive facilities of our country. The Fed meeting of July 12, I believe, was the most important meeting of 1982. There was an 8-to-4 vote to change Fed policy. In essence, to repudiate monetarism and to move to greater flexibility.

Q. That's when they got scared about Poland and Mexico . . .

A. I don't think it was a coincidence. We already had soundings of the financial crisis that was coming in Mexico, and we already had one in Poland. But up until July of 1982, the Fed was carrying out a monetary policy which was a hardship on the credit markets and caused the industrial system to grind to a halt. It was precisely what happened in England after Thatcher assumed power. After the summer of 1982, the Fed began to supply the quantity of credit that the business system actually needed in order to carry on its activities at some reasonable level of capacity. Now, in the last month or two, there has been an acceleration of the Fed's expansionary credit policy and I believe that has a good deal to do with the sustained rise in the stock market.

Q. Lew, what we're trying to get you to answer is this question: Is the Fed too loose right now?

A. At the moment, it is becoming too expansive.

Q. You sound like you're all for having the Fed target interest rates and forget about monetary growth—and that sounds very Democratic.

A. Well, I wouldn't call it a Democratic idea, because Jack Kemp and Howard Baker have both publicly made speeches and issued careful statements to the effect that targeting interest rates should be a Fed policy. I don't happen to agree with that, which is certainly a Keynesian, or neo-Keynesian, credit policy. It was the policy of the central bank for at least a generation, if not two. I think what we need is, in fact, a convertible dollar. A stable currency. And that the target of Fed policy should be to supply the quantity of credit actually desired in the market.

Q. You said a minute ago that interest rates would be stable if the Fed were supplying the quantity of credit actually desired in the market. If that's not targeting interest rates what is?

A. I'm not advocating it, I'm just stipulating the conditions under which interest rates will be stable. Indeed, for years I have been saying that under our present monetary system, that is to say, present monetary anarchy, there is no way to conduct a long-run stable credit policy. But brief moments of interests rates stability occur because the supply of credit approximately equals the demand for credit from producers who are actually making widgets.

Q. Okay, if you have all your liquid assets in stocks at the moment, you must be counting on some dividends to pay bills. What do you think about the withholding tax on interest and dividends?

A. I oppose it irrevocably.

Q. Is there any chance left to beat it?

A. I pray.

Q. What?

A. I pray that all sons and daughters of the American Revolution will mobilize to defeat this withholding.

Q. What is wrong with making people pay their share of taxes?

A. Nothing. I happen to believe that people do pay their fair share. There are always exceptions, but on the whole I believe the American people are extremely generous in the paying of taxes.

Q. If taxes are withheld from salaries, why not from interest income?

A. That is very unfair, and that's why I oppose withholding from salaries. I think, in fact, that the government should not make a forced confiscation of wages or salaries. The government is a vendor, it supplies public services to a free people. As a result, free people should pay their income taxes, quarterly, semi-annually, or annually, as in fact anybody who owns a home or an apartment does with property taxes.

Q. Have you tried to sell this idea in Washington?

A. I've had sufficient problems selling my monetary ideas.

Q. Uncle, Lew! Let's hear about your ideas for monetary reform.

A. Under my proposals the dollar might very well look much like the one you now have in your pocket. That piece of paper would be a promissory note, as it is today, which would be a claim on a specific value, a permanent value, defined by law.

Q. What kind of value?

A. The paper dollar would be a claim on a specified weight of gold, as it was from 1792 to 1971, with but brief interruptions. Indeed, if you go back just a generation, or slightly more, you will find that the green paper dollar did not just say: "This note is legal tender for all debts public and private." It said that this Federal Reserve promissory note can be redeemed for gold held for the account of the paper dollar user at the Treasury. I like the dollar, the historic American convertible gold dollar, the authentic American money.

Q. There are, of course, many versions of a gold standard, and lots of folks who think it's the last thing we need. Even its proponents can't seem to agree . . .

A. The relative desirability of a gold standard should be determined by its stability. That is why there is debate among people like Robert Mundell or Bob Triffin over the optimum fixed exchange rate. The most efficient gold standard is one in which the currency of each country is convertible into gold. Such a system is generally known as multi-lateral convertibility of individual national currencies, each into a fixed weight of gold. That is a fixed exchange rate regime because all of the currencies have a proportionality, one to the other, based upon the gold weights of the currency. Then fixed exchange rates, you see, are not a discretionary matter for central bankers to decide, but the incidental by-products of the ratios of the gold values of the individual currencies. And that's what characterized the whole period of America's rise from 13 impoverished colonies by the sea to the greatest world power.

