AUGUST 29

10:00 a.m.
Governmental Affairs
Permanent Subcommittee on Investigations
To continue hearings with regard to the widespread nature of arson-for-profit, including evidence of the role of organized crime.
3302 Dirksen Building

Judiciary
Administrative Practice and Procedure Subcommittee
To resume hearings on the FBI Charter as it concerns undercover operations.
2228 Dirksen Building

SEPTEMBER 7

9:00 a.m.
Commerce, Science, and Transportation
To hold hearings on the following nominations to be Members of the Board of Directors of the U.S. Railway Association: W. K. Smith, of Minnesota, to be Chairman; Stanton P. Sender, of the District of Columbia; Nathaniel Welch, of Georgia; James E. Burke, of New Jersey; and Robert G. Flannery, of California.
6226 Dirksen Building

10:00 a.m.
Commerce, Science, and Transportation
To hold oversight hearings on the lengths of motor tractor trailers.
235 Russell Building

SEPTEMBER 8

10:00 a.m.
Commerce, Science, and Transportation
To hold hearings on S. 2970, proposed Truck Safety Act.
235 Russell Building

SEPTEMBER 14

10:00 a.m.
Judiciary
Administrative Practice and Procedure Subcommittee
To resume hearings on the FBI Charter and its overall policy.
2228 Dirksen Building

SEPTEMBER 19

9:00 a.m.
Judiciary
Constitution Subcommittee
To resume hearings on S. 1845, to prevent unwarranted invasions of privacy by prohibiting the use of polygraph type equipment for certain purposes.
6226 Dirksen Building

9:30 a.m.
Human Resources
Labor Subcommittee
To hold hearings on S. 3060, proposed National Workers' Compensation Standards Act.
4332 Dirksen Building

SEPTEMBER 20

9:30 a.m.
Human Resources
Labor Subcommittee
To continue hearings on S. 3060, proposed National Workers' Compensation Standards Act.
4232 Dirksen Building

SEPTEMBER 21

9:00 a.m.
Judiciary
Constitution Subcommittee
To resume hearings on S. 1845, to prevent unwarranted invasions of privacy by prohibiting the use of polygraph type equipment for certain purposes.
5110 Dirksen Building

SEPTEMBER 22

9:30 a.m.
Human Resources
Labor Subcommittee
To resume hearings on S. 3060, proposed National Workers' Compensation Standards Act.
4232 Dirksen Building

CANCELLATIONS

AUGUST 23

10:00 a.m.
Energy and National Resources
Public Lands and Resources Subcommittee
To hold hearings on several pending land conveyance bills.
3110 Dirksen Building

AUGUST 25

10:00 a.m.
Judiciary
Criminal Laws and Procedure Subcommittee
To resume hearings on S. 3270, proposed Justice System Improvement Act, and related bills.
2228 Dirksen Building

SENATE—*Tuesday, August 22, 1978*

(Legislative day of Wednesday, August 16, 1978)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by Hon. ROBERT MORGAN, a Senator from the State of North Carolina.

PRAYER

The Reverend Dr. Robert B. Harriman, director, the Presbyterian Council for Chaplains and Military Personnel, Washington, D.C., offered the following prayer:

Great Creator of the universe, we thank Thee for majestic mountains, fertile fields, and far-stretching forests. For the richness of the Earth and wealth of its waters, we are grateful. May we not be inept stewards of our wealth or inconsiderate of following generations. As the Members of this Senate are aware of our heritage, may they be led in all their deliberations to do those things which preserve our inheritance and insure, for all who shall follow, an even stronger and more fruitful nation. May Thy presence be felt whenever they are gathered in consultations and deliberations which affect this Nation, and other nations of the world. May theirs be a vision to see beyond these shores and beyond this day, for Thou dost will that all nations of the Earth should live together in peace and harmony.

May all who are engaged in the affairs of Government, from the President to the least conspicuous public servant, be blessed with Thy wisdom, warmed by Thy love, and led by Thy righteousness. So shall we know that "Blessed is that nation whose God is the Lord." In Thy name we pray. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The assistant legislative clerk read the following letter:

U. S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., August 21, 1978.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable ROBERT MORGAN, a Senator from the State of North Carolina, to perform the duties of the Chair.

JAMES O. EASTLAND,
President pro tempore.

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

RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. The majority leader, the Senator from West Virginia, is recognized.

THE JOURNAL

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

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

Mr. ROBERT C. BYRD. Mr. President, I have no need for my time today, and I yield it back.

RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. The Senator from Tennessee is recognized.

Mr. BAKER. Mr. President, I have no requirement for my time under the standing order and I yield it back.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a brief period for the transaction of routine morning business, that Senators may be allowed to speak up to 5 minutes therein, and that the period not extend beyond 10 a.m. today.

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

Is there morning business?

WHERE IS THE OPPOSITION TO THE GENOCIDE CONVENTION?

Mr. PROXMIRE. Mr. President, for 11 years, I have addressed the Senate about the United Nations Genocide Convention. Every day that we are in session, I urge my colleagues to ratify this important treaty.

Why? Because I believe the treaty is a crucial human rights document. It

protects the most fundamental of human rights—the right to live. The treaty upholds the moral and ethical values of our country. It is in the best interests of the American people, and it is in the best interests of humanity.

The Senate is well aware of my ardent support for the Genocide Convention. But what have we heard from the opposition? Where are the opponents to the Genocide Convention? Whose voice is calling upon us to reject the treaty?

Is there Presidential opposition to the treaty? Certainly not. Every President since Truman has supported the treaty. Truman, Eisenhower, Kennedy, Johnson, Nixon, Ford, and Carter have all urged the Senate to ratify the U.N. convention.

Are interest groups lobbying against the treaty? Hardly. The American Bar Association, the American Civil Liberties Union, the National Conference of Christians and Jews, the AFL–CIO, and many more organizations have all passed resolutions in favor of the treaty.

What about our allies? Eighty-three nations have acceded to the treaty. All of our major NATO and SEATO allies are parties to the convention. We stand alone among the free Western nations.

Has the Senate Foreign Relations Committee failed to report the convention? Just the opposite. The committee has favorably reported the convention four times: in 1970, 1971, 1973, and again in 1976.

Mr. President, it seems that the only opposition to the Genocide Convention is within the Senate itself. For 30 years we have debated the treaty, while across the country and around the world more and more people have recognized the treaty's importance and voiced their support. The time has come for the Senate to join them.

Mr. President, the opposition to the treaty is small and silent. The support is overwhelming. I call upon my colleagues to ratify the Genocide Convention.

EXIMBANK LOANS $66 MILLION TO TRINIDAD CORPORATION

Mr. PROXMIRE. Mr. President, I call to the attention of my colleagues a communication I have received from the Export-Import Bank pursuant to section 2(b)(3)(i) of the Export-Import Bank Act of 1945, as amended, notifying the Senate of a proposed Eximbank loan to assist in financing the export from the United States of goods and services to be used in the construction of a plant to manufacture anhydrous ammonia in Trinidad and Tobago. Section 2(b)(3)(i) of the act requires the Bank to notify the Congress of proposed loans or financial guarantees in an amount of $60 million or more at least 25 days of continuous session of Congress prior to taking final action on such proposals. Upon expiration of this period, the Bank may give final approval to the transaction unless the Congress adopts legislation to preclude such approval.

In this case, the Bank proposes to extend a direct credit of $66,170,000 to Fertilizers of Trinidad and Tobago, Ltd. (FERTRIN), which is a joint venture owned by the Government of Trinidad and Tobago and Amoco International Oil Co., to assist in the export from the United States of goods and services to be used in the construction of a plant to manufacture anhydrous ammonia to be located at Point Lisas in Trinidad and Tobago. The Eximbank credit will cover 42.5 percent of the total cost of U.S. goods and services to be exported from the United States. The Eximbank loan would bear interest at the rate of 8⅜ percent per annum and be repayable in semiannual installments over an 8-year period commencing January 5, 1982.

Mr. President, I ask unanimous consent that the letter from Eximbank pertaining to this transaction be printed in the RECORD.

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

EXPORT-IMPORT BANK
OF THE UNITED STATES,
Washington, D.C., August 15, 1978.

Hon. WALTER F. MONDALE,
President of the Senate,
U.S. Capitol,
Washington, D.C.

DEAR MR. PRESIDENT: Pursuant to Section 2(b)(3) of the Export-Import Bank Act of 1945, as amended, Eximbank hereby submits a statement to the United States Senate with respect to the following transaction involving U.S. exports to Trinidad and Tobago.

DESCRIPTION OF TRANSACTION

Purpose

Eximbank has received a request from Fertilizers of Trinidad and Tobago Limited (FERTRIN) to assist in financing the export from the United States of goods and services of U.S. manufacture or origin required by FERTRIN for the construction of a new plant to manufacture anhydrous ammonia (Plant). The Plant is to be constructed at Point Lisas in Trinidad and Tobago and is one of several projects being developed to take advantage of the extensive natural gas reserves in the area.

The Plant will consist of a two train, 2,086 metric ton per day ammonia plant, plus ancillary equipment and systems. Construction is expected to be completed by mid-1981. The total costs of the Plant are estimated to be $250,000,000 of which 75% will be provided in the form of borrowings and 25% will be provided by equity contributions to FERTRIN from its two owners, the Government of Trinidad and Tobago (GOTT) and Amoco International Oil Company (Amoco).

Of the total estimated costs of the plant, $155,700,000 represents the costs of U.S. goods and services. To meet the request of FERTRIN, Eximbank is prepared to extend a direct credit of $66,170,000 to FERTRIN to assist in financing the export from the United States of the U.S. goods and services required for the Plant. Additional financing will be provided by private lenders.

Identity of the parties

FERTRIN is a joint venture incorporated under the laws of Trinidad and Tobago for the purposes of the Plant and is owned 51% by GOTT and 49% by Amoco. Amoco is a subsidiary of Standard Oil Company of Indiana.

GOTT and Amoco will enter into a cash deficiency and completion agreement with FERTRIN and Eximbank and the other lenders to the Plant whereby GOTT and Amoco will undertake, in proportion to their respective ownership interests in FERTRIN, to make up all cash deficiencies of FERTRIN required to complete the Plant and to cover all cash deficiencies in the operating costs of the Plant, including debt service to the lenders, until such debt has been paid in full. The undertaking of Amoco will be supported by a back-up undertaking of its parent company, Standard Oil Company of Indiana.

Nature and use of goods and services

The principal U.S. goods and services to be exported from the United States for use in the construction and operation of the Plant will be piping and valves, tankage, piling, insulation, a boiler, heat exchangers, pumps and compressors, condensers, seawater pumps, refrigeration equipment, a demineralization plant, switchgear, transformers, instruments and engineering, design and construction services. It is anticipated that a wide range of suppliers located throughout the U.S. will provide the U.S. goods and services. The estimated value by category of the U.S. goods and services is set forth in Annex I to this letter.

The Pullman-Kellogg Division of Pullman Incorporated, Houston, Texas, has been designated as the prime contractor for design, engineering and construction. Technical leadership of the Plant will be provided by Amoco during the design, construction and start-up phases and for the first ten years of operation under a proposed technical assistance agreement.

EXPLANATION OF EXIMBANK FINANCING

Export financing support

The Eximbank credit of $66,170,000 will facilitate the export of $155,700,000 of United States goods and services. Although FERTRIN has indicated its preference to effect its procurement in the U.S., it has also made clear that, if Eximbank financing is not available, procurement can be accomplished from foreign sources. Any foreign procurement would be supported by the official export credit agencies of the exporting countries.

Impact of imports on the U.S. economy

The anhydrous ammonia to be manufactured by the Plant will be exported for agricultural and industrial use throughout the world. Approximately one-half of the anhydrous ammonia from the Plant is expected to be marketed in the United States. In evaluating the impact of these imports on the U.S. domestic economy, Eximbank has addressed itself to whether the net economic benefit to the United States resulting from Eximbank's financing of U.S. goods and services for the Plant is positive or negative. The net economic benefit measures the benefits gained by the U.S. from the jobs supported by the sale of U.S. goods and services to the Plant as well as any benefits gained from importing into the U.S. some of the output of the Plant, as compared to the potential costs to the U.S. of such imports. The economic analysis made in response to this issue strongly supports Eximbank assistance for the Plant.

U.S. suppliers estimate that the exports, excluding already manufactured components, would support the employment of some 2,200 American workers. Annual shipments of spare parts of approximately $5 to $7 million would support another 50 jobs a year (or a total of 400 jobs for the eight year repayment period of the Eximbank credit). The total favorable job impact should therefore, reach approximately 2,600 jobs. Given the potential competition for this order from Europe and Japan, these jobs would very probably be lost to the U.S. if Eximbank financing support were not available.

The potential for adverse economic impact depends on the state of the world food and fertilizer markets in the mid and late 1980's when the Plant's output is expected to come on to the market. There currently is a substantial amount of excess ammonia capacity worldwide. Absent unusual incidents such as a drought, both the U.S. and world surpluses are projected to last into the early 1980's.

In times of a surplus, high cost producers are forced either to lose money or to shut down production. In this environment, producers who receive gas at a cost-of-extraction price have a decisive advantage. Only those U.S. producers who have long-term gas-purchase contracts entered into before 1970 have access to such low-priced gas. Other U.S. producers generally must pay approximately $2.00 per 1,000 cubic feet of gas (MCF). The Plant, however, will be able to purchase natural gas at a cost of $.25 per MCF and therefore be able to produce and sell ammonia in the U.S. at a price substantially less than that feasible for the U.S. producers. If there is still a surplus of ammonia during the peak years for the Plant (1985 to 1990), the product from the Plant probably would displace U.S. production. The present consensus forecast by experts in the field, however, calls for balanced markets by the mid-1980's; hence, there should be little or no adverse impact from the Plant. In such a situation, the net economic benefit to the U.S. would be a favorable job impact of over 2,000 jobs.

In addition, even if one assumes the worst situation, that is, the world surplus will continue throughout the 1980's and each imported ton of ammonia from the Plant will displace a ton of U.S.-produced ammonia, Eximbank's support will provide a net economic benefit to the U.S. of approximately 500 jobs. In the worst situation, the Plant would displace some 350,000 tons of U.S. ammonia production, or approximately 1.0 to 1.5% of expected U.S. ammonia capacity in the mid-1980's. This volume approximates the annual production of one 1,000 ton/day ammonia plant, which generally employs some 115 workers. As very few plants can profitably operate below 50 to 60% capacity, 350,000 tons of imports would probably put the workforce of slightly more than two plants out of work. Hence, the worst-case annual adverse employment impact is about 250 jobs. Using the projected production figures for 1981–89 and assuming a worst-case situation for each year, the total potential jobs displaced could come to some 2,100. As indicated below, however, even assuming the worst case, Eximbank's support produces a net economic benefit to the U.S. of approximately 500 jobs:

Jobs Supported

Year:	
1979	1,100
1980	1,100
1981	0
1982	50
1983	50
1984	50
1985	50
1986	50
1987	50
1988	50
1989	50
Total	2,600

Jobs supported

Year:	
1979	0
1980	0
1981	125
1982	225
1983	250
1984	250
1985	250
1986	250
1987	250
1988	250
1989	250
Total	2,100

If one assumes more likely conditions prevailing in the 1980's, Eximbank financing assistance supports over 2,000 U.S. jobs and offers the following other potential benefits for the United States:

The 350,000 tons of product imports would free 13.5 billion cubic feet of natural gas in the United States for higher priority uses. This volume of gas would heat a Northern city of 100,000 people through an entire winter.

Lower cost fertilizer enhances the price competitiveness of U.S. agricultural exports without impairing the financial health of America's farmers.

Lower cost food inputs could help alleviate some domestic inflationary pressures.