Q. Why should dollars be convertible to gold?

A. If the essence of a free economy or a free society is voluntarily to choose how many refrigerators and how much groceries and how many children and how many dollars you will hold, it must also be true that when the government creates dollars that individuals do not desire to hold, that they can get rid of them for a value specified by law.

Q. Is that what people want?

A. The stable sound dollar is going to be imposed from below. By a populist movement which will restore a sound currency to a free country.

Q. You lost the election, Lew. Have you seen any evidence of a grass roots movement to support a gold standard?

A. I believe Jimmy Carter was thrown out of office for two reasons.

Q. Only two?

A. The first of which was the popular repudiation of his inflation policies. Free people elect politicians or statesmen to solve their problems. They repudiate statesmen who, among other things, destroy their currency. Two hundred million Americans are not going to say, restore a sound dollar. But they repudiated Jimmy Carter for that reason, primarily. Indeed, Reagan's campaign was fought on the issue of inflation. Now it's up to a statesman like President Reagan, or any future President, to give the American people the real money that they chose in November of 1980.

Q. The statesman, as you call him, is running a $250-billion seasonally adjusted annual deficit and pumping up Fed credit at the rate of 10 percent. And he hasn't instituted a gold standard.

A. There are two years left to go in his first term. And there are maybe four years

after that in which he'll have time to decide for real money. The wait is no surprise.

Q. Why not?

A. Once before, we suspended the convertibility of the dollar under conditions of war. It was in December of 1861 and the dollar was inconvertible from January 1862 until January of 1879—for 17 years. A stable American dollar then became a political issue in national elections from the very moment the Civil War ended until convertibility was resumed in January 1879. This time, the dollar was unilaterally declared inconvertible by President Nixon in August of 1971. Add 17 years to '71 and you get 1988. All I'm saying is that by historical standards, it takes time, often, for free people to select a statesman who will give them a real money.

Q. Would everyone's dollars have to be convertible to gold? Couldn't we return, instead, to a Bretton Woods-type scheme in which the dollar is convertible at a fixed rate only by foreign central banks—go back to August 1971, in other words?

A. It would be insufficient to do so.

Q. You want the whole thing?

A. The U.S. must establish a convertible dollar and to convene an international monetary conference with the principal purpose of establishing a new international monetary order based on convertibility of the currencies of the major trading nations.

Q. Why?

A. A convertible currency is the only proven way, theoretically and historically, to bring about how long-term interest rates. It is the only way to bring about conditions of rapid expansion. It is the only way to restore the long-term bond markets so that we can create conditions where capital will be invested for long periods in new industries and new technologies. It is, in fact, the only way to create boom conditions, which will once more restore full employment.

Q. Fifty years ago we had some very low long-term interest rates, and we had a gold standard, and we had the Depression.

A. Yes, but the Depression was caused by the catastrophic contraction of world trade which was brought about by the tariff policies and the quota policies and the exchange of capital control policies of the Western trading nations.

Q. The gold standard itself didn't help the Depression along?

A. The gold standard had absolutely nothing to do with the causes of the Great Depression. It was caused by this compression and contraction in the world economy, which not only resulted in 25% unemployment in the U.S. but itself was the cause of the collapse of the gold standard.

Q. Lew, let's get practical. Is there enough gold in the world to go around if money were fully convertible?

A. Under an effective convertible current regime, there is no demand for gold. There is demand for paper, which is more convenient and will always by desired for current transactions. That's how the name currency came to be. So as soon as you establish a convertible dollar, the demand for gold ceases. The demand for paper rises, because people are guaranteed that the money they own is, in fact, a promissory claim to another good which required capital and labor to produce—namely, gold.

Q. This is a sinister world. There are billions of dollars offshore. What happens if the bad guys get together and present tens of billions of dollars for exchange at once?

A. People who hold money are rational. They desire gold only when they don't trust money.

Q. But people don't always act rationally.

A. Let's look at the statistics on gold production. There are possibly 2.5 billion ounces of gold in world stocks. At present valuations, that is about $4 trillion. A demand for gold by the largest cash balance holder in the world, which would probably be somewhere around $10-$20 billion, could be met very easily.