In sum, even in the worst-case situation Eximbank financing for the Plant should produce a net employment benefit to the U.S. Assuming a more realistic case, the employment benefits to the U.S. improve markedly. In addition, irrespective of the employment situation, Eximbank financing for the Plant offers other significant economic benefits to the U.S.

With or without Eximbank support and with or without U.S. procurement, FERTRIN is determined to construct the Plant. If Eximbank refuses to provide support for the U.S. goods and services, the Plant will be supplied by foreign exporters who will be supported by the official export credit agencies of the exporting countries.

The financing plan

Commercial banks are prepared to extend financing for this transaction without an Eximbank guarantee for a term not to exceed 7 years. In this transaction, there is a total term of approximately 11 years consisting of a three-year construction period and an eight-year repayment period. Thus, private financing is inadequate to meet the total financial requirements of the transaction and the Eximbank credit is necessary in order to generate sufficient financing for the U.S. exports.

The financing plan for the total U.S. goods and services of $155,700,000 is as follows:

	Percent of U.S. costs	Totals
Cash payment	15.0	$23,360,000
Eximbank credit	42.5	66,170,000
Private credits not guaranteed by Eximbank	42.5	66,170,000
Total	100.0	155,700,000

The Eximbank credit will bear interest at the rate of 8⅜%, payable semiannually. A commitment fee of ½ of 1% per annum will be charged on the undisbursed portion of the Eximbank credit. The financing will be repaid in 16 semiannual installments beginning January 5, 1982. The first eight installments will be applied to repayment of the private financing and the final eight installments to repayment of the Eximbank credit.

Sincerely,

JOHN L. MOORE, Jr.

ANNEX I

FERTRIN—ESTIMATED COSTS OF U.S. GOODS AND SERVICES

Estimated U.S. costs including contingency and escalation

Major items:	(*In millions*)
Piping and valves	$12.14
Tankage	3.43
Piling	2.65
Insulation	3.11
Boiler	2.18
Heat exchangers	9.65
Plate type (exchangers)	4.67
Pumps and compressors	3.89
Condensers	0.78
Seawater pumps	5.92
Refrigerator equipment	1.56
Demineralization plant	3.42
Switchgear and transformers	3.11
Instruments	3.58
Engineering and design	28.86
U.S. supervision and construction technicians	15.54
Other	51.21
Total	155.70

EXIMBANK FINANCIAL ASSISTANCE—SPAIN

Mr. PROXMIRE. Mr. President, I call to the attention of my colleagues a communication which I have received from the Export-Import Bank pursuant to section 2(b)(3)(iii) of the Export-Import Bank Act of 1945, as amended, notifying the Senate of a proposed direct loan in the amount of $8,000,000 and a financial guarantee of $9,000,000 to assist the export of nuclear fuel enrichment services required for reloads 1 and 2 of the Lemoniz I nuclear powerplant in Iberduero, Spain. Section 2(b)(3)(iii) of the act required the Bank to notify the Congress of proposed loans or financial guarantees involving nuclear exports, at least 25 days of continuous session of the Congress prior to taking final action on the proposal. Upon expiration of this period, the Bank may give final approval to the transaction unless the Congress adopts legislation to preclude such approval.

In this case, the Bank proposes to extend a direct loan in the amount of $8,000,000 and a financial guarantee in the amount of $9,000,000 for a total of $17,000,000, to assist in the purchase of U.S. services to be used for nuclear fuel enrichment in conjunction with the operation of the Lemoniz I nuclear powerplant in Spain. The proposed credit will cover 85 percent of the total cost of U.S. goods and services for the project. The loan will bear interest at 8 percent per annum, and be repaid in five semiannual installments.

Mr. President, I ask unanimous consent that the letter from Eximbank pertaining to this transaction be printed in the RECORD.

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

EXPORT-IMPORT BANK
OF THE UNITED STATES,
Washington, D.C., August 15, 1978.

Hon. WALTER F. MONDALE,
President of the Senate, U.S. Capitol, Washington, D.C.

DEAR MR. PRESIDENT: Pursuant to Section 2(b)(3)(iii) of the Export-Import Act of 1945, as amended, Eximbank hereby submits a statement to the United States Senate with respect to the following transaction involving the export of U.S. services to Spain:

A. DESCRIPTION OF TRANSACTION

1. Purpose

On January 20, 1972, Eximbank authorized a direct credit of $143,614,000 to Iberduero, S.A. to facilitate Iberduero's purchase of goods and services from the United States for export to Spain for the construction and initial operations of Lemoniz I and II Nuclear Power Plants and the initial core fuel load located near Bilbao. On June 9, 1977, Eximbank also authorized a direct credit of $3,200,000 to Iberduero to facilitate financ-

ing the U.S. costs of fabrication services of nuclear fuel reloads for Iberduero's Lemoniz I Nuclear Power Plant (reloads one and two) and Lemoniz II Nuclear Power Plant (reload one). Iberduero has now requested and Eximbank is prepared to provide financial assistance of $17 million in the form of a credit of $8 million and a guarantee of private loans of $9 million for the purchase of nuclear fuel enrichment services required for reloads one and two of Lemoniz I Nuclear Power Plant.

Exports of the enrichment services will be made within the framework of the bilateral "Agreement on Atomic Energy: Cooperation for Civil Uses" between the United States and Spain, and the trilateral agreement among the U.S., Spain and the International Atomic Energy Agency, relating to application of IAEA Safeguards. Both of these Agreements became effective on June 28, 1974, following consideration by the Congress under the provisions of Section 123 of the Atomic Energy Act of 1954. Prior to export, licenses must be obtained from the Nuclear Regulatory Commission with respect to individual sales of the enrichment services.

The nuclear fuel enrichment will be provided by the Energy Research and Development Agency of the Department of Energy at ERDA's Oak Ridge, Tennessee, facility pursuant to a fixed commitment, long-term contract with DOE. Under the contract DOE is to provide enrichment services over the operating lifetime of the Lemoniz I Nuclear Power Plant. Since this nuclear power facility has suffered delay in completion. Iberduero would take delivery of the fuel reloads sometime before they are needed. However it is to Iberduero's advantage to take the enrichment services in accordance with the schedule of annual enrichment services in its contract with DOE in order to avoid very substantial cancellation penalties. Furthermore Iberduero will avoid an interruption of power generation by taking delivery of the reload fuel when available.

2. Executive branch approval

In accordance with established procedures, Eximbank requested through the Department of State the views of the Executive Branch on the proposed transaction. State's Bureau of Oceans and International Environmental and Scientific Affairs advised that the Executive Branch has no objection to Eximbank's proceeding with this transaction.

3. Identity of the borrower

Iberduero, S.A. was created in 1944 as a result of a merger of two electric utility companies. Headquartered in Bilbao, it is the largest electric utility and one of the largest privately owned industrial enterprises in Spain. The utility accounts for more than 20 percent of Spain's electricity sales.

B. EXPLANATION OF EXIMBANK FINANCING

1. Reasons

The Eximbank credit of $8 million and guarantee of $9 million will facilitate the export of $20 million of U.S. goods and services. Eximbank perceives no adverse impact on the U.S. economy from the export of these goods and services. This transaction will have a favorable impact on employment for United States workers, as well as on the United States balance of trade. The material to be exported is not in short supply in the United States.

2. The financing plan

The total cost of the United States goods and services to be purchased by Iberduero is $20 million which will be financed as follows:

	Amount	Percent of U.S. costs
Cash	$3,000,000	15
Eximbank credit	8,000,000	40
Private loans guaranteed by Eximbank	9,000,000	45
Total	20,000,000	100

(a) Eximbank charges

Disbursements under the Eximbank credit will bear interest at the rate of 8.0 percent per annum, payable semiannually. A commitment fee of .5 percent on the undisbursed portion of the Eximbank credit, a guarantee fee of .75 percent on the disbursed portion of the private loans guaranteed by Eximbank and a .125 percent guarantee commitment fee on the undisbursed portion of the private loans guaranteed by Eximbank will be charged, all fees payable semiannually.

(b) Repayment terms

The Eximbank credit and the private loan, which total $17 million, will be repaid by Iberduero in five semiannual installments on a pari passu basis.

Sincerely,

JOHN L. MOORE, Jr.

Mr. PROXMIRE. Mr. President, I yield the floor.

SPECIAL ORDER

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Vermont (Mr. LEAHY) is recognized for not to exceed 15 minutes.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield to me for a unanimous-consent request?

Mr. LEAHY. I yield.

SUSAN B. ANTHONY DOLLAR COIN ACT OF 1978

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 1042.

The ACTING PRESIDENT pro tempore. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 3036) to amend the Coinage Act of 1965 to change the size, weight, and design of the one-dollar coin, and for other purposes,

The ACTING PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Banking, Housing, and Urban Affairs with amendments as follows:

On page 1, line 9, strike "8.5" and insert "8.1";

On page 1, line 10, strike "(a)";

On page 2, line 2, after "Anthony" insert a comma and "and shall bear on the other side a design which is emblematic of the symbolic eagle of Apollo 11 landing on the moon";

On page 2, beginning with line 5, strike through and including line 10;

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. This Act may be cited as the "Susan B. Anthony Dollar Coir Act of 1978".

SEC. 2. Section 101(c)(1) of the Coinage Act of 1965, as amended (31 U.S.C. 391(c)(1)), is amended by striking out "1.500" and inserting in lieu thereof "1.043" and by striking out "22.68" and inserting in lieu thereof "8.1".

SEC. 3. The one-dollar coin authorized by section 101(c) of the Coinage Act of 1965, as amended by section 2, shall bear on the obverse side the likeness of Susan B. Anthony, and shall bear on the other side a design which is emblematic of the symbolic eagle of Apollo 11 landing on the moon.

SEC. 4. Section 203 of the Act of December 31, 1970 (31 U.S.C. 324b), is amended by striking out "initially" and by inserting "(d)" after "section 101".

SEC. 5. Until January 1, 1979, the Secretary of the Treasury may continue to mint and issue one-dollar coins authorized under section 101(c)(1) of the Coinage Act of 1965, as such section was in effect immediately prior to the date of enactment of this Act.

● Mr. PROXMIRE. Mr. President, last week the Committee on Banking, Housing and Urban Affairs unanimously reported out the Susan B. Anthony Dollar Coin Act of 1978. This legislation is the result of a comprehensive review of our coinage system conducted during the previous administration by Research Triangle Institute. During the last days of the 94th Congress, former Secretary of the Treasury William E. Simon made a similar recommendation for a smaller dollar coin, based on the Institute's findings; however nothing was done by either branch of Government until early spring of this year.

S. 3036 is identical to the administration's draft legislative proposal submitted to the Congress with the exception of the design change, which I shall touch on shortly. First, attention should be paid to the bill's primary focus—namely the authorization of a newer, smaller dollar coin, one much smaller and lighter than the present one. Just as Ford Motors went back to the drawing board because of Edsel and subsequently developed the successful Mustang, the bill before us would permit the Treasury to take its "Edsel" off the market and come out with a better product for wider usage by the American public.

The present dollar coin has never had a significant role in our coinage system because of its cumbersome size and the ready availability of smaller substitutes. Since 1971, when the Treasury reissued the dollar coin into our coinage system after a production hiatus of approximately 35 years, public demand has averaged less than 1 percent of total coinage outflow. The basic rationale for a smaller, lighter coin is to increase the flexibility of consumer transactions and offer substantial cost savings to the U.S. Government. The current Eisenhower dollar coin costs about 8 cents each to produce by the U.S. Mint compared to the cost for the proposed Anthony coin which would be 3 cents each. This is a

savings of greater than 60 percent per coin compared to the existing coin. Based on the mint's current production volume of 90 million dollar coins annually, the Anthony coin would save $4.5 million per year. With increased production generated by successful circulation, the savings would multiply.

Finally, Mr. President, S. 3036 corrects a historical omission that is long overdue. For the first time in our history, the likeness of an American woman would be depicted on a U.S. circulating coin. All of our present coins now bear the likenesses of American Presidents; Eisenhower, dollar coin; Kennedy, half dollar; Washington, quarter; Roosevelt, dime, Jefferson, nickel; and Lincoln, penny.

The committee's decision to approve the Susan B. Anthony Dollar Coin Act is consistent with all similar legislation passed by the Congress during this century. What has changed in this instance is the tradition of a modern democracy honoring only its males on its circulating coinage. The administration's recommended return to the more traditional liberty head symbol because it could not decide on a suitable American woman to grace the coin is not only anachronistic but—in the committee's view—would shortchange more than one-half of the American electorate.

The Anthony Coin Act is supported by a coalition of major womens' organizations which, for the first time in my memory, endorse the same legislative issue wholeheartedly. I speak of the National Organization of Women, the League of Women Voters of the United States, and the Daughters of the American Revolution. Given the fact that the right to vote is the centerpiece of any democracy, and it was the 19th amendment to the U.S. Constitution (known as the Anthony amendment) which gave women that right, the committee concurred that the new coin should commemorate the American woman who made that right possible: namely, Susan B. Anthony.

Mr. President, I urge my colleagues to support this legislation.●

● Mr. WILLIAMS. Mr. President, I support S. 3036, the Susan B. Anthony Dollar Coin Act.

There are, of course, several important practical reasons for my support of S. 3036. The smaller, lighter coin which the bill calls for would be more convenient for consumers to use than the present dollar coin. Furthermore, if the Treasury Department projections are correct, the new coin will result in considerable production cost savings over both the present dollar coin and the dollar bill.

But beyond the convenience and cost factors involved, Mr. President, I strongly support the bill's commemoration of a great American woman, Susan B. Anthony's work for women's suffrage laid the foundation for passage of the 19th amendment to the Constitution. This was a necessary step toward the achievement of a society in which all Americans can join in the rights, as well as the responsibilities, of citizenship. Anthony's courage and perseverance on behalf of a just cause represent the best in our national character. Her impact on women's rights—and, in a larger sense, human rights—is still very much in evidence today.

Mr. Pesident, I urge my colleagues to give this bill their enthusiastic support.●

The amendments were agreed to.

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

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–1120), explaining the purposes of the measure.

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

HISTORY OF THE LEGISLATION

S. 3036 to authorize a new dollar coin was introduced in the Senate on May 3, 1978, by Senator William Proxmire, chairman of the Committee on Banking, Housing and Urban Affairs, and cosponsored by Senators Williams, Cranston, McIntyre, Morgan, Riegle, and Lugar of the committee. With the exception of section 3 requiring the likeness of Susan B. Anthony to appear on the face of the new coin, S. 3036 is identical to the administration's legislative recommendation submitted to the Congress on April 17, 1978. The design proposed in the administration's draft bill called for a stylized liberty head on the face of the coin and a soaring eagle design on its reverse side.

A hearing was held on July 17, 1978, to receive testimony from Hon. Mary Rose Oakar, Patricia Schroeder, and Jim Leach of the U.S. House of Representatives; Ms. Stella B. Hackel, Director, Bureau of the Mint; and representatives of the banking, retail, and vending machine industries.

The committee met in open markup session on August 1, 1978, and unanimously approved S. 3036, with two amendments which are herewith reported.

NATURE AND PURPOSE OF THE LEGISLATION

S. 3036 authorizes the minting and issuance of a new circulating dollar coin which would be slightly larger than a quarter and approximately one-third the weight of our present dollar coin. The legislation would also, for the first time in our history, provide for the likeness of an American woman to appear on the face of the coin.

The committee unanimously agreed to an amendment by Senator Garn to continue the Apollo Eleven design on the reverse side of the coin. This design presently appears on the current dollar coin and is emblematic of the symbolic eagle of the Apollo Eleven landing on the moon. The committee also unanimously agreed to a technical amendment, recommended by the administration, to change the size of the new coin from 8.5 grams to 8.1 grams. This change is to accommodate some of the leading coin equipment manufacturers who advised the Secretary of the Treasury that a slightly lower weight coin would facilitate high-speed coin handling.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator from Vermont, and I ask unanimous consent that the time that has been utilized not be charged against him.