Q. Suppose we wake up tomorrow morning with a gold standard. What's the price of gold?

A. Let's suppose, instead, that we were deputized by the President to determine the convertibility price of the dollar. There would be two indicators to follow.

Q. Which are?

A. First, we would set the convertibility price at a certain date, let's say a year from now, so that all would know the rules of the market which would govern the value of the dollar from that day on. During that period, all market participants would buy and sell gold if they pleased, based upon their own sense of the gold price. As you approach the convertibility date, the market price of gold would represent the preferences of all the buyers and sellers in the market and their sense of what convertibility would be. Therefore you would use the market price. Second, you would establish the convertibility price at a level which would not lead to a fall in the average rate of nominal wages.

Q. So what would the price of gold be?

A. Somewhere around $550-$600.

Q. What if you're wrong?

A. Well, there is a good deal of margin for error in establishing convertibility. Our economy grew into the world's most powerful under the gold standard.

Q. There were a lot of booms and busts . . .

A. For the last 10 years we've had no gold standard. Are you going to tell me they have been smooth? They have been the worst in our economic history but for the Great Depression. The highest real interest rates ever, rising unemployment, the worst inflation since the founding of the republic. When we look at the gold standard periods, we have to recognize that we are fallen men. We live in an imperfect world, the gold standard is not a perfect monetary institution, and anybody who claims otherwise is making a terrible mistake in misleading others.

Q. Doesn't it bother you that Russia is a major producer of gold and South Africa is another?

A. There are 2.5 billion ounces of gold in world stocks. The Republic of South Africa produces about 21 million ounces each year. That's less than 1% of total world stocks. The Soviet Union produces between 8 and 10 million ounces a year. That's one-third of 1% of total output. That is salt in the ocean. It would not vary the value of a monetary standard by a tenth of 1% if, under the gold standard, the entire annual output of the Soviet Union were offered on one day.

Q. Okay, Lew, you're a politician. Suppose you were the President. What political motivation could there be to switch to a gold standard with the economy picking up?

A. First, I believe that President Reagan is a statesman who takes the long view of the soundness of our institutions. The principal institution of free markets is a stable currency. I think President Reagan desires to produce just that, a stable currency. Second, I think that President Reagan, as any individual, would prefer 3,000 on the Dow to 1,500. The road to 3,000 on the Dow is paved with 4% interest rates, which will be the by-product, as they always have been, of a gold standard.

Q. What odds do you put this on happening in an election year?

A. I believe we will have a dollar convertible to gold before the end of the decade.

Q. Okay, Lew. Thanks.●

WARSAW GHETTO UPRISING

● Mr DECONCINI. Mr. President, I am pleased today to offer my tribute to 50,000 people who, through their refusal to accept barbarism and inhumanity, have inspired countless others in their fight against tyranny and ruthless disregard for human life.

Today is the 40th anniversary of the Warsaw Ghetto Uprising, which always shall be a monument to the human capacity to withstand incredible suffering and debasement without losing the will to fight the perpetrators of institutional injustice and cruelty.

On July 22, 1942, the Germans began herding some 500,000 Polish Jews, from the newborn to those near death, to the Warsaw Ghetto. Around it they erected a huge wall—to keep what they perceived to be a barrier to an ideal human race from infiltrating the ranks of so-called Aryan perfection. Although the wall succeeded in preventing the ghetto occupants from obtaining the basics for human survival and dignity, it did not impair the voice of liberty, that resounded from within.

That voice was at first weak from hunger and terror. The Nazis rationed the food below any normal subsistence level. The weakest went first, but soon no one was exempt from starvation. The bodies became piles of carrion. For those who managed to survive, there was always the threat of the train, to which Nazis daily herded thousands of Jews. It rumbled away in a cloud of death and always returned vacant.

Somewhere amidst the Jewish misery emerged the spontaneous consensus that they no longer would die like dogs. But what is a person capable of, after months of starvation, of seeing his mother and brothers become the food of flies? On April 19, 1943, those straggling bodies that scarcely possessed the strength to raise their fists became a horde of fists to surprise and beat back their heinous enemy.

Armed with a homespun stockpile of primitive weapons, the Jews made a declaration of human dignity that is alive today. Their resistance, the strongest of which comprised Molotov cocktails and a sparse supply of outdated guns, inflicted wounds or death on 1,000 Germans. Of course, the Nazis, with their superior and lavish arsenal, leveled the ghetto and its remaining 50,000 survivors—a certainty known to the Jews before they fought.