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

Mr. LEAHY. I thank the majority leaders.

THE FINAL CHAPTER ON ERNEST FITZGERALD'S WHISTLEBLOWING

Mr. LEAHY. Mr. President, later this morning the Senate will consider the nomination and promotion of over a hundred military officers. I will be supporting all of those nominations because I believe that all of the candidates in whom I had an interest are qualified for their promotions.

As many of my colleagues know, I had opposed earlier consideration of one of these nominees, Gen. Hans Driessnack, because I felt that serious allegations remained unresolved regarding his possible role in a reprisal campaign against our Nation's most famous whistleblower, A. Ernest Fitzgerald. I am now prepared to let the nomination go forward because of two developments. First, I know of no concrete evidence which proves that this individual participated in activity to discredit or smear Mr. Fitzgerald. The case is over 10 years old, people's memories have faded, important principals in the case have died and, of course, the Air Force never kept a record of who was coordinating which aspects of the improper, if not illegal, anti-Fitzgerald activity which followed his disclosure of the C5–A cost overruns.

Second, I now believe that 10 years and four administrations after Fitzgerald's original C5–A testimony, we now have an administration prepared to come to Fitzgerald's assistance. I have received assurances from the White House that beginning immediately, the White House Personnel Office will meet with Mr. Fitzgerald in a sincere and sustained effort to find an appropriate position in the Government where his extensive and unique abilities can be effectively used.

This means that the final chapter on Ernest Fitzgerald's whistleblowing case may have been reached. Even after the Civil Service Commission ruled that Mr. Fitzgerald had been removed improperly from his position and forced the Air Force to reinstate him, Fitzgerald never received assignments commenserate with his ability. I now believe, based on the commitment of the Carter administration to find an appropriate position for Fitzgerald, that he will secure a challenging job which will call for his special talents for protecting against the wasteful expenditure of tax dollars.

It is time for Mr. Fitzgerald to get on with his career I believe that the Carter administration is committed to see that happen. I would also like to point out that this is the fourth administration, two Democratic and two Republican, to be involved in the Fitzgerald case. This is, however, the first administration which has finally taken the action to restore justice and equity and to redress

the mistreatment Fitzgerald has received from the Federal Government.

President Carter should be commended for recognizing that the rights and needs of a single Federal employee deserve strong support and protection. There has been some criticism expressed that the President's comprehensive Civil Service Reform Act which is currently pending before the Congress is an "anti-employee" package. This is not true. The decision to search for a useful job for Mr. Fitzgerald is indicative of this administration's very sincere, very real commitment to all competent, hard-working, dedicated Federal employees.

I share in President Carter's goal of an effective and efficient Federal bureaucracy. Passage of the President's civil service reform proposal is a critical step toward achieving that goal. Finding Mr. Fitzgerald a position commensurate with his abilities is another.

Justice has been a long time coming for Ernest Fitzgerald. It has been nearly a decade since he last held an important job. His legal fees to defend against the Government's improper attempt—I emphasize that, Mr. President, the Government's improper attempt—to fire and discredit him are approaching $500,000. And although I believe that the attention he will now receive from the White House is something he deserved 10 years ago, I am pleased to see that it has finally come.

I would also like to speak for a moment about other whistleblowers in the Federal Government and about those who take reprisal actions against them. Just as I felt it was absolutely necessary to withhold consideration of one of the nominations we will vote on today because of "whistleblower" overtones, so shall I continue to act in the future. Federal employees should know that if they are subjected to reprisals or harassment for coming forward and disclosing acts of governmental waste, mismanagement, corruption or abuse, they can count on my support. And to any Federal employee—civilian, military, executive appointee, or whomever—who takes part in a reprisal or harassment campaign against a whistleblower, I have a message for you, too. I will use whatever means are at my disposal to insure that no one who acts against a whistleblower benefits from such action. I will still be interested long after the original publicity of a whistleblowing event has faded from the public's limelight.

For too long, one of the most serious problems confronting a whistleblower was the reprisal which waited many months or years down the road. When it finally came, there was no one there to help the Federal employee. The press, the Congress, and the public had all moved on to other issues and other stories. No one was interested in putting the time or trouble into protecting the employee who was finally hearing "the other shoe" fall. Well, I do intend to be here and I do intend to help.

Just as some Federal employees have made life difficult for whistleblowers, I will make life difficult for those who take illegal or improper action against an employee who has exposed improper governmental actions. The difference will be that my action will be public, it will be loud, it will be legal, and it will be proper and, I hope, it will be effective.

A. Ernest Fitzgerald will get a new job. Those who were responsible for coordinating the reprisal action against him will probably go unpunished. But I promise Mr. Fitzgerald and I promise all other Federal employees that those responsible for reprisals will not be forgotten and that they will have to contend with one angry, albeit junior, U.S. Senator if they or anyone else takes similar action in the future.

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

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator.

I believe the Executive Calendar is now clear. The hold on my side of the aisle on one of the nominees has been lifted. I ask unanimous consent that the Senate proceed to the consideration in executive session of nominations beginning with U.S. Air Force and going through page 12.

Mr. BAKER. Mr. President, reserving the right to object—and I will not object—the items identified by the majority leader are cleared on our Executive Calendar, which include those nominations for the Air Force, the Army, the Navy, and one nomination for the Department of Justice, which are all of the nominations from page 2 through page 12 of the Executive Calendar, and we have no objection to proceeding to their considerations and their confirmation.

U.S. AIR FORCE

The assistant legislative clerk proceeded to read sundry nominations in the U.S. Air Force.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the nominations be considered and confirmed en bloc.

The PRESIDING OFFICER (Mr. LEAHY). Without objection, the nominations are considered and confirmed en bloc.

NOMINATION OF GEN. WINFIELD SCOTT, JR.

Mr. STEVENS. Mr. President, as in executive session, one of the nominations that the Senate has considered today is that of Maj. Gen. Winfield Scott, Jr., USAF to become Lieutenant General.

General Scott is the new commander of the Alaskan Air Command and I support the confirmation of his nomination. At this time I would like to have printed in the RECORD correspondence with the Department of Defense on this matter.

I am most pleased to thank the distinguished Secretary of Defense and his deputy for carrying out the commitment that was made to Alaska that the commander of the Alaska Air Command will, in fact, be a three-star general.

I ask unanimous consent that the two letters be printed in the RECORD at the conclusion of my remarks.

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

THE SECRETARY OF DEFENSE,
Washington, D.C., January 5, 1978.

Hon. TED STEVENS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR STEVENS: Thank you for your letter of November 22, 1977, concerning the Alaskan Air Command reorganization.

The reorganization referred to in your letter consists of a realignment of certain functions and personnel from the Headquarters to the 21st Composite Wing. Concurrently, the 21st Composite Wing will assume management responsibilities for 13 Airborne Control and Warning Squadrons. Both the Alaskan Air Command and the 21st Composite Wing will continue to be headquartered at Elmendorf Air Force Base. This reorganization will not result in a reduction of the total number of United States Air Force military or civilian personnel authorizations in Alaska or at Elemendorf Air Force Base.

I wish to assure you that the reorganization will not in any way diminish the authority of the Alaskan Air Command. Lieutenant General Boswell will continue as Commander and current plans are for his eventual replacement to also be a Three Star General.

I trust this information will provide you with the reassurance you have requested. Should you desire more information, please let me know.

Sincerely,

C. W. DUNCAN, Jr.,
Deputy.

NOVEMBER 22, 1977.

Hon. HAROLD BROWN,
Secretary of Defense, U.S. Department of Defense, Washington, D.C.

DEAR MR. SECRETARY: As you may know, I requested a United States Air Force briefing on the reorganization of the Alaskan Air Command. Attending the meeting in my Washington, D.C. office were the head of the Alaskan Air Command, Lt. General Marion Boswell; the Deputy Director of Air Force Legislative Liaison, Brigadier General William Mullins; and the Chief of Air Force Senate Liaison, Colonel Eugene Poe.

As outlined to me during the briefing, the reorganization of the Alaskan Air Command consists of a restructuring of the Headquarters into a strictly managerial organization with its support personnel being reassigned to the 21st Composite Wing. Additionally, both of these units will continue to be headquartered at Elmendorf Air Force Base, Alaska, under the command of Lt. General Boswell. I was also told that General Boswell's eventual replacement would also be a Three Star General.

I have also been assured that these changes will not diminish the authority of the Alaskan Air Command. Nor will these actions result in reduction of the total number of United States Air Force military or civilian personnel in Alaska. It is my understanding that Alaskan Air Command officials believe that the reorganization of the 21st Composite Wing can be accomplished by the reassignment of the Headquarters' support personnel. I was also reassured that this reorganization will serve to enhance the management posture of the Alaskan Air Command.

I was reassured that those stars would stay there when the Alaska Command was disestablished. Without 3 stars, the contingency plans are meaningless.

Based on these assurances from the Air Force, I have not opposed the reorganization. However, during the briefing, I stressed the importance of the Alaskan Air Command to my State and my strong objection to any attempts to curtail its authority. Our strategic location demands an effective air defense force.

Please let me know if my understanding of this reorganization is accurate. I look forward to hearing from you on this important matter. Thank you for your assistance.

With best wishes,

Cordially,

TED STEVENS,
U.S. Senator.

U.S. ARMY

The assistant legislative clerk proceeded to read sundry nominations in the U.S. Army.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the nominations be considered and confirmed en bloc.

The PRESIDING OFFICER. Without objection, the nominations are considered and confirmed en bloc.

U.S. NAVY

The assistant legislative clerk proceeded to read sundry nominations in the U.S. Navy.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the nominations be considered and confirmed en bloc.

The PRESIDING OFFICER. Without objection, the nominations are considered and confirmed en bloc.

DEPARTMENT OF JUSTICE

The assistant legislative clerk read the nomination of William E. Pitt, of Utah, to be U.S. marshal for the district of Utah for the term of 4 years.

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

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that it be in order to move en bloc to reconsider the vote by which all the nominations were confirmed.

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

Mr. ROBERT C. BYRD. I make that motion.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask that the President be immediately notified of the confirmation of the nominees.

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

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate return to legislative session.

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

Mr. ROBERT C. BYRD. Mr. President, is the Senate still in the period for the transaction of routine morning business?

The PRESIDING OFFICER. Yes, the Senate is.

Mr. ROBERT C. BYRD. I thank the Chair, and I yield the floor.

S. 3441—INDEPENDENT LOCAL NEWSPAPER ACT OF 1978

Mr. MORGAN. Mr. President, I desire to introduce a bill.

The PRESIDING OFFICER. The bill will be received and appropriately referred.

Mr. MORGAN. Mr. President, I am pleased today to be introducing the "Independent Local Newspaper Act of 1978," a proposal which I believe will go a long way toward assisting in the preservation of independent newspapers in this country. This will be accomplished by providing tax relief to certain newspapers and thereby an incentive for independent, local newspapers to remain community papers.

Congressman MORRIS UDALL has introduced and hearings have been held on a companion bill in the House of Representatives. Some 75 cosponsors have joined Congressman UDALL and they represent every area of the country and every political persuasion. It is a good bill and has attracted much support among Members of the House and from the newspaper community. It is a bill which has been subjected to review and adapted to meet criticisms. It is a bill which can assist independent papers.

Let me say a few words about the reasons this bill is needed and about the mechanics of the proposal.

A few years ago, newspapers were considered primarily as a community service. Now, as we all know, there is money to be made in newspapers and much emphasis is being placed on the business end of the enterprise. The "chain" approach to ownership, where one newspaper buys out another and eventually a string is owned and controlled by one person or one company has been around for some time. It is only in recent years that the impact of newspaper acquisitions come to our attention. Today, there are about 1,775 daily newspapers in this country.

Only 650—I repeat, 650—are independent locally owned. The rest of the papers are parts of chains.

With 72 percent of all daily circulation and 78 percent of all Sunday circulation controlled by chain-owned papers, the chances are very good that when you pick up a newspaper in my own State, in the city of Wilmington, N.C., or Hendersonville, N.C., or Lexington, N.C., there is a good chance that there will be quite a bit of news and editorial comment from New York City or the New York City area. The reason is simple. The New York Times owns all of these papers, plus others.

Now, I am not suggesting that there is anything sinister in the works and I am cognizant that the chain newspapers, by pooling resources, are able to provide some valuable services. Many small local papers are not up to snuff and are not a pride to the industry. There is something to be considered, however, in the concentration of the printed media that we are witnessing today.

In the last few years, newspaper acquisitions have averaged 40 or 50 a year. With this type of trend, in about 10 years, we could be facing a situation where 15 or 20 chains control most of the newspaper circulation in this country.

Mr. President, for myself, and I believe that others share my concern, I am afraid of what can happen. We must maintain a free and independent press in this country. Of all the industries and businesses in this country, only one is mentioned by name in the Constitution—the press. It is the right to a free press which I believe can quickly become threatened by corporate acquisition and concentration.

The ability of a local editor to express his anger or pride, free from any publisher, whether he be right or wrong from our perspective is a precious thing indeed. The political process which we enjoy in this country is very much founded on the freedom of the press to disagree, to debate and to take different sides on an issue. The public must be informed and to my mind the newspapers of the United States have done an admirable job in providing information and generating opinion. There must also be freedom of information, a freedom from concentrated editorial supervision and from a controlled press.

I do not want to go on too long with my reasons for desiring a preservation of a free and American press, which is not dominated by domestic chains or foreign investments. I do want to note that one reason that so many papers have been sold to chains and transferred from community control to editors from other cities or other States is our current estate tax laws.

At present, one of the major problems for independent papers which are run by one individual or by a small group of individuals is the payment of estate taxes. Simply put, when someone dies owning a share in a newspaper, that interest must be valued by the Internal Revenue Service. At present most newspapers calculate their worth at 15 times their yearly income. If a paper brings in $500,000 a year, then it should be worth $7.5 million.

The problem has been that with chains willing to pay 40 or 50 or even 60 times yearly earnings for a paper, the IRS has been valuing newspapers at a level which prohibits the payment of estate taxes. The result is that when an owner dies, or before his death, there is every incentive to sell the paper, make a profit and put his estate in order. The result has been a dramatic reduction in the number of independent newspapers.

What I am proposing today is a tax measure to assist—and I repeat, assist—independent newspapers in remaining independent. There is no cure-all in this proposal and since it is voluntary there is no guarantee that every independent paper will take advantage of this new tax mechanism.

The "Independent Local Newspaper Act of 1978" would allow independent newspapers to establish a trust for the payment of their estate taxes. A newspaper could establish a trust into which 50 percent of the paper's income could be placed annually, for the sole purpose of paying estate taxes which accrue on the

transfer on death of the newspaper owner. There is no reduction in the estate tax burden under this bill.

Independent newspapers are defined as publications which are not part of a chain and which have all of their publishing offices in a single city, community or metropolitan area, or as of October 31, 1977, had all its publishing offices within one State. The exception representing an in-State chain in operation before October 31, 1977, a classification which represents some 178 papers or 10 percent of all the dailies in the United States. No stock may be traded on the securities market for a paper to qualify.

The bill is divided into two parts. The first permits the creation of a trust by an independent paper for the purpose of paying the estate tax attributable to the owner's interest in the business. The trust must have an independent trustee and be invested only in U.S. obligations. The value of the trust cannot exceed 70 percent of the value of the owner's interest in the business. The newspaper income diverted to the trust is deductible from income of the paper and the owner—a form of relaxation on the double taxation on corporation dividends that we now have. On death the trust is excluded from the gross estate of the owner. Deductions for transfers from the business to the trust are limited to 50 percent of the business profits.