But that does not mute the twofold declaration of those who died: Although the potential exists in humanity for the most reprehensible cruelty, that savagery can never fully extinquish the human spirit's fight for justice, dignity, and the humanity of tomorrow.●

CHILD ABUSE

● Mr. DOMENICI. Mr. President, Congress often designates special weeks and months commemorating a particular group or event. In addition to providing an opportunity for national recognition of such groups, these weeks have come, in recent years, to be used as a way to focus attention on a particular problem or disease. National Alzheimer's Disease Week, National Physical Fitness Month, National Employ the Older Worker Week, all serve to awaken us to the importance of these issues. This month of April is of special importance because it has been deemed "National Child Abuse Prevention Month."

According to the National Committee for the Prevention of Child Abuse, the last 5 years have witnessed a 100-percent increase in the number of reported incidents of child abuse. Last year alone, an estimated 1.1 million children were in some way abused or neglected. These figures become even more staggering when one notes that they are representative of only those cases that are reported. And I think here is where the whole notion behind prevention becomes critical. Although it has been determined that child abuse cuts across all class lines and religious and cultural backgrounds, there remains a very deep fear of the stigma attached to it. Experts also cite a fear that the child will be permanently taken away from the parents as another reason why incidents go unreported. What this also means, however, is that neither the child nor the parent can receive the assistance needed to solve the problem.

A New York Times article addressing this issue discussed the cases of several parents who, under the strain of enormous pressure, be it emotional, professional or financial, simply were no longer able to deal patiently with the average misbehavior of their children. They recognized how close they were to abusing their child. They also saw the grave necessity of seeking some outside help. These are not parents who are alcoholics, or suffering from some other disorder. These are average people who, like you and I, are faced with the problems of daily life and have buckled under the enormous stress that our lives are often characterized by. Fortunately, the persons discussed in this article had a place to turn.

In response to the growing incidents of child abuse, nurseries and centers equipped to keep children for a day or two are springing up all over the country. If a parent fears that they might abuse, batter, or in some other way harm their child, they can take the child to one of these centers where they will be fed and can sleep until some other course of action can be arrived at. Often, the parent simply needs some time to get over what precipitated the crisis in the first place. If the problem is more deep rooted, social workers are recruited, or child care facilities are provided, or the parent is enrolled in some sort of a rehabilitation program designed to address whatever problem they may be experiencing. What is important, though, is that a possible incident can be averted. Programs such as this truly are preventative in that they offer immediate respite from a crisis situation, and then provide the necessary followup to insure that both the child and the parent will be protected from the future possibility of child abuse and the terrible suffering that both experience as a result.

I extend my strongest support to the development of this idea, and hope that with this month and the attention and concern that will be directed toward this tragic problem, further initiatives will emerge that will address child abuse in a realistic, concrete manner.●

THE REDIRECTION OF JOBS BILL FUNDING

● Mr. EAGLETON. Mr. President, on April 7 the Department of Agriculture announced at a hearing before the Appropriations Committee's Subcommittee on Agriculture, Rural Development and Related Agencies that they had unexpectedly run out of funds in 17 States to loan farmers for operating capital through the Farmers Home Administration.

Secretary Block, time after time, has proudly stated that the Reagan administration has significantly increased the level of operating loan funds extended by FmHA. What he has not said, however, is that these funding levels have been necessitated by the disastrous economic situation our farmers have faced. More and more farmers have had their local bank turn them away, making FmHA their only credit source.

Until April 7, administration witnesses have consistently testified that they had sufficient funds to serve the needs of qualified farmers. In fact, even the first time the question of the adequacy of funds was raised at the hearing on April 7, the administration's witness indicated that operating loan funds remained and that those funds might very well be sufficient to last the fiscal year.

I raise this issue, Mr. President, for two basic reasons. First, it is clear that the Reagan administration has not acted in good faith by keeping the Congress informed that operating loan funds were in short supply. By the end of the first week in March, notices had been sent to 10 States authorizing them to use funds reserved for the third and fourth quarters of this fiscal year to help offset the high demand for loans. At that point, it should have been obvious that a problem existed. Was Congress notified? No. In fact, representatives of FmHA testified before the Appropriations Committee in the House and the Agriculture Committees of both the House and the Senate between early March and April 7, but no mention was made that funds for operating loans were quickly dwindling. Only when they had completely run out of money in 17 States and were faced with a politically embarrassing problem did the Reagan administration admit that a problem even existed. This inept silence by FmHA, combined with the unwillingness of the Office of Management and Budget to allow a supplemental to be sent forward to the Congress created the emergency situation we faced.

Mr. President, this brings me to the second reason I have raised this issue today. Last Friday, Secretary Block announced that due to the extraordinary emergency that existed, he would utilize authority provided him in the Department of Agriculture Organic Act of 1944 (7 U.S.C. 2257) to transfer funds from other programs to provide an additional $400 million for operating loans. Instead of transferring funds from the FmHA emergency loan program, which has an unlimited appropriation available to it, the Reagan administration chose to redirect an amount equal to one-half of the funds the Congress recently provided in the jobs bill for the rural water and waste disposal loan and grant programs—funds specifically appropriated on an emergency basis to create jobs in rural America.

Currently, there is a backlog of over $1 billion worth of water and waste disposal project on hand, and millions of Americans who are unemployed and eager to return to work. To make the specific decision to utilize these funds when a perfectly legitimate and feasible alternative existed clearly indicates the degree of callousness of this administration towards the needs of the unemployed and rural America.

The use of the interchange authority granted by the Organic Act of 1944 in this manner, redirecting funds the Congress had specifically appropriated to meet an emergency need just 1 month ago, raises serious question whether this interchange authority should be reviewed and further restricted.

Mr. President, I believe it is important that my colleagues and the public know what has happened in this situation and that they understand that the method chosen by the Reagan administration to meet the shortfall of farm operating funds was certainly not the only method available for doing so, nor was it the best method for the unemployed of rural America.

Yes, a few more operating loans will be made, but now they are being made needlessly at the expense of many unemployed Americans.●

THE WINDOW ON THE WEST

● Mr. EAST. Mr. President, Dr. M. E. Bradford, professor of English at the University of Dallas, is one of America's most distinguished and learned scholars and men of letters. An expert on the writings of William Faulkner as well as on early American history and southern literature, Professor Bradford recently had the opportunity to travel in Eastern Europe under the auspices of the Department of State and the U.S. Information Agency.

Upon his return to the United States, Professor Bradford authored some reflections on his visit to Romania, where he observed the quality and style of life under a Communist and collectivist dictatorship. He also visited our Ambassador to Romania, my fellow North Carolinian, the Hon. David B. Funderburk, under whose leaderhip the American diplomatic community in Bucharest is preserving the flame of freedom and Western values.

Professor Bradford's sharp insights into the nature of life under Communism should be of interest to my colleagues and to the American people in general.

I therefore ask that "The Window on the West," by M. E. Bradford, from the Dallas Morning News of April 9, 1983, be reprinted in full in the CONGRESSIONAL RECORD.

The article follows:

[From the Dallas Morning News, Apr. 9, 1983]

THE WINDOW ON THE WEST

(By M. E. Bradford)

The metaphorical image of Romania which sticks firmly in my mind is that of crowds of people on the streets of Bucharest, hurrying in all directions, both during the workday and even more surprisingly after dark.

The purpose of all this activity is not, as we learned, to get to or from a place of employment. In many cases there is no obvious reason for Romanians to be out of doors, only a vague social impulse to mill about, in and with the throng.

In other instances, the end of the journey is a long line where quiet people in fur hats await the opportunity to purchase the necessities of life. Three-generation families are, I was told, fortunate in one respect—the grandparents can stand in queue while the younger adults hold onto their job and maneuver to add a few lei to their official salary.

The conditions are severe in Bucharest, and the "economic justice" of the regime is another name for general penury. The standing jest there is that Romania is a country where the people pretend to work, and the government pretends to pay them.

The prices of ordinary commodities are exorbitant. The government must retire a large debt owed to the international banks. Hence, a little private trading, the exchange of favors, and skill in the manipulation of influence are important to the survival of the ordinary citizen.

The official egalitarianism of this Marxist utopia has nothing to do with the realities of status in Romanian life. Within a ruling hierarchy that is still Byzantine in its essential characteristics, connection means place: the difference between mere existence and a modicum of privilege.

According to one story, some Third-World countries send their young people to study in Bucharest, not to encourage their enthusiasm for socialism but rather to forestall it. I understand their strategy.