The second part of the bill provides for a deferral of the estate tax liability, if elected by the heir, to pay for tax liability not covered by the trust. Interest would be charged on the tax liability, while the coverage of section 6166 of the current code would be extended to cover estates which involve newspaper trusts.

I would like to briefly address some of the potential criticisms of this bill. I feel that this may assist in our consideration of this measure.

It is true that there are certain departures from existing laws and certain innovative provisions in this bill. This I do not deny. There is some deal of complexity represented by the independent newspaper bill and there is always resistance to newness, but I personally feel that this bill is needed and that it should be favorably considered by the Senate. While tax consequence may be difficult to calculate, I think it is a fairly simple matter to understand this bill—it sets forth the option for local newspaper to set up trust to prepay their estate taxes.

Next, I have heard it said that there are some benefits here that are extraordinary and create too great an inequality in the law. I think on reflection that this is not the case. There are certainly benefits to this proposal. Deducting 50 percent of income derived from a newspaper business is a definite attraction, just as I hope it will be. There must be some incentive to divert 50 percent of your income to a trust in order to pay estate taxes and I believe that the deduction is warranted.

There is also a penalty in the bill to deter abuse. The newspapers do deserve some special attention. I am afraid that those who may cry special interest legislation may be rudely awakened one day if they find that we have no independent press in which they may place their charges. Yes, there is some special attention for newspapers here and our Constitution approves just such attention for the press.

There may be concern that the heir is receiving a benefit that normally would be treated as income; that is, the discharge of an obligation to the Internal Revenue Service. Again, I plead guilty and I remain convinced that this is mandated by conditions that exist today.

If there is concern that a trust can be set up by any paper which meets the test of "independent local newspaper" and that some of the largest daily papers in this country will be allowed to establish a trust, then I believe that the focus is being drawn away from the key issue—maintaining some degree of independence among the press. In addition, while revenue loss is difficult to calculate, a rough estimate which I have received is that we are talking about some $10 million a year. This is just a preliminary figure and I am naturally concerned about any revenue loss, but in this case, I feel that it is in line with my basic views on fiscal conservatism to advocate this optional tax relief for local papers.

Finally, some have suggested that eventually every business interest would seek an option of prepaying taxes and because of this we should give careful review to comprehensive reform. My answer is simply this. The press stands alone in both the history and in the laws and in the fabric of this Nation. This tax relief is limited to this special institution and we should not be afraid to protect it. I would favor a comprehensive review but that should not prevent the enactment of this bill into law.

Let me say, Mr. President, that the need for this legislation is pressing. Newspaper acquisitions are continuing and I ask unanimous consent to have printed in the RECORD an article from last year which appeared in U.S. News & World Report, for the review of the Senators of the concentration in the newspaper business. I could go on detailing my concerns and explaining the technicalities of this bill, but I want to cut this short and allow the Senators to review the bill, to study its provisions, and consider the policy that it embraces. In the legislative session, I recognize that time is short; I am confident that many community-based, independent newspapers feel the very same way. I am confident that this bill can be taken up this session and enacted into law and I thank the Senate for considering it at this late date.

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

[From U.S. News & World Report, Aug. 15, 1978]

AMERICA'S PRESS TOO MUCH POWER FOR TOO FEW?

Far-reaching changes are under way in America's once-unchallenged empires of the printed word—newspapers, magazines and books—as they seek their niche in the electronic age.

Great and venerable publishing houses are under pressures of many kinds to give up their independence and join chains or conglomerates for a safer existence alongside goods and services ranging from rental cars to rugs.

Inroads are becoming apparent in quality, too.

Many publishers, in trying to keep up with changes in reader tastes and interests, are turning more to gossip, shock and scandal—often at the expense of solid information.

There is growing concern that the publishing business, long considered essential to an informed citizenry, is losing its diversity and that growth of corporate empires in publishing is making "the bottom line" of profit margins the supreme factor in the industry—to the detriment of excellence and responsibility to the public.

What will happen ultimately to the quality of opinion and factual information reaching American readers cannot yet be foretold. This, however, is becoming clear:

Chains, whose holdings are rooted in one field of publishing, and conglomerates, whose business interests run the industrial gamut, will continue to grow. A broker specializing in newspaper stocks says: "Further concentration of ownership is inevitable. The trend in the communications business is no different than in any other."

The wave of publishing acquisitions, which began in the early 1960s, continues with such instances as these:

CBS, Inc., recently added a second paperback-publishing house—Fawcett—to its TV, magazine and book-publishing enterprises.

Time, Inc., publisher of magazines and books, and owner of a TV station, a TV production company, a film-distribution and production company and a cable-television system, has announced it is buying the Book-of-the-Month Club.

Capital Cities Communications, Inc., which owns newspapers, television stations and specialty newspapers such as Women's Wear Daily, added the Kansas City Star and Morning Times to its holdings.

The tens of millions paid for these and other publishing properties generate optimism about the economic future of the print media. That, however, is tempered by concern about the social consequences of such transactions.

Says James Hoge, editor-in-chief of the Chicago Sun-Times and the Chicago Daily News: "All the good will in the world by conglomerates who say they will establish op-ed pages (pages of diverse opinions opposite the editorial page), and run a lot of letters to the editor is just not the same as a number of different voices owned by different groups."

Some students of U.S. publishing fear that the day will come when a few giant corporations dominate the printed word—much as the three major networks reign over TV.

Already some newspaper chains have begun to absorb others, and papers like the New York Times and the Washington Post, both part of communications conglomerates, are exercising tremendous influence on the news judgment of editors everywhere. This, in turn, shapes public opinion around the nation. The influence of the Times and Post is multiplied by their supplementary news services, which many papers use.

These developments, say some critics, could degenerate eventually into Orwellian control by a handful of powerful magnates over what Americans read and think.

Against that frightening conjecture stand other factors.

Corporations in print communications don't want to risk Government intervention—and the merger trend has already attracted the attention of some in Congress. Representative Morris Udall (Dem.), of Arizona, wants to include book and newspaper publishing in a proposed study of industrial concentration by a blue-ribbon commission.

An even more significant factor is working

against the specter of media magnates exercising almost absolute control over information: Publishing corporations are less interested in political power than in profits.

As some students of America's media see things, however, it is precisely this emphasis on the bottom line that should be of greatest concern because it can lead to putting profits ahead of both quality and public service.

George Gerbner, dean of the Annenberg School of Communications at the University of Pennsylvania, notes: "There is a more rigorously market-oriented editorial climate today than in the past. The concern with sales used to be tempered by a personal commitment by an independent owner to what he wanted to say or do with the publication."

That commitment, he says, now is less and less in evidence.

Even among persons involved in conglomerates, a few are uneasy about the trend. One is Arthur Ochs Sulzberger, chairman and president of the New York Times Company.

Sulzberger feels that purchase by the Times can improve the quality of a newspaper, but he adds: "I like little, independent papers. I think it's a strength of America. . . . If somebody were to blow the whistle on newspaper acquisitions and say that it's going to be the rules of the game, I'm going to keep the New York Times in the newspaper-acquisition business."

Most people in the chain and conglomerate businesses express no such qualms. They feel that their growth is a good—and necessary—development. John R. Purcell, president of the CBS/Publishing Group and formerly a top executive in the Gannett newspaper chain, says: "Fragmentation of the media plays into the hands of big government. As long as there is a centralized big government, there is a need for a powerful and financially able free press."

But Washington Post media critic Charles Seib takes a different point of view. In a recent column, he asked this question: "Just how firmly can the executives of the communications empires exert control over the news and editorial product before the concept of a free press, as it was understood by the writers of the First Amendment, disappears?"

NEWSPAPERS: PROFITS—AND QUALITY, TOO?

Chains and conglomerates are the most powerful forces in the newspaper business.

Some chains are improving the quality of the papers they buy—adding staff and additional news services. Knight-Ridder, for example, has turned the Philadelphia Inquirer into one of the nation's well-rated newspapers. And some of the foremost newspapers in the country—the New York Times, the Washington Post, and the Los Angeles Times—are flagships of communications conglomerates.

But the high quality these newspapers achieve is rooted largely in family tradition—in some cases going back almost a century. And critics fret that chains and conglomerates lacking such a tradition can homogenize a product to the point of removing it from local concerns and controls.

These worries center mostly on the daily newspapers—the segment of the publishing industry most directly affected by the enormous growth of audience and revenues for television, the twentieth-century "wonder child."

Between 1973 and 1976, weekday circulation for dailies fell from 63.1 to 60.9 million, through a slight rise is now visible. A survey by the University of Chicago's national opinion research center shows a 7 per cent dip since 1972 in the number of people who say they read a paper daily.

Most editors see TV as the primary cause of the circulation dip. But Leo Bogart, executive vice president and general manager of the Newspaper Advertising Bureau, believes that the key reasons lie elsewhere—the changing composition of central cities, an upheaval in the mores of youth, and suburbanization. The fact that suburban dailes and weeklies are doing well while many urban dailies struggle for readership lends some credence to Bogart's argument.

New approaches. Against that broad background of U.S. social change, newspaper editors and publishers are looking for new formulas to counteract declining circulation. The readership problem is particularly acute among young adults who were raised on TV. They are reading magazines and books in larger numbers than their share of the population, but not newspapers.

To reach nonreaders, editors are consciously moving toward more entertainment—human-interest stories, gossip and even "soap opera" fiction. There's also a trend toward more service features, such as consumer tips and advice on taxes and investments. These changes are often made at the expense of national and international news that many newspapers now regulate—except for a few of the most important stories—to two or three-paragraph summaries.

In seeking readers who are absorbed in their inner selves rather than in the life of the external community, newspapers are also adding features dealing with such topics as psychology, self-improvement and dream analysis.

Many papers are segmenting their audiences with zoned editions aimed especially at covering suburban news once seldom found in a metropolitan daily.

More capital is going into making newspapers visually attractive to a generation used to television's imagery. Says Chicago Tribune Editor Clayton Kirkpatrick: "A newspaper to be successful must be dedicated to . . . not only print content, but graphics as well." Publisher Otis Chandler of the Los Angeles Times and Executive Editor Benjamin Bradlee of the Washington Post see their newspapers becoming more like newsmagazines, offering depth and variety in a visually attractive package.

The 10 biggest chains in the newspaper business

Of 1,762 daily newspapers in the U.S., 1,047 are part of group-ownership arrangements. Here are the 10 largest newspaper chains, ranked by circulation.

Group	Number of papers	Circulation [1]
Knight-Ridder Newspapers, Miami	32	3,598,562
Newhouse Newspapers, New York City	29	3,300,757
Tribune Co., Chicago	8	[2] 3,099,120
Gannett Newspapers, Rochester	73	2,850,000
Scripps-Howard Newspapers, Cincinnati	17	1,911,791
Dow Jones & Co., New York City	14	1,856,667
Times Mirror Co., Los Angeles	4	1,767,798
Hearst Newspapers, New York City	8	1,503,000
Cox Newspapers, Atlanta	14	1,201,370
New York Times Co., New York City	10	1,040,198
Total		22,129,263

[1] Daily except Sunday; latest available figures supplied by companies.

[2] Editor and Publisher, July 1977.

NOTE.—With a total circulation exceeding 22 million, these 10 chains comprise more than one-third of total daily newspaper circulation in the U.S.

The New York Times, whose daily circulation fell from 884,000 to 828,000 between 1970 and 1975, is publishing three magazine-style sections—Weekend, Living and Home—in a drive to increase weekday circulation and advertising. Circulation has risen to about 866,000.

Some critics contend these sections diminish the quality of Times news coverage, but Executive Editor A. M. Rosenthal says the space given to coverage of news events has increased by 7.5 per cent since the "new" New York Times was launched. He insists that "we have added tomatoes to the Times's soup" though, he says, many other papers are adding water to their soup, diluting its quality.

The current leader of the trend away from conventional coverage of the news is Rupert Murdoch, the Australian publisher who purchased the New York Post several months ago and is busily converting it into an American version of his successful papers in Australia and Britain, which offer a racy melange of some "hard news"—and lots of shock, gossip, human-interest features and sex.

Murdoch has gone further than most, but he is not alone. Many papers have instituted "people" columns containing gossipy tidbits about the famous and not-so-famous. Some journalists are writing more intimately about the private lives of public figures, in what some critics see as journalistic voyeurism. The Washington Star prominently features a gossip column that is the first thing many readers in the nation's capital turn to.

Wrong direction? Such moves are generating worry within the profession and on the outside. Erwin Knoll, a former reporter and now editor of the Progressive, a political magazine, warns: "If newspapers keep on the current track, they risk self-destructing as useful vehicles of information and analysis. What they're doing to hold on to readers is trivialize the news." Contrarily, George Reedy, Nieman professor of journalism at Marquette University and press secretary to President Lyndon Johnson, says: "The purpose of papers is to carry on a dialogue, not to perform an educational function. Too many in the press forget that."

Whatever judgment is passed on newspaper trends, they are paying off—circulation problems notwithstanding.

Chains and conglomerates whose stock is publicly traded averaged after-tax profits of 10 per cent last year, a figure many industries would envy. And increasingly these groups, along with a few privately owned publishing houses, are dominating the newspaper industry.

In 1960, chains and conglomerates controlled 30 per cent of the nation's newspapers and had 46 per cent of its newspaper readership. Today they own 59 per cent of the newspapers, accounting for 71 per cent of readership.

Furthermore, about 97 per cent of the 1,544 cities in which dailies are printed are one-owner towns—and critics make the point that a monopoly publisher can put out an inferior product if so inclined. Murdoch, who is branching out with his own U.S. print conglomerate built around the Post and New York magazine, describes a newspaper monopoly as "a license to steal money forever."

Many owners of newspaper monopolies also own local TV stations, but a recent court ruling—being appealed to the Supreme Court—could force them to divest themselves of their television stations.

The pressure on independent owners to sell to chains can be unrelenting. Barry Bingham, Jr., editor and publisher of the family-owned Louisville papers, says he is contacted so often by would-be buyers that his secretary made up a stamp that says "Nothing for sale" for response to such inquiries.

But independent owners like the Binghams are a vanishing breed. In many family-owned newspapers, the younger generation is uninterested in the paper, so the owner sells to a chain. Or he sells because he lacks

the capital for computerization and other new technology to slash production costs. Encouragement to sell also comes from tax laws that allow the new owner to depreciate the plant and equipment from scratch, while also allowing the seller to avoid the problem of estate taxes that might force his heirs to sell anyway.

Unwittingly, Congress may have made it even more difficult to maintain family-owned businesses in passing the Tax Reform Act of 1976. Or so says Bingham, who adds: It means that family businesses will have to go public because there is no way to turn them over. If the person who owns the controlling interest dies, you have to scrape together a fantastic amount of money to pay the taxes."

Going public. Some publishers are getting more capital by selling stock publicly. This, some fear, will make them more vulnerable to "bottom line" pressure in order to pay the dividends that stockholders look for.

New York Times President Sulzberger, however, insists that a family can control a newspaper if it wants to, even though the stock is publicly traded. The Times keeps a majority of voting stock in family hands; publicly traded nonvoting stock can be sold by heirs to pay estates taxes and still keep control of the Times in the family.

Publishers like Sulzberger and Bingham feel that maintaining family control is the best way to make sure that quality does not become secondary to profits. Bingham says that if a chain took over his papers, which have an after-tax profit of only 3 per cent, it would likely turn first to the newsroom as a place to cut costs—hurting the quality.

John Seigenthaler, publisher of the independently owned Nashville Tennessean, stated the problem of publicly owned stock recently: "Does anybody think that our industry won't ultimately suffer setbacks which will require cutbacks, and won't stockholders insist on cutbacks in non-income-producing areas, which means news and editorial expenditures?"

Opinions differ on the magnitude of a more subtle problem—maintaining local editorial control in a newspaper belonging to a chain or conglomerate.