But apart from electronic surveillance, from all the guards and guns, the ubiquity of uniforms, and the dreariness of proletarian architecture, there is for members of the small American community in Romania (and for representatives of other Western societies) another side to their temporary exile, a sense of drama and purpose which comes from living out the role of witness to a proud and open way of life too often taken for granted by free peoples.

The American diplomatic mission to what the ancient Romans called Dacia (still there beneath the surface of the "People's Republic") is a very positive, upbeat group, with a genuine sense of their own collective importance as a window on the West.

Under the able direction of Ambassador David B. Funderburk, an eminent North Carolina historian and one of the distinguished conservative scholars brought to government by the Reagan administration, the mission both represents and embodies the value of American citizenship.

Members' energy and morale are amazing and suggest none of that tentative, apologetic spirit which has been the bane of U.S. diplomacy in recent years.

The same can be said of that small number of business and commercial people, librarians, archaeologists, artists and teachers which completes the American contingent in this communist state.

The fact most Romanians unofficially receive our countrymen at their own evaluation of what it means to be an American has, of course, a lot to do with the origins of the situation which I have described—that, and the fading yellow charm of the almost French city of Bucharest, a setting which in several ways reminds me of New Orleans.

We took away from our brief visit to the Romanian capital a variety of vivid impressions: the delight of the Romanians in music and literature; the colorful peasant architecture of the countryside; the courtesy of many members of their cultural establishment, their good humor, their pleasure in receiving American guests and their interest in the genesis and history of our civilization.

The people congregate in bookstores and record shops, and we were surprised to learn of the great number of American writers published in the Romanian language.

On reflection, this cultural activity should not be unexpected in a country where, as one patient editor of a literary magazine explained, two out of three fancy themselves to be poets of promise. Nor is all of this artistic nationalism tendentious or propagandistic, for the Romanians live within themselves, where they cherish their art.

As hopeless as their situation may seem, they have a kind of cheerfulness. I liked them, especially since, as one of them, indicated, they try so hard to forgive us for having turned them over to the Russians at Yalta in 1945.

Observing the results of Franklin D. Roosevelt's dereliction on that occasion should strengthen in any American the resolve that his country not repeat the same blunder.

The barbarians stand ready to advance whenever our determination to resist them seems to be in doubt. What happens then can be seen in Bucharest.●

LONG-TERM GRAIN SALES AGREEMENT

● Mr. HUDDLESTON. Mr. President, it is in the best interests of U.S. agriculture for the Government to renegotiate a long-term grain sales agreement with the Soviet Union. The Soviet Union has grain import needs that appear to be quite large; and action to improve the Soviet market for U.S. grain could do much to reverse the recent decline in agricultural exports.

Also, it is appropriate that we enter into the negotiations now. It has been almost 2 years since the grain embargo against the Soviet Union was lifted, and the current long-term agreement, as extended, will expire in a few months.

However, we have seen a great reluctance by this administration to proceed with negotiations on a new long-term grain sales agreement. In fact, on December 29, 1981, President Reagan suspended negotiations for such an agreement, and has not yet authorized new talks. Nor has the administration taken other action to improve substantially the prospects for expanded trade with the Soviet Union. The 1980 grain embargo was allowed to continue until late April 1981. In December 1981, the administration imposed an embargo on shipments of nonagricultural goods; one effect of that embargo was an immediate cessation of grain purchases from the United States by the Soviets.

I consider the failure of this administration even to discuss a new long-term agreement to be most unfortunate. As long as the United States threatens the Soviet Union with the possibility of allowing the current agreement to expire, our credibility as a supplier will be questioned. In effect, the administration has created a hidden embargo that continues to affect adversely U.S. agricultural exports.

The most significant evidence of the harmful effect of the administration's policy failures can be found in the statistics pertaining to United States-grain exports to the Soviet Union. In

the current agreement year, the United States has sold less grain to the Soviet Union than in any other year under the agreement.

The United States is selling less grain to the Soviets now than was being sold to them during the 1980 grain embargo.

The chief beneficiaries of the reduction in sales of U.S. grain to the Soviets are our foreign competitors. Argentina, Australia, and Canada have increased grain sales to the Soviet Union. Furthermore, those nations have expanded their crop acreage and improved their export facilities to accommodate future trade expansion.

Clearly, continued delay in negotiating for a long-term grain sales agreement with the Soviet Union will result in further losses of export sales.

I note that the administration has failed to respond to congressional encouragement to begin the negotiations on a new long-term agreement.

Public Law 97-218, approved July 20, 1982, expressed the sense of Congress that the President should immediately resume negotiations with the Soviet Union for the purpose of reaching an agreement to extend the duration of the existing agreement.

A new long-term grain sales agreement with the Soviet Union is important to U.S. agriculture. The President should immediately authorize negotiations for a new agreement. The administration will only hurt the U.S. farmer by continuing to prevent such discussions.

Fourteen Senators have joined me in sending a letter to the President today urging him to immediately authorize negotiations for a new long-term grain sales agreement with the Soviet Union. I ask that a copy of our letter to the President be printed in the RECORD.

The letter follows:

U.S. SENATE,
COMMITTEE ON AGRICULTURE,
NUTRITION, AND FORESTRY,
Washington, D.C., April 20, 1983.

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: We are concerned that the administration has not taken action to improve substantially the prospects for expanded trade in agricultural commodities with the Soviet Union, and we urge you to immediately authorize negotiations for a new long-term grain sales agreement.

Statistics on U.S. exports to the Soviet Union show that, in this the seventh year under the current long-term agreement, the United States has sold less grain to the Soviet Union than in any other year under the agreement. The United States has sold less grain to the Soviets this year than was sold to them during the 1980 grain embargo.

The chief beneficiaries of the reduction in sales of U.S. grain to the Soviet Union are our foreign competitors. Argentina, Australia, and Canada have increased grain sales to the Soviet Union. Furthermore, those nations have expanded their crop acreage and improved their export facilities to accommodate future trade expansion. Continued delay in negotiating a long-term grain sales agreement with the Soviet Union will result in losses of export sales.

Congress has clearly indicated its support for the negotiation of a new long-term agreement. Public Law 97-218, approved July 20, 1982, expressed the sense of Congress that the President should immediately resume negotiations with the Soviet Union for the purpose of reaching an agreement to extend the duration of the existing agreement.

Too, the Senate will soon consider Senate Resolution 95, which expresses the sense of the Senate that the President should report to Congress his intention to initiate negotiations on a new long-term agreement on agricultural trade with the Soviet Union. The resolution states that the President should seek to include in the terms of the new long-term agreement higher supply grarantees and provision for export of value-added products.

A new long-term grain sales agreement with the Soviet Union is important to U.S. agriculture. Continued delay in scheduling negotiations will only hurt the U.S. farmer and the many citizens who derive their income and jobs from agricultural export sales.

Sincerely,

David L. Boren, Patrick J. Leahy, David Pryor, Howell Heflin, Lloyd Bentsen, John Melcher, Thomas F. Eagleton, J. James Exon, Walter D. Huddleston, Edward Zorinsky, Alan J. Dixon, Jim Sasser, Max Baucus, Gary Hart, John Glenn.●

FIGHTING FOR FREE TRADE

● Mr. WILSON. Mr. President, I wish to call to the attention of my colleagues an article by the distinguished chairman of the Senate Agriculture Committee, Senator JESSE HELMS, which has printed in the mid-March issue of Farm Journal magazine. The article, entitled "Fighting for Free Trade," is particularly timely in light of the agricultural trade legislation now before this body.

The sagging farm economy has been battered by a second straight year of declining exports, in terms of both volume and value. A major cause of this decline is the fact that other countries, particularly those of the European Economic Community, use massive export subsidies to sell their agricultural products abroad. As a result, our farmers are forced to compete not only with their counterparts abroad, but also with foreign governments.

U.S. farmers are the most efficient producers of most agricultural commodities. Given the chance to compete freely and fairly on the world market, our farmers would be able to sell their commodities and earn a profit in the marketplace. But free and fair trade, long the guiding principle of U.S. trade policy, is not being practiced around the world.

The United States has diligently tried to resolve these grievances through diplomatic channels. We have filed the appropriate protests with the General Agreements on Tariffs and Trade. Last November, Senator HELMS, along with Senators DOLE, GRASSLEY, and MATTINGLY, traveled to the GATT Ministerial Conference in Geneva to warn the Europeans that their subsidies were intolerable. But a report delivered later by these Senators to the Agriculture Committee indicated the Europeans were absolutely unwilling to even discuss the matter of agricultural export subsidies. And recent developments indicate that they remain intransigent concerning this matter.