While the best chains do not dictate editorial policy, some critics insist that local executives are under subtle pressure to conform to what top management expects. Against that view, heads of chains say that only weak editors operate that way. Yet they acknowledge that a desire to please the boss can make a newspaper unduly bland and cautious. And homogenization, some admit, can creep in simply because of the tendency in a large corporation to try in one operation what has worked in another.

Says Sidney Gruson, executive vice president in charge of affiliated companies of the New York Times Company: "I think there is a tendency to sameness of coverage by people in a newspaper chain." Disagreeing, Allen H. Neuharth, president and chief executive of the Gannett chain, states that "a paper must be tailored to fit its community." But he concedes that a chain-owned newspaper can lose touch with its community if publishers are shuttled in and out. He adds: "I happen to think publishers and editors who move are the ones who do a good job. I would rather have a good person in a community for three years than a hack for 30."

MAGAZINES: THE SPECIALIZATION GAME

Trivia, gossip, sex and leisure currently make up the "hot" subjects for today's magazines—and many are including material that would have shocked the sensibilities of average readers a few years ago.

Such publications as *People* and sex-oriented *Hustler* have grown at a spectacular rate. In just a few years the circulation of *People*, which is long on photos of celebrities and short on text, has exceeded the 2-million mark and continues to climb. That success story has prompted the New York Times company to launch an imitation, *US*. Explained Gruson: "The magazine was conceived by the head of our magazine division as appealing to the TV generation."

Looking at it more bluntly, Editor Robert Stein of *McCall's*, says that such magazines reflect what television has done to people's attention spans and reading habits.

The example of *People* is only one measure of the magazine industry's flourishing state, over all.

Between 1950 and 1976, circulation of major magazines jumped from 147.3 million to almost 255 million. Between 1975 and 1976, their advertising pages, increased 17 per cent. Last year alone, 336 new magazines were started, according to *Folio*, the industry's magazine.

Not all is rosy. Lewis H. Lapham, editor of *Harper's* magazine, says: "It is hard to get people to read a general magazine and to a lot of people, especially the affluent, that is threatening." *Harper's*, along with some other serious journals, has experienced a circulation decline in recent years.

Many magazines, however, think they have found the magic formula for success. While newspapers continue to strive to reach audiences with a wide range of interests, magazines are aiming increasingly at specialized audiences. Whether a person is a devotee of golf, tennis, UFO's, psychology or CB's, there is something for him—or her—on the magazine rack.

General-interest and mass-circulation magazines like *Collier's* and *Look*, to take just two examples, are defunct—items of nostalgia from a time when magazines had huge audiences across the nation almost to themselves. Now TV has assumed that role, and magazines are tending to narrow, not enlarge, their focus.

While magazines are going in diverse directions to find their own audiences, all are waging a vigorous fight against a common problem: soaring costs of production.

Postal rates have skyrocketed in recent years. Paper costs are way up, too. In that cost squeeze, magazine publishers increasingly are turning to their readers to foot a growing share of the burden. According to the Magazine Publishers Association, only 30 per cent of magazine revenue came from circulation in 1966. Ten years later that figure had jumped to 45 per cent. It soon will reach 50 per cent.

Magazine editors regard this as healthy. They feel that it makes them more stable financially and less subject to fluctuations in advertising. The readers who have remained with them through price increases are regarded as committed to their product—a selling point with advertisers.

Today, however, some magazines are shifting emphasis from subscription to newsstand sales—though gradually—thereby circumventing the troublesome postal system and bringing in more circulation revenue. This is putting a premium on magazine covers featuring celebrities or "hyped up" stories to promote sales in such outlets as supermarkets.

If postal rates keep increasing, magazines can be expected to put even more emphasis on newsstand sales, and perhaps move toward developing alternative means of delivery. Some magazines already are experimenting with new methods—such as delivery by newspaper carriers.

Of the three major print media, magazines appear to be moving toward conglomerates the least, perhaps because there are so many magazines. At last count over 10,000.

Nonetheless, the magazine industry has been affected by the chain and conglomerate trend. CBS owns more than 60 magazines catering to specialized interests. The New York Times Company produces seven, including three abroad. Time, Inc. publishes five, including one of the three major newsmagazines. Of the other major newsmagazines, *Newsweek* is owned by the Washington Post Comany, which also owns TV stations and other newspapers. *U.S. News & World Report*, which also has newsletter and book divisions, is employe-owned.

The president of one independent magazine, the New Yorker's George J. Green, says he fears that the freedom his magazine gives writers and editors would suffer if it were absorbed into a large corporate structure. His view: "You can't maintain your character if you become part of a conglomerate."

BOOKS: BOOM AND TAKEOVER

The book business, once regarded as a cottage industry, is a big business, and getting bigger.

Hardback publishers are buying paperback firms. Companies with movie and TV interests are buying both hard and paperback houses. As a result, the number of major independent book companies is in decline, although there are still many small publishers around.

The acquisition trend is generating concern among some in publishing, who fear that quality is becoming less important than whatever the public will buy in volume.

Says literary agent Georges Borchardt: "Corporate publishing is very much run by people with balance sheets. They think of a book as something to balance out. . . . If you go to a young editor with a manuscript, he might feel like publishing it, but he won't because he's afraid of losing his job."

Borchardt and other critics acknowledge that good books do eventually get published but, says one observer of the industry: "The quality of editing goes down as pressure builds to get products into the market quickly."

Roger W. Straus, Jr., president and chief executive officer of Farrar, Straus & Giroux—an independent publisher of hardcover books—bemoans the publication of "phony books" to turn a quick profit.

Says he: "I cry for the trees that have been chopped down to make the paper for these books." He sees a "loss of quality" in book publishing because big corporate publishers are reluctant to take on a book that might sell only several thousand copies.

The heads of publishing firms owned by conglomerates deny this. Richard Snyder, president of Simon & Schuster, which is owned by Gulf & Western, says that the additional money from a large conglomerate enables him to take more risks. Gulf & Western's sales last year totaled 3.39 billion dollars. Its holdings include Paramount Pictures, Consolidated Cigar, Schrafft Candy and Madison Square Garden.

Writers' lament. The Authors Guild, an organization that represents 5,000 writers, is concerned about the acquisition of independent publishers by large firms like Gulf & Western, fearing it will reduce the market for writers. The Authors Guild has called for Government action.

The Antitrust Division of the Justice Department, however, sees no immediate threat to competition from the mergers, except in the case of mass-market paperbacks, where concentration of ownership is increasing markedly.

The Department is looking into the recent CBS, Inc. purchase of Fawcett, which has two paperback lines, Crest and Gold Medal. CBS already owned Popular Library. Justice was also interested in the desire of the Times Mirror Company, parent firm of the Los Angeles Times, to acquire the Random House publishing division of RCA. If the deal had gone through, Times Mirror, which already owns New American Library paperbacks, would have added Ballantine paperbacks. Franklin Murphy, chairman of the board of Times Mirror, says money differences killed

the deal, but that the antitrust issue was a potential cause of concern.

The interest of movie makers and TV corporations in book publishing is, quite simply, economic. In itself, publishing "trade" hardbacks for the general public is not very profitable. Pretax profits in the industry averaged only 1.7 per cent last year. But the sale of paperback rights and possible movie-book tie-ins or a TV series-book package could prove highly profitable. Also, movie scripts could easily be turned into books, reversing the traditional pattern of making books into movies. A novelized version of the movie "Star Wars" is now a successful paperback.

Hardback houses are also interested in acquiring paperback companies because of the economic advantages. While a hardback may lose money, that loss can be recouped through paperback sales.

Publisher Straus says that an independent hard-cover publisher is at a disadvantage in negotiating with an author if he has no paperback subsidiary. An integrated company can easily come up with the money to make an offer on both the hard and softcover rights to a book. An independent publisher has to find a paperback partner in such a venture.

TV has had a substantial effect on the book industry, and most of those in publishing feel that the results are positive. Television increases reader interest in books. Series like "Roots" and "Rich Man, Poor Man" boost sales of the books on which the series were based.

Television talk shows are major vehicles for promoting books, although some editors are not enthusiastic about the kinds of books that lend themselves to such promotion. They tend to be "how to" books and some nonfiction, rather than serious literary works.

Book clubs, mail-order sales and textbooks are less visible, but highly lucrative, parts of the book industry, which has had a steady increase in dollar volume in recent years. The number of books sold has remained relatively constant, but few publishers express concern about this development.

Just how big a business books have become is demonstrated by the large sums of money paid for rights to some best sellers. Bantam Books, for example, paid $1,850,000 for paperback rights to "Ragtime." This reflects the need for paperback houses to have a "big book" on the stands every month—thereby enabling them to get book distributors to carry other, less-attractive titles they publish.

As paperback publishers become bigger, they have begun to initiate book projects rather than simply buying the rights to hardcover books. The day may be coming, some in the business say, when paperbacks virtually replace hardbacks, with only libraries and a few bibliophiles buying the more expensive editions.

THE LARGEST BOOK PUBLISHERS

Ranked by annual revenues (latest available figures)—

*Hard-cover**

Random House (owned by RCA).
Doubleday.
Harper & Row.
Simon & Schuster (Gulf & Western).
Little, Brown (Time, Inc.).

Paperback

Bantam (owned by IFI International).
Dell (Doubleday).
Fawcett (CBS).
Pocket Books (Gulf & Western).
New American Library (Times Mirror).
Avon (Hearst).

Source Book Distributing and Marketing 1976–1980 published by Knowledge Industry Publications.

THE FUTURE: OPTIMISM, BUT . . .

Book publishers and others in publishing generally are optimistic in foreseeing the future of the print media.

Lee Hills, board chairman of the Knight-Ridder chain, observes: "Print is referable, it is there to reread at your convenience. Print is preservable; you can clip, save and file it. Print is convenient, so you may read what you want, at the speed you want, and when you want it. Print is portable. . . . With print, the reader is in control. He can skip. He can go back. He can observe, he can turn the page or section. It is intimate communication."

As critics see it, print does, indeed, have a special role to play as a disseminator of serious information. But they ask many questions:

Will publishing play that role or will it—as some fear—focus more and more on entertainment at the expense of solid information in an attempt to rival television? Will the quest for profits by ever-larger and more-powerful chains and conglomerates lead publishers to try to appeal to the lowest common denominator? Or will a reasonable balance be struck between profits and quality?

Some analysts of the publishing industry argue that print must carve out a role different from that of TV to remain vigorous—but they ask whether conglomerates and chains concentrating on short-term profits see the industry's problems from that perspective.

Looking ahead, sociologist Richard Maisel has concluded that in a postindustrial society, those communications media that appeal to a mass audience will decline while "specialized communications directed to a smaller, more homogenous audience" will grow.

There are signs that this is happening in the print media, as some general-interest newspapers struggle while specialized magazines thrive. Yet many in publishing see a serious implication in this: If the U.S. becomes a society getting its information from fragmented and specialized sources, where is the information glue coming from to hold the broad society together? And they point out this:

Historically, the nation's writers, editors and publishers have been able to transmit information relatively free of Government pressure. Now, as costs keep going up in a technological age, they are increasingly under another kind of pressure: for bigger profit margins—at the expense, in some instances, of quality and their primary mandate to keep the public informed.

In that developing situation, the content of the nation's newspapers, magazines and books in the years ahead will say much about the condition of the publishing industry—and of American society as well.

(This special report was compiled and written by Associate Editor Alvin P. Sanoff.)

TV NETWORKS: CENTERS OF NEWS POWER

The concentration of power that so many fear lies ahead in publishing already is the norm in television. Three networks dominate the entertainment and information medium that has reshaped American society.

TV is the primary source of news for many Americans whose view of the world is shaped by the networks, ABC, CBS and NBC, all divisions of major conglomerates. The responsibility that falls on network shoulders is awesome, considering that 64 per cent of Americans say they get most of their news from TV and a majority find it the most believable news medium, according to a study for the Television Information Office conducted by The Roper Organization.

The networks as a whole spend about 10 per cent of their revenues on news and public affairs—218 million dollars last year out of net revenue of 2.1 billion, according to figures compiled by the Federal Communications Commission.

News is a smaller part still of the three conglomerates of which the networks are a part: RCA—owner of NBC; CBS, Inc., and the American Broadcasting Companies, Inc. Revenues of the three conglomerates came to almost 9 billion dollars last year. The firms rank 31, 102 and 170 respectively in the Fortune 500 list of the largest U.S. industrial firms.

The three conglomerates earned a total of 822.7 million dollars last year, before taxes, and network earnings accounted for about 36 per cent of that sum.

In addition to their network interests, all three conglomerates own TV stations and AM and FM radio stations, many of which are located in the largest and most influential markets in the country.

They are also in a variety of other businesses. RCA's holdings include Hertz car rentals, Banquet frozen foods, Coronet carpets, defense contracts, television manufacturing and Random House book publishers.

CBS is involved in everything from toys to tools. Its holdings include: Creative Playthings, X-acto tools, Steinway pianos, Holt, Rinehart & Winston book publishers, three paperback-book lines, Columbia Records and a number of magazines.

American Broadcasting Companies, Inc., owns amusement parks, more than 250 movie theaters, ABC records, leisure magazines such as High Fidelity and Modern Photography, and Word, Inc., a religious music and book-publishing firm.

The wide-ranging business interests of the networks' parent corporations has raised some concern about whether economic interests might come into conflict with network news coverage.

But John R. Purcell, president of the CBS/Publishing Group, says news coverage is unaffected by his employer's other interests.

PLAYING IT STRAIGHT

He points out that CBS ran "The Guns of Autumn," a documentary critical of hunting that proved financially damaging to the company because some angry advertisers pulled their ads out of Field & Stream magazine, which is owned by CBS.

Purcell also said that a recent CBS television-news segment took a critical look at the educational-publishing industry, mentioning CBS's Holt, Rinehart & Winston by name.

Says Purcell: "I thought the segment was poor investigate reporting. . . . It made me mad as the head of a major publishing group. But it made me proud to work for a company with two divergent opinions."

Mr. PERCY. Mr. President, I am pleased to join my colleague from North Carolina (Mr. MORGAN) in introducing the Independent Local Newspaper Act of 1978.

I have been concerned by the growing trend toward concentrated ownership in the news reporting field. Independent local newspapers are a strong American tradition. They provide independence of thought, recognition of local interests and healthy competition which must be allowed to continue.

Between 1954 and 1974 the number of daily newspapers remained at approximately 1,770, but during that period the percentage of dailys that were part of chains increased from 27 percent to 55 percent. Furthermore, during this period the number of U.S. cities with competitive daily newspapers fell from 117 to 55.

Regrettably, the impact of estate taxes on independently owned newspapers has been in large part responsible for this trend. Faced with substantial estate tax bills, which may be based on an inflated potential resale value, heirs to the owners of independent papers are

*Excludes textbooks.

often forced to sell their interest to pay the taxes due.

The estate tax changes we enacted in the 1976 Tax Reform Act have been of some assistance, but not enough. At that time we extended the period for payment of estate taxes from a maximum of 10 years to a maximum of 15 years and reduced the interest rate of the taxes due from 7 to 4 percent. However, to qualify for this relief, the business must meet both the test of being closely held and account for a set percentage of the decedent's estate. Those that do not meet these strict tests remain subject to the pre-1976 rules. A forced sale is often the result.

The legislation we are introducing today expands the relief provided by the 1976 act. Many of us had hoped and worked to make the 1976 estate taxes broader—for family farms as well as family businesses—and this legislation is a first step in that direction.

Briefly, the bill allows a local newspaper business to establish an estate tax payment trust, the assets of which are invested in U.S. obligations, for the purpose of funding the estate tax attributable to the interest of the individual owners in the newspaper. The trust assets would be limited to the amount necessary to pay the estate tax. Contributions, disbursements, and the assets of the trust would be free from taxation as long as the trust conformed to the requirements set out. In addition, in those cases where the trust funds are not sufficient to pay the estate tax due, the existing 15-year period during which some estate taxes must be paid is broadened by repealing the percentage restrictions.

This legislation does not prevent the acquisition of an independent newspaper by a chain. It leaves the decision to sell in the hands of the owners of such papers and their heirs. It protects them from being forced into a decision to sell by Government tax policy. It is unquestionably in the national interest that the tradition of the independent press be preserved. Federal tax law should not be allowed to create a result contrary to this national interest.

COMMITTEE MEETINGS

(The following proceedings occurred later in the day.)

Mr. LEAHY. Madam President (Mrs. HUMPHREY). I ask unanimous consent that the Commerce, Science, and Transportation Committee be authorized to meet during the session of the Senate today to conduct hearings on the International Air Transportation Competition Act of 1978.

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

Mr. LEAHY. Madam President, I ask unanimous consent that the Permanent Subcommittee on Investigations of the Governmental Affairs Committee be authorized to meet during the sessions of the Senate on Wednesday, August 23, and Thursday, August 24, to conduct hearings on "arson for profit" legislation.

Mr. SCOTT. Madam President, reserving the right to object, has this been cleared on our side of the aisle? I am not familiar with these matters. I do not want to object to any unanimous-consent requests, but I think they should be cleared.

Mr. LEAHY. I assumed that they had. It was handed to me.

Mr. SCOTT. I withdraw my reservation.

Mr. LEAHY. Senator BAKER has initialed them.

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

COMMITTEE MEETING DURING SESSION OF THE SENATE ON THURSDAY, AUGUST 24, 1978

Mr. LEAHY. Mr. President, I ask unanimous consent that the Foreign Relations Committee be authorized to meet during the session of the Senate on Thursday, August 24, to mark up S. 2053, deep seabed bill, and to consider Senate Joint Resolution 154, concerning U.S. invitation for nations to participate in the international petroleum exposition to be held in Oklahoma.

Mr. SCOTT. Mr. President, reserving the right to object——

Mr. LEAHY. Mr. President, this has been cleared on both sides.

Mr. SCOTT. With the assurance of the distinguished Senator from Vermont that it has been cleared on our side, I have no objection.

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

COMMITTEE MEETING DURING SESSION OF THE SENATE ON WEDNESDAY, AUGUST 23, 1978

Mr. LEAHY. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be authorized to meet during the session of the Senate on Wednesday, August 23, 1978, to hold a hearing on John Warren McGarry as a member on the Federal Election Commission.

I advise the Senator from Virginia that this has been initialed by the distinguished minority leader.

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

Mr. LEAHY. I thank the Senator from Virginia.

(Routine morning business transacted and additional statements submitted are printed later in today's RECORD.)

CONCLUSION OF MORNING BUSINESS

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

REPRESENTATION OF THE DISTRICT OF COLUMBIA IN CONGRESS

The ACTING PRESIDENT pro tempore (Mr. MORGAN). Under the previous order, the Senate will now resume the consideration of House Joint Resolution 554, which the clerk will report.

The assistant legislative clerk read as follows:

A joint resolution (H.J. Res. 554) proposing an amendment to the Constitution to provide for representation of the District of Columbia in Congress.

Mr. ROBERT C. BYRD. Mr. President, I believe that Senators were expecting to start on this measure at 10 o'clock a.m.

I yield the floor. I believe Mr. MCCLURE is going to proceed to call up an amendment.

The ACTING PRESIDENT pro tempore. The Senator from Idaho is recognized.

UP AMENDMENT NO. 1704

(Purpose: To permit the people of the District of Columbia to vote for Senators from Maryland)

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

If the clerk will withhold, I have sent the wrong amendment.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Idaho (Mr. MCCLURE) proposes an unprinted amendment numbered 1704.

On page 2, line 3, strike out "Congress" and insert "House of Representatives".

On page 2, line 6, after the period insert the following: "For purposes of representation in the Senate, the District constituting the seat of the government of the United States shall be treated as though it were part of the State of Maryland.".

Mr. LEAHY. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. McCLURE. I am happy to yield to the Senator from Vermont.

Mr. LEAHY. Mr. President, I ask unanimous consent that Martin Franks of my staff be given the privileges of the floor during all debate and votes today.

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

Mr. McCLURE. Mr. President, yesterday the Senate considered several possible alternatives to the pending joint resolution with respect to representation of the people of the District of Columbia in the Congress of the United States. The Senator from Montana (Mr. MELCHER) earlier offered an amendment that was a combination of different adjustments which would have permitted representation for the District, and that amendment was turned down by the Senate on a motion to lay on the table.

Yesterday I offered an amendment which would have granted full retrocession, thus giving the people of the District full civil rights in all of their ramifications, entirely equal with those of every other citizen of the United States, by ceding the area which was first ceded to the United States by the State of Maryland for the seat of government back to the State of Maryland, so that the residents of this area could enjoy full representation and full civil rights; and that measure was also rejected by the Senate on a motion to lay on the table.

There are only two ways by which the people of the District of Columbia can have full voting representation and equal rights with every other citizen of the United States. One is by allowing

them to again be citizens of a State of the Union by receding the area to the State of Maryland. The Senate said no. The other of the two methods which might give the citizens of the District full and complete civil rights, as every other citizen of the United States enjoys them, would be to create a new State within the territory now encompassed by the District of Columbia. I offered that amendment yesterday after the retrocession amendment had failed. Again, the Senate turned that proposition down.

So the Senate has clearly, on those occasions, said it is not the intention of the Senate to grant full civil rights to the people of the District of Columbia. It was interesting to note that the Senator from Massachusetts (Mr. KENNEDY), in arguing against the first of the amendments, said that Congress must retain some authority, thereby denying to the people of the District of Columbia their full rights.

It was interesting to note that the other managers of the bill in regard to statehood said that the people of the District of Columbia were not entitled to exercise their full civil rights, but somehow, as the Senator from Indiana had indicated in his debate on these matters, the people of Indiana have such a right in the Nation's Capital that the people of the District must enjoy less than full civil rights, that there must be a limitation on their right to exercise the powers and duties of citizenship that other citizens of this country enjoy.

The Senate agreed with Senator KENNEDY and Senator BAYH in those instances, and repudiated the amendment which would have, in effect, negated that argument and granted to the people of the District of Columbia all of the rights that every other citizen of the United States enjoys.

This amendment which I now offer is a sincere attempt to find a way by which the people of the District can have the rights which they should enjoy, which the Senate has said is the limit of the rights that the Senate will grant to them, at the same time receiving the essential character of representation in the Congress of the United States that was established in the Constitution when the Constitution was formed.

I do not need to belabor the subject of the big State-small State compromise that was the foundation of this Republic—a union of sovereign States with each State having its rights protected by equal representation in one body of the Congress, and the protection of individual rights by granting equal representation in the other body of the Congress of the United States.

The pending joint resolution would trample that constitutional principle into the dust. It would, for the first time, break what has been heretofore an unbroken chain of support for the concept that we are in this body representatives of the States whose people have given us the honor of representing those States in this body of Congress, and it would, for the first time, say that a city is entitled to such representation—not a State, but a city.

I have another amendment which I shall offer later that will attempt to make equal for other cities what is being done for this city. Suffice it to say for the purpose of this amendment that the sponsors of the joint resolution are saying that this city alone, among all other cities of the United States, should be treated differently—should be treated differently by giving them more representation in the Congress of the United States than any other city in the United States.

Mr. President, the difficulty that many of us have with the proposal before us is simply that, the destruction of the constitutional principle of State representation within this body.

There are a lot of ramifications that flow from the destruction of that principle. I do not want to get back into the old arguments of States rights versus Federal rights, but certainly if there are such things as States rights to be protected, then we do not want to destroy the principle that States and States alone as entities are represented in this body, the States and their people are represented in this body, as State entities. It is not individuals who are represented but the individuals as a State, as a group of people comprising a political unity called a State.

Now we are asked to destroy that constitutional principle in one instance.

The sponsors of the resolution indicate that only in this one instance, and only because of special circumstances, do they intend to destroy that principle, or to bend that principle, to the expediency of this moment.

There have been those who tried to characterize the motives of those of us who oppose the pending joint resolution as saying that we do not want the people of the District to have representation. I think it should be abundantly clear by this time that at least the junior Senator from Idaho, who does oppose the pending joint resolution, does want full, equal representation for the people who live here in the District of Columbia. We have traced the evolution of the restriction on the exercise of full political rights by the people resident within this District upon several occasions in this body in this debate, but it might be instructive to just visit that for a moment again.

When the Nation was formed they decided that they ought to have some neutral ground for the Nation's Capital. The people who were sitting in Constitutional Convention were confronted with breaches of the peace and threats against their security as they deliberated what should be done with the formation of this union.

They decided because of that it was necessary to have neutral ground so that the Federal Government, the Federal Government alone, not hostage to the desire of the State in which they might be meeting, could maintain the security of the Nation's Government, not dependent upon the State or city government but dependent upon their own resources to guarantee the security of the deliberations of the national legislative body.

They therefore decided to try to create a district out of some area of the United States where the Nation's Capital could be founded.

Again in the kind of compromise that led to the large State-small State compromise in the representation in two Houses of the Congress, they sought to avoid the question of whether or not that Nation's Capital would be located in a Northern State or a Southern State and compromised that by putting it across the State boundaries of a Northern State and a Southern State, putting part of it in the State of Maryland and part in the State of Virginia, or perhaps I should properly say by taking some of the territory from each of those States to create the District of Columbia.

It was in that manner that the District of Columbia was formed and the States of Virginia and Maryland ceded that property to the Federal Government for the seat of the Federal Government.

Because it was to be neutral ground, not subservient to any State, not dependent upon any State to provide the security for the Nation's legislative body, and because they distrusted the influences upon the Federal Government by those who might work for the Federal Government thus rendering the climate less than completely objective, they decided at a later date to deny to the people of the District of Columbia the right to vote for President, Vice President, Senators, and Representatives in the Congress. That was done some time after the constitutional act which created the District of Columbia in the first place.

It should be noted that for several years after the District was created, the residents of the District voted in the States from which that territory had been ceded.

I have noted, as several others have, that over a 100 years ago the State of Virginia came to the Federal Government and said, in effect:

> You are not using the territory we ceded to you. There is no prospect that you are going to use the territory that was ceded to the Federal Government. We want it back.

The Congress of the United States agreed with that proposal and ceded the portion of the District of Columbia, which was in the State of Virginia originally back to that State.

I might more technically and properly say that from the high water mark on the Virginia side of the Potomac it was ceded back to Virginia, thus not completely ceding back that which had been ceded by the State of Virginia to the Federal Government for the seat of government.

Let me remind those who may be interested in what is happening here that the right of voting within the District of Columbia was not removed by the Constitution; it was removed by statutory enactment several years after the District had been created. I reiterate that the people who resided in the territories that had been ceded by Virginia and Maryland voted in their respective States for

some time after the District was created.

We are told now that Maryland does not want the District back; that it would upset their political balances in the State of Maryland if indeed this block of voters was inserted back into their voting territory.

Well, I understand their concern. But is that concern of the politicians in Maryland to control what is done with respect to a constitutional principle? Are we to destroy or bend or adapt a constitutional principle to the mere political expediency of a group of politicians in Maryland? I think the other 49 States have a right to resent that kind of a trampling of the Constitution to conform to the narrow political desires of one State.

I ordinarily try to cooperate in protecting what a State wants done within their territory. I believe very strongly in the concept of States rights. I believe very strongly in the concept of protecting the States against the encroachment of the Federal Government into what is their rightful domain. The Federal Government should be carefully limited to the exercise of those powers specifically delegated to the Federal Government under the Constitution, the Federal Government not rightfully exercising any other, because all the rest of the powers were, under the Constitution, reserved to the States and to the people.

But in this instance the correction that was sought in ceding the territory back to Maryland was no more than putting it back as it was at the time the Constitution was passed, and before it had been changed not by the constitutional amendment but by statutory enactment.

Mr. President, I think it is quite likely that if this Congress passes no constitutional amendment dealing with representation, that the people of the District might well go to court to assert their right to vote. If they go to court to assert their right to vote, there is precedent that would say the court would uphold that right to vote and they would be allowed the right to vote in the State of Maryland, as they did before the change was made in the early 1800's that denied them that right to vote in the State of Maryland.

I have already offered an amendment which would strike the existing proposal in House Joint Resolution 554 and substitute for it the retrocession, a full retrocession of the areas not occupied by the Federal Government back to the State of Maryland for all purposes. The people of the District then would be permitted to vote for a Governor, to vote for legislative members in the State legislature, to vote for Members of the House of Representatives, and Members of the Senate, as every other citizen of the United States can do within any of the 50 States.

They would vote for the President and presidential electors as every other citizen of the United States is allowed to do within the 50 States. But that was rejected by the Senate—again on narrow political grounds. Political expediency is controlling the action of the Senate, not principle; because if the principle is to give the people of the District the opportunity to vote and to give them the full exercise of civil rights, we would have adopted either full retrocession to Maryland or, in the alternative, confronted the problem squarely by granting statehood to the District, rather than doing what is being proposed in this resolution.

The pending amendment, Mr. President, would attempt to take us from where we are and do the best we can now do with a situation that the Senate has not already considered and rejected. I would have much preferred it had full retrocession passed. But the Senate, in its judgment, turned that proposal down.

The amendment which I have now offered is a partial retrocession in an effort to give to the people of the District as much right as we can under the situation which remains before us for consideration without destroying the constitutional principle of State representation in the Senate. This amendment, Mr. President, would simply retrocede—excuse me, I should not use that term. It does not retrocede the territory to Maryland; it would allow the people in the District of Columbia to vote for Senators as though they were voting citizens of the State of Maryland.

In all other respects, the situation would be as it exists now or as is otherwise provided under the pending resolution. They would vote for representatives within the District of Columbia to represent them in the House of Representatives. They would, under my amendment, vote for the Senators of their choice in the State of Maryland, and the State of Maryland would have jurisdiction over that voting process so far as the Senators were concerned. In all other respects, they would be granted the representation that the pending resolution gives them; they would retain all other rights as citizens of the District, as now provided under the Constitution and other statutes of the State of Maryland.

Mr. President, may I inquire of the Chair how much time I have remaining?

The ACTING PRESIDENT pro tempore. The Senator has 1 minute remaining.

Mr. McCLURE. Mr. President, I reserve the remainder of my time.

Mr. President, I suggest the absence of a quorum, to be taken from the time of the opposition to the amendment.

The ACTING PRESIDENT pro tempore. Is there objection? If not, the clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

Mr. McCLURE. Mr. President, I ask unanimous consent that Senator MORGAN may be added as a cosponsor of my amendment.

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

Mr. McCLURE. Mr. President, I reserve the remainder of my time.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. LEAHY. Mr. President, first, I appreciate the courtesy of the Senator from Idaho in calling a quorum and luring me back onto the floor.

Mr. President, the matter before us is really another variation of the amendment offered yesterday on retrocession. I think the distinguished Senator from Massachusetts (Mr. KENNEDY) made the argument very, very well and very properly on that. D.C. has not been a part of Maryland since 1790, when it was ceded to the District of Columbia. Virginia was retroceded in 1846, but had never been used for the Federal city.

If you look at precedents, look at the precedent of the 23d amendment, approved in 1961, which gave the District of Columbia the right to vote in Presidential elections, three electoral votes on its own right—not as part of Maryland, not as part of Virginia, not as part of any other area—but three electoral votes for the District of Columbia as one proud, independent entity. The legislative history never even suggested that the District of Columbia should vote through Maryland and I think the two Senators from Maryland have made very, very clear their own feelings here.

This issue was never raised in the House. I really think it would make about as much sense to let the District of Columbia vote in the State of Vermont, and quite frankly, Mr. President, I am not overly eager to have that particular sword of Damocles hanging over not so much the Green Mountains but my own head. I think that that would not make sense. For that reason, I move to lay the amendment on the table.