As Senator HELMS points out in his fine article, it is high time for the Congress of the United States to act to bring about a resolution on this matter. We must, as the Senator points out, be responsible and not engage in protectionist legislation that is in itself a restraint of trade. But we must take bold action to assure our farmers an equal footing in world trade. To do otherwise, to turn our backs on the farmers, would be to relinquish the strength of the backbone of our economy—the U.S. farmer.

Mr. President, I ask that the article by Senator HELMS be printed in the RECORD at the conclusion of my remarks.

The article referred to follows:

[From the Farm Journal, Mid-March 1983]

FIGHTING FOR FREE TRADE

(By Senator Jesse Helms)

The January Farm Journal editorial, "Trade War No Way to Win" (p. 48), is right in a number of respects, but where it's wrong, it's dead wrong.

I share the sentiment that we must avoid a trade war, but I can't buy the argument that giving in to the predatory practices of competitor nations is going to accomplish that. In fact, only decisive yet responsible steps by the U.S. can prevent a further deterioration of trade relations into a full-blown trade war. And, we don't have much time.

The editorial correctly explained that "protectionist" policies on the part of the United States would have serious negative consequences for American agriculture. If we impose new import quotas or increase trade limitations to protect certain "basic" U.S. industries, many of our international customers will have less foreign exchange with which to buy our farm products. What's more they may retaliate in a way that could catch U.S. farmers in their swipe.

But, here I must make a crucial distinction. A tariff or import quota is a direct restraint of trade. But agricultural export subsidies by the U.S., which are designed to equalize subsidies by other countries, cannot be construed as a restraint of trade. Rather, such subsidies would expand our agricultural exports and allow farmers to compete on a fair basis with their counterparts overseas.

And there is an immediate and compelling need for us to induce other nations to curtail their use of massive export subsidies in agricultural trade. While it is not likely that we will ever have a completely free trading system in the world, it is realistic to expect free trade as a guiding principle for all nations.

However, for a number of years our farmers have had to suffer the increasingly unfair trading practices of competitor nations. The use of export subsidies by the European Economic Community and other nations has gotten out of hand, robbing farmers of badly needed markets.

That is why a number of senators and congressmen—at the suggestion of the Reagan Administration—attended the ministerial meeting of the General Agreement on Tariffs and Trade (GATT) in Geneva last November. Our message was that these practices have become intolerable. But our message went unheeded.

After the GATT meetings, I announced I would prepare legislation mandating certain unilateral actions to demonstrate to the Europeans that their right to swing their export-subsidy fist ends at Uncle Sam's nose. The Senate Agriculture Committee held hearings on Dec. 2, 1982, to assess the GATT Ministerial. Those assessments indicated there would be no movement toward solutions without further action by Congress.

This increased concern on the part of Congress now has gotten the attention of the Europeans. They have begun to come to the bargaining table. Meetings to discuss these issues were held in Brussels in December, and again in January 1983. Of course, nothing concrete has developed yet, but now it seems the Europeans and others are beginning to understand that we are serious when we say their predatory trade practices are intolerable and must be stopped.

However, this minor progress is likely to be short-lived if we do not continue to move decisively. Legislation mandating a number of specific unilateral actions on the part of the United States is needed to convince our trading partners that we mean business. Of course, we must be responsible; we must not engage in protectionist legislation that is in itself a restraint of trade.

In short, history demonstrates that the only way to peace is through strength. Weakness breeds contempt and encourages unfair and hostile treatment by nations that feel little need to conduct themselves in a responsible and disciplined way.

That lesson should not be lost on farmers when it comes to setting things right in world trade. It is certainly not lost on this senator.●

ORDER FOR RECESS UNTIL 12 NOON TOMORROW

Mr. BAKER. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 12 noon tomorrow.

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

RECESS UNTIL TOMORROW

Mr. BAKER. Mr. President, I move now in accordance with the order just entered that the Senate stand in recess until the hour of 12 noon tomorrow.

The motion was agreed to; and, at 6:01 p.m., the Senate recessed until Thursday, April 21, 1983, at 12 noon.

CONFIRMATION

Executive nomination confirmed by the Senate April 20, 1983:

IN THE NAVY

Vice Adm. Ronald J. Hays, U.S. Navy, for appointment as Vice Chief of Naval Operations pursuant to title 10, United States Code, section 5085.

Vice Adm. Hays, having been designated for command and other duties of importance and responsibility within the contemplation of title 10, United States Code, section 601, for appointment to the grade of admiral while so serving.