I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Does the Senator yield back all of his time?

Mr. McCLURE. Mr. President, before that, I think I have a little less than a minute remaining.

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. McCLURE. Mr. President, the amendment that I have offered would grant to the residents of the District the rights of citizenship and representation available to other Americans while avoiding the insurmountable constitutional hurdles associated with House Joint Resolution 554 and other proposed remedies.

In all other respects the District would retain its unique status as a Federal enclave subject to exclusive congressional control under article I, section 8, clause 17. The purpose of the framers in establishing the seat of National Government in an independent Federal entity would not be altered by this proposal.

Mr. President, I hope the amendment is adopted.

Mr. LEAHY. Mr. President, I stand here, in a way, feeling that I am in a unique position. I represent the most rural State in the United States, the State of Vermont. We do not have one single urban area, by Federal standards. Yet I am here arguing to give this identity to a virtually exclusively urban area. I can state a number of reasons. The

charts show the District of Columbia has more people than 7 States, pays more taxes than 11 States, had more deaths in Vietnam than 10 States. It is a matter of simple justice, Mr. President.

I cannot imagine any Vermonter, denied this type of basic representation, who would not be prepared to lead a revolution against such a situation. Certainly, this Vermonter, at least, would help, in a surrogate fashion, that kind of revolution for the people of the District of Columbia. It is absolutely essential that they be given the same rights as Vermonters, or North or South Carolinians, or Virginians, Marylanders, or people from Rhode Island or people from California, or anywhere else.

Mr. President, I will be making a motion to table. I will be asking for the yeas and nays. But I would hope we could get a few Senators on the floor prior to doing that.

Mr. President, I suggest the absence of a quorum, but I ask unanimous consent it be on my time on this amendment.

The PRESIDING OFFICER (Mr. RIEGLE). Under the precedents of the Senate, the Chair advises that the Senator no longer has sufficient time.

Mr. LEAHY. How much time do I have?

The PRESIDING OFFICER. If the Senator will yield back his time and suggest the absence of a quorum——

Mr. LEAHY. Then, Mr. President, I make a motion to table the amendment of the Senator from Idaho and I ask for the yeas and nays.

The PRESIDING OFFICER. Does the Senator yield back his time?

Mr. LEAHY. I yield back my time.

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 UP amendment No. 1704 of the Senator from Idaho. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Alabama (Mrs. ALLEN), the Senator from Minnesota (Mr. ANDERSON), the Senator from Arkansas (Mr. BUMPERS), the Senator from Mississippi (Mr. EASTLAND), the Senator from Colorado (Mr. HART), the Senator from Montana (Mr. HATFIELD), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Hawaii (Mr. INOUYE), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Hawaii (Mr. MATSUNAGA), the Senator from Ohio (Mr. METZENBAUM), the Senator from Tennessee (Mr. SASSER), the Senator from Mississippi (Mr. STENNIS), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

Mr. STEVENS. I announce that the Senator from New Jersey (Mr. CASE), the Senator from Kansas (Mr. DOLE), and the Senator from California (Mr. HAYAKAWA) are necessarily absent.

The result was announced—yeas 46, nays 36, as follows:

[Rollcall Vote No. 341 Leg.]

YEAS—46

Bayh	Haskell	Muskie
Biden	Hatfield,	Nelson
Brooke	Mark O.	Packwood
Byrd, Robert C.	Hathaway	Pearson
Chafee	Heinz	Percy
Chiles	Hollings	Randolph
Church	Humphrey	Ribicoff
Clark	Jackson	Riegle
Cranston	Javits	Sarbanes
Culver	Kennedy	Sparkman
Danforth	Leahy	Stafford
Durkin	Magnuson	Stevenson
Eagleton	Mathias	Stone
Ford	McGovern	Thurmond
Glenn	McIntyre	Williams
Griffin	Moynihan	

NAYS—36

Baker	Gravel	Proxmire
Bartlett	Hansen	Roth
Bellmon	Hatch	Schmitt
Bentsen	Helms	Schweiker
Burdick	Hodges	Scott
Byrd,	Laxalt	Stevens
Harry F., Jr.	Long	Tower
Cannon	Lugar	Wallop
Curtis	McClure	Weicker
DeConcini	Melcher	Young
Domenici	Morgan	Zorinsky
Garn	Nunn	
Goldwater	Pell	

NOT VOTING—18

Abourezk	Hart	Matsunaga
Allen	Hatfield,	Metzenbaum
Anderson	Paul G.	Sasser
Bumpers	Hayakawa	Stennis
Case	Huddleston	Talmadge
Dole	Inouye	
Eastland	Johnston	

So the motion to lay on the table UP amendment No. 1704 of the Senator from Idaho was agreed to.

Mr. LEAHY. Mr. President, I move to reconsider the vote by which the motion to lay on the table UP amendment No. 1704 was agreed to.

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

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1705

(Purpose: To grant the same rights and powers to cities having a population greater than the District of Columbia)

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

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Idaho (Mr. McCLURE) proposes an unprinted amendment numbered 1705.

On page 2, line 5, strike out "shall" and insert "and the cities of New York, New York, Chicago, Illinois, Los Angeles, California, Philadelphia, Pennsylvania, Houston, Texas, Detroit, Michigan, Baltimore, Maryland, Dallas, Texas, San Diego, California, San Antonio, Texas, and Indianapolis, Indiana, shall each".

On page 2, line 9, after "government" insert "and of the cities enumerated in section 1".

Amend the title so as to read: "Joint Resolution proposing an amendment to the Constitution to provide representation in the Congress for the District of Columbia and certain cities.".

Mr. McCLURE. Mr. President, I ask unanimous consent that it be in order to request the yeas and nays on the amendment.

Mr. KENNEDY. Mr. President, I ask unanimous consent that it be in order to ask for the yeas and nays on a tabling motion.

The PRESIDING OFFICER. Is there objection to the requests of the Senator from Idaho and the Senator from Massachusetts?

Without objection, it is so ordered.

Mr. McCLURE. I ask for the yeas and nays.

Mr. KENNEDY. I ask for the yeas and nays.

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

The yeas and nays are ordered on both the amendment and the motion to table should there be one.

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

Mr. McCLURE. I yield to the Senator from Indiana for a unanimous-consent request.

Mr. LUGAR. I thank the Senator from Idaho.

Mr. President, I ask unanimous consent that the privilege of the floor be accorded to David Gogol, of my staff, during debate on this resolution.

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

Mr. McCLURE. Mr. President, this amendment may be regarded by some as simply frivolous, and I will confess that this is not the approach which I would have preferred to take.

But this amendment, Mr. President, would establish for other cities in this country the same degree of representation which the Senate seems bent upon voting for this city.

Mr. President, I offer an amendment which would grant the same rights and powers to cities having a population greater than Washington, D.C., as House Joint Resolution 554 would provide to the District of Columbia.

This amendment would grant to the residents of New York City, Chicago, Los Angeles, Philadelphia, Houston, Detroit, Baltimore, Dallas, San Diego, San Antonio, and Indianapolis full voting representation in the Congress and the right to participate in the amendment ratification process as if each of these cities were a State.

Mr. President, I wonder if we could have order.

The PRESIDING OFFICER. The Senator makes a good point. The Senate is not in order. The Chair asks to maintain order in the Chamber so that the Senator from Idaho can be heard.

The Senator from Idaho.

Mr. McCLURE. I thank the Chair.

The District of Columbia is no more than a city itself and thus, should not be granted representation in the House and Senate, in my opinion.

Although it could not have been foreseen by the Founding Fathers, Washington, D.C. has developed into a large commercial city and, except for a small Federal enclave, the District consists only of that urban center. The framers did not intend that cities should be given representation in the Congress; in fact, they specified in the Constitution that only

"States" should have a voice in the Senate and the House.

Even if one believes that the District should have representation in the Congress, it does not follow that the city of Washington should be able to elect its own Senators and Congressmen. To permit that would be to make a radical and qualitative change in our federal system.

If the Nation's Capital, with its roughly 700,000 inhabitants and 69.7 square miles, can elect its own Members of Congress, it is logical to give every other city in the United States of equivalent size and area the same rights of representation. The District has been steadily losing population in recent years (down from 802,178 in 1950), while many of the 11 cities which are larger than Washington, which are New York, Chicago, Los Angeles, Philadelphia, Houston, Detroit, Baltimore, Dallas, San Diego, San Antonio, and Indianapolis, continue to grow. Moreover, those cities are not heavily dependent on the Federal Government for their continued prosperity or even their existence. The seven least populous States, which are Alaska, Wyoming, Vermont, Delaware, Nevada, North Dakota, and South Dakota, each of which is smaller than the District, are increasing in population while the District is declining. In view of the fact that the District already receives special treatment from the Congress and has its own special committee in the House and subcommittee in the Senate to look after its problems and interests—the only city or State to be so favored—it would seem that entities of greater size are in greater need of representation than the District.

The fact that the residents of other U.S. cities can already elect representatives to Congress is irrelevant; they must share their Senators with the rest of the people in the State. If the District of Columbia were granted representation, its residents would have Senators who would share with no other people and would speak only for the interests of the District.

It would be unjust to permit residents of the District to be thus enfranchised to an extent greater than the people of, say, New York or Indianapolis. That would amount to overrepresentation of the District and its inhabitants in Congress, to the detriment of the States and other citizens of the United States.

Mr. President, I might just note that the 11 cities that I have enumerated in this amendment have populations greater than that of the District of Columbia. I do not need to go into all of the populations statistics of each of the 11, but I might just point out that they range from the 700,000 in the District of Columbia to New York City with nearly 10 million residents, and those 10 million residents do not have their own separate Senators. They share them with the rest of the residents of the State of New York. Or perhaps it might be characterized that the rest of New York is dominated by New York City and they are deprived of equal representation in the same manner that the people in Maryland want to avoid having to share their Senators with the District of Columbia.

I might also note just for the record the States which are smaller in population than is the District of Columbia:

Alaska, Wyoming, Vermont, Delaware, Nevada, North Dakota, and South Dakato, according to the U.S. Bureau of Census as of July 1, 1976.

Mr. President, it seems to me that if we are going to take this step to give the inhabitants of this city that kind of special representation, then we ought to grant to every other city of equal or greater size an equal representation or we will have gone from the wrong of lack of representation here in the District to the greater wrong of unequal representation of other larger cities.

Mr. President, I think it can also be argued that the District of Columbia is primarily a city of bureaucrats, a city which has its own special interests, a city of people who desire to have the Federal Government do things on their behalf much more uniquely than any other city. They should be less represented, not overrepresented, in the Congress of the United States.

Mr. President, I started out by saying some may think this is a frivolous amendment. I am deadly serious about the principle that is involved in granting to some people in the United States a greater degree of representation than anyone else.

I only regret that the Senate has not seen fit to treat the people here in exactly the same manner they are treated everywhere else in the United States. But the Senate has rejected my efforts to see that they get their fair, equal, and full civil rights treatment to which I think they are entitled.

Mr. President, I reserve the remainder of my time.

Mr. KENNEDY. Mr. President, I yield myself 7 minutes.

Do I understand correctly that the Senator would permit the named cities to be considered as States for purposes of this amendment?

Mr. McCLURE. In exactly the same manner as it is proposed to treat the District of Columbia.

Mr. KENNEDY. Well then, what would happen in terms of congressional representation, representation in the House of Representatives?

Mr. McCLURE. They would receive the same representation that is provided for in the resolution for the District of Columbia.

Mr. KENNEDY. On top of what they already have, or in place of it?

Mr. McCLURE. In place of what they already have.

Mr. KENNEDY. Since the District has 690,000 people, under the census they are entitled to one or two congressional districts. I do not know of any city that is listed here that would have less than that. So——

Mr. McCLURE. As a matter of fact, I would say to the Senator the cities listed here are all larger in population than is the District of Columbia.

Mr. KENNEDY. That is right. But in terms of congressional districting for all of these major cities, therefore, you may be varying the size of their current congressional districts. Would they have more or less representation?

Mr. McCLURE. I think that would be the effect.

Mr. KENNEDY. So the Senator is reducing the number of congressmen in every one of these cities.

Mr. McCLURE. Marginally, slightly, perhaps.

Mr. KENNEDY. So there could be under the Senator's amendment a significant reduction in the number of Congressmen.

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

Mr. KENNEDY. Yes.

Mr. McCLURE. That, of course, depends on the formula and the allocation against the 435-Member seating provided by statute. I do not know what the mathematics would be, very frankly, but it would treat them exactly as the District of Columbia would be treated.

Mr. KENNEDY. Beyond that, Mr. President, the significant difference is that each of these major cities in the amendment is already represented in the U.S. Senate by Members of the U.S. Senate currently serving here, and there are many distinguished ones. That is the dramatic difference.

What we are trying to do is permit the residents of the District of Columbia to have the same type of representation that New York, Chicago, Los Angeles, Philadelphia, Houston, Detroit, Baltimore, Dallas, San Diego, San Antonio, and Indianapolis have. They are not permitted that right now.

It is imperative as a matter of fairness and justice to accord to the residents of the District of Columbia the same rights and privileges and guarantees that the rest of the citizens have in this Nation.

The other cities are already represented in the Senate and the House. By the comment of the Senator from Idaho, they might even wind up with less representation under the amendment. It seems to me to be an unwise amendment.

If the Senator wants to make any additional comment I would welcome it and, at the appropriate time, would make a motion to table.

Mr. McCLURE. Let me respond only to this part of the arguments of the Senator from Massachusetts. He has completely avoided facing the issue. The issue is whether or not the residents of this District are to be granted a status and a representation that no other city has.

My amendment would give the other cities of equal or greater size precisely the same treatment that would be accorded to the District of Columbia under the pending resolution.

I say to the Senator, in regard to the number of Representatives who might serve that city under my amendment, that would be governed under article I of the Constitution according to the decennial census, and while we might speculate as to its effect with respect to the current decennial census, it would have the same effect precisely in the District or any other cities following the decennial census of 1980. So there would be no reduction in their representation according to population following the 1980 census as compared to the people in the District of Columbia.

Mr. President, the cities have been listed in the amendment, but again I would mention that New York City, with a population numbering somewhat less than 10 million; the city of Chicago with over 3 million; the city of Los Angeles with nearly 3 million; Philadelphia with slightly less than 2 million; Detroit, Mich., with 1,335,000; Houston, Tex., 1,326,000; Baltimore, Md., with 851,000; San Diego with 773,000; San Antonio with 773,000; and Indianapolis with 725,000 residents, all being cities with greater populations than that of the District of Columbia, these cities just happen to fall in the following geographical distribution: New York 1, Illinois 1, California 2, Pennsylvania 1, Texas 3, Michigan 1, Maryland 1, and Indiana 1.

Maybe the people who are opposing this amendment do not want those people to have full representation, to have full equal rights, in those cities.

Mr. KENNEDY. Mr. President, each of those cities has representation. I speak for Boston, I speak for Springfield, I speak for Lowell and Lawrence, and New Bedford and Fall River, Mass. I speak for all of them. The greater Boston area, has 3 million people, 800,000 in the 22 wards in the city. And in the U.S. Senate, when the rollcall is called this afternoon, I will be here to speak for each of the cities, and so will my colleague, Senator BROOKE.

I challenge anyone who supports this amendment to say that either Senator JAVITS and Senator MOYNIHAN do not speak for New York; or that any other Senators do not speak for any of the other cities.

When we call the roll this afternoon, there will be two Members of the Senate who will use with pride and with privilege their opportunity to speak for the people and the people's interests when the roll is called. At that time there will be 700,000 voices that will be mute. But the citizens who live here in the District of Columbia will have no voice. That is the difference.

Mr. President, there is also the uniqueness of the District, which has developed over the past 200 years. We have debated this point at length in recent days. These people here are denied representation. In any of the States, all they needed to acquire a voice in Congress and in the Senate of the United States, was a vote of the majority of the Members of the Senate to obtain statehood. But here we are requiring the people of the District of Columbia to get a two-thirds vote of both Houses and three-quarters of the people of the States.

Mr. SCOTT. Madam President, will the Senator yield, on my time?

The PRESIDING OFFICER (Mrs. HUMPHREY). The Senator from Virginia has no time.

Mr. KENNEDY. How much time do I have remaining, Madam President?

The PRESIDING OFFICER. The Senator from Massachusetts has 5 minutes.

Mr. KENNEDY. I will be happy to yield, without losing my right to the floor.

Mr. SCOTT. That, of course, will be charged to my time also.

Mr. KENNEDY. I was going to make a motion to table, but I will be glad to yield for a brief question.

Mr. SCOTT. My comments are that there are more than 3 million people of the country of Puerto Rico that also are citizens of the United States, and who speaks for them here in the Senate? Is it not a fact that there is no one except those who represent the States, no one here who was elected to represent the cities? Senators represent their States and all the people of their States, whether they are rural, urban, or suburban.

Our Government was founded as a Union of States. If this proposal is adopted, we are departing from the Federal concept of the Union of States. If we are going to depart from it, would it not be reasonable to give the citizens of Puerto Rico also, with more than 3 million people, representation in the Senate, if we are going to be consistent? Then maybe Guam and the Virgin Islands.

Mr. KENNEDY. Is the Senator indicating that if he had been here in the Senate when Alaska and Hawaii were admitted, he would have voted against those States?

Mr. SCOTT. Of course I would not have.

Mr. KENNEDY. Can the Senator tell me the difference? I will tell the Senator what the difference is between those States and Puerto Rico.

Mr. SCOTT. Go ahead.

Mr. KENNEDY. The fact of the matter is that the people of Puerto Rico voted for commonwealth status, not statehood. That is the kind of representation they wanted. That is their arrangement with the Federal Government. They chose that status.

The people of Alaska and Hawaii wanted statehood and wanted to come here, and I am delighted that they are here.

If someone represents a rural State, I welcome the fact that they are part of the Union. The fact is that the people of Puerto Rico have indicated, when offered the opportunity to choose, that they prefer commonwealth status.

Mr. SCOTT. It is my understanding that the present Governor was elected Governor with full knowledge that he favored statehood. It is also my understanding that in the last Presidential election, only 31 percent of the adult population of the District of Columbia voted. So how keenly do they want it? How keenly are they interested in having representation in the Senate?

Mr. KENNEDY. I am surprised that the level reached 31 percent. They know that their voice is muted here in the Congress of the United States. They do not have full rights as Americans. They have no voice, in Congress. As gifted as Congressman FAUNTROY is, he is a nonvoting delegate.

I also question the accuracy of that figure. It may be an artificially low figure because the percentage is based on the total voting age population. Yet many District persons retain their voting residence in other States, because they cannot vote here.

We are talking about the uniqueness of the District of Columbia. If at any time the 3 million people of Puerto Rico indicate that they want to be part of the U.S. Congress and Senate, we will make the decision on statehood. But we will not require two-thirds of the House and the Senate to agree, and we will not require three-quarters of the States to ratify it. Does the Senator agree with me on that?

Mr. SCOTT. I agree completely with the Senator that the District of Columbia is unique. It is the Federal City. It was constituted as a Federal City, so that Congress could deliberate free from influences from the various States.

When we look at the papers that the distinguished Senator has laid on each Senator's desk, the Washington Post's "Human Rights in the Capital" the Washington Post's "Open Letter to the United States Senate," the Washington Star's "The Day of Decision," we have an awful lot of pressure right now on the Congress of the United States.

The PRESIDING OFFICER. The time yielded to the Senator has expired.

Mr. KENNEDY. Will the Senator, then, yield 2 minutes of his time?

Mr. SCOTT. I am willing to do it. I am not quite sure it is in order.

Mr. KENNEDY. Just a minute and a half.

The PRESIDING OFFICER. The Senator could ask unanimous consent.

Mr. KENNEDY. I ask unanimous consent that my other time be able to be used on this.

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

Mr. KENNEDY. We are talking about the uniqueness of the District of Columbia. It was not so unique when those 18-year-old boys got draft cards and were sent to Vietnam. It was not unique then. No one was saying, "Well, it is the Federal district; under the Constitution, you are somehow special, you get to go to Vietnam and fight over there and die."

It is not unique when it comes to paying taxes. They pay more taxes than many States. It is not unique in that way.

No, Mr. President, it is not unique in those ways; and yet they have no voice in the decisions which are made on those vital issues.

Madam President, I move to table the amendment.

The PRESIDING OFFICER. Does the Senator from Idaho yield back the remainder of his time?

Mr. McCLURE. Madam President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 8 minutes remaining.

Mr. KENNEDY. I had four, but I am glad to have the Senator use what he has.

Mr. McCLURE. I beg the Chair's pardon?

The PRESIDING OFFICER. The Senator from Idaho has 8 minutes remaining. Debate is not in order on a motion to table.

Mr. KENNEDY. I withhold it, Madam President.

Mr. McCLURE. Let me respond only that certainly the purpose of my amendment is to give equality of treatment to

the people of the District of Columbia and other people similarly situated within the United States. I have tried to do that under earlier amendments that would have granted them full civil rights within the District of Columbia. The Senate has refused to allow them to have full civil rights within the District of Columbia. I now seek to give to the citizens in other cities the same rights which this joint resolution would grant to residents of the District, no more and no less. It does not seem to me that if we are going to depart from the constitutional principle of State representation in the Congress, particularly in the Senate, if we are going to depart from that principle in one instance, that we can do justice to other citizens of our country without applying it equally to them.

I would hope, Madam President, that Senators would not just out of hand reject the amendment because it happens not to suit the political conditions, or the political desires of those who are supporting the joint resolution.

Madam President, if the Senator from Massachusetts is ready to make his motion to table, I would be prepared to yield back the remainder of my time.

Mr. KENNEDY. Yes.

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

Mr. KENNEDY. Madam President, I move that amendment No. UP 1705 be laid on the table.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table UP amendment 1705. The yeas and nays have previously been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Alabama (Mrs. ALLEN), the Senator from Minnesota (Mr. ANDERSON), the Senator from Arkansas (Mr. BUMPERS), the Senator from Iowa (Mr. CULVER), the Senator from Mississippi (Mr. EASTLAND), the Senator from Montana (Mr. HATFIELD), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Hawaii (Mr. INOUYE), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Ohio (Mr. METZENBAUM), the Senator from Hawaii (Mr. MATSUNAGA), and the Senator from Tennessee (Mr. SASSER) are necessarily absent.

Mr. STEVENS. I announce that the Senator from New Jersey (Mr. CASE) and the Senator from Kansas (Mr. DOLE) are necessarily absent.

The result was announced—yeas 79, nays 6, as follows:

[Rollcall Vote No. 342 Leg.]

YEAS—79

Baker	Church	Hansen
Bartlett	Clark	Hart
Bayh	Cranston	Haskell
Bellmon	Curtis	Hatch
Bentsen	Danforth	Hatfield, Mark O.
Biden	DeConcini	Hathaway
Brooke	Domenici	Heinz
Burdick	Durkin	Helms
Byrd, Harry F., Jr.	Eagleton	Hodges
Byrd, Robert C.	Ford	Hollings
Cannon	Glenn	Humphrey
Chafee	Goldwater	Jackson
Chiles	Gravel	Javits
Kennedy	Nunn	Sparkman
Laxalt	Packwood	Stafford
Leahy	Pearson	Stennis
Long	Pell	Stevenson
Magnuson	Percy	Stone
Mathias	Proxmire	Talmadge
McGovern	Randolph	Thurmond
McIntyre	Ribicoff	Tower
Melcher	Riegle	Wallop
Morgan	Roth	Weicker
Moynihan	Sarbanes	Williams
Muskie	Schmitt	Young
Nelson	Schweiker	Zorinsky

NAYS—6

Garn	Lugar	Scott
Hayakawa	McClure	Stevens

NOT VOTING—15

Abourezk	Dole	Johnston
Allen	Eastland	Matsunaga
Anderson	Hatfield, Paul G.	Metzenbaum
Bumpers	Huddleston	Sasser
Case	Inouye	
Culver		

So the motion to lay on the table UP amendment No. 1705 was agreed to.

Mr. KENNEDY. I move to reconsider the vote by which the motion to lay on the table was agreed to.

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

The motion to lay on the table was agreed to.

Mr. KENNEDY. Madam President, may we have order so the Senator from Virginia may be heard?

The PRESIDING OFFICER. The Senate will be in order.

Mr. SCOTT. Madam President, I yield such time as he may consume, not exceeding 20 minutes, to the distinguished Senator from Mississippi (Mr. STENNIS).

Mr. STENNIS. Madam President, let me say in the beginning to my colleagues that, in my humble opinion, there has not been a more serious and more grave matter to come before this body. I think there has not been a more far-reaching matter come before this body in a long time.

I do not speak, Madam President, with any wisdom or anything of that kind. I do not speak with any great learning, I do not claim any learning in government or anything of that nature. But I do speak from experience, experience in this body and experience in the State governments, in the State legislature and other branches of State government. I believe I have somewhat of a feel for the Constitution of the United States and some knowledge of the history of almost 200 years that we have lived with and under, including right on down to the present time.

This is an innovation in this bill, the idea of giving power and privileges and strength to any unit of goverment without corresponding responsibilities. It is unsound, in my humble opinion, and will not work and will bring about trouble. I really cannot reconcile myself to that concept of giving to any group—any group—within the United States the power of representation on this floor, in this unique body, without the corresponding responsibilities and obligations of a State government that go with it.

I believe I feel that, after all, the Senate is the stabilizing branch of our truly great Government.

I personally feel that we are living in a time of increasing pressures, political pressures, mounting in size and volume and political strength.

Week after week, year after year, those of us that have been here can feel it. We can feel it coming. Some governmental body in the lineup has got to be at least partly removed from the immediate effects of that mounting political pressure.

I speak with all deference to the groups we now have, the State employees, the county employees, with mounting plans of action on their representatives. That was unthinkable or unheard of until recently. I understand it is growing faster than any other group.

I am not trying to discredit any group. It is just a fact of life.

This body can be well warned, as we know now, in part, that more and more of those pressure groups are coming. Say what we will, it is a threat to our system of government, the elected legislative branch.

There must be some kind of insulation protection—or whatever word we wish to use—from the immediate reaction of those that are holding the office. That is where the 6-year term comes in.

But the very idea now of not creating a State, if we are going to have this thing happen, I think it would be far better to create the District of Columbia into a State with its responsibilities and burdens. If we kept an enclave of just a little area here, if any, but without the responsibilities and burdens of State government, the people, the voters and those that they elect and select to come here, will not have the background, they will not have the same sense of obligation, and it will be harder for them to work with the ones already here. I can feel that. I can see how these things will come out.

If we are going into this for the District of Columbia, what about Puerto Rico? I am not advocating anything for them. I understand that perhaps they do not favor statehood now. But when and if they do, how are we going to turn them down? It has been a territory all these years.

I remember a more conservative political party in 1948 that early advocated statehood for Puerto Rico.

That was just an illustration. What about the others?

So I think, in addition to the change in the form of groups that can send representation here, we are further called upon to expand and extend this body, by no means perfect, but it works mightily well as a whole, extend its obligations, extend its nature, stretch it out further and further from the sound basis upon which it rests.

I could refer here, and I am not trying to take up time, I think we have gotten into a situation here where we are in a hole, so to speak.

I do not believe we can meet our obligation by merely passing this on to the States to decide, although it is inconceivable to me that three-fourths of our States, as required by the Constitution, will approve the idea of sending representation here to this body, equal to

their own—equal to their own—and thereby changing the whole system.

It does change it at its foundation level, and puts those States in competiton, so to speak, with the District of Columbia, which has no obligation, as such, of government to carry on.

I just do not believe, if it goes to the States, a person representing a rural area, we will say, a rural area of his State, can possibly see enough compatibility—enough compatibility—between his constitutents and those that are here in the District as to make him willing to let those people, so far removed from his problems, play a part in passing laws under which his people will have to live.

That is no reflection on the people here. But the persons who elect Senators to this body from the District are not going to know one iota, the voter will not know, 9 out of 10 will not know, one iota of the problems that go with farming, or agriculture in any of its phases, forestry, land care, and a host of other things.

They will not know and they have not had a chance to know very much about industry, small industry, medium-sized industry, heavy industry. They do not know and will not know, they have not had a chance to know, of all the problems that go with many of the ways of making a living.

After that is all said and done, that is what the average person has to think about every morning when he gets up. It does not make any difference whether he lives in the West, South, East, or where. He has the responsibility of making a living for his family. It is an economic problem.

We find there are no Senators here, unless it should be that greatly respected State of Rhode Island that we would have to call more or less urban because its area is small and has filled in with people that almost live in towns, but all the rest of them have knowledge of and a direct obligation to people living outside of the cities, to people living in the villages and little crossroads towns, the rural areas, and all the problems that go to make a living there.

Say what we will, unless we have the means of making a living now on the farm, on the land, it is a hard go.

Some of our very finest citizenship training comes through that kind of life.

I just back off from the idea of having people here who have not felt and do not have knowledge of those kinds of problems—not just rural areas but also small towns, small factories, small industry, and a host of other things that go along with that.

A person in here from the District could not have much knowledge of schools, the problems that go with schools, little schools, medium schools, schools scattered in various areas. All they possibly could know would be what the experiences were here, in this very fine city.

I have lived in this city virtually every day of the year for a good number of years, and I have no complaint about it, myself. I have a complaint about restructuring our system of government here merely for the fact of extending the franchise a little further to these District of Columbia people.

The citizens of New York have a small iota of representation in this body compared to the citizen from, say, Utah, a sparsely populated State. There is no such thing as equality in this representation. Now there is an attempt here to dig at the very foundation of this body—that is what this proposal does—simply in order to give these people, fine as they may be, a fraction more of representation here.

We have the local government. I think Mayor Washington has done a mighty good job, judging from contacts I have had with him, observation and otherwise, and I have been a resident taxpayer here for a number of years.

The representation here by the nonvoting delegate is worthwhile, and he renders a service. There is no necessity of just pushing in here and giving these people not just equal representation, but it works out far beyond equality. They get a premium, they get a prize, without any obligations to go with it.

I believe it is the beginning of the crumbling of the system we have. This body, with all its deficiencies—and I am not proud of every aspect of it—has a better chance to stand when the storms come than any other group in our Government.

I have other matters to which I could refer. It is not anything like prejudice or not wanting them to have some representation; but, after all, no one has to live here. No one is being punished, unless they are prisoners, by having to stay here.

We have to have a body that can take care of the massive, growing volume of legislation in this Federal City, and it has to have some kind of insulation—I do not say protection, but insulation—from the pressures of the times.

It is inconceivable to me that a State legislator could approach this picture here with knowledge of how the States fit into the economy and how his or her constituents fit into the Federal regulations of the economy, and I think that will continue. It has gone too far, in my opinion, but I do not think it would change. I just feel that he will be convinced that he is giving up almost everything in return for nothing, you might say, insofar as the handling of the affairs of the Government of the United States of America is concerned. It has its worldwide obligations, which are growing, not lessening; becoming more troublesome, not more peaceful; and the challenges of our economy are much more severe on other parts of this country than in this fine city.

I repeat that the serious problem that the average person has of making a living for his family is the thing that confronts him all the time, every day, and he has to look to this Federal Government for a great deal of guidance and control with respect to that economy. I think these smaller groups in the economy have nothing they can spare in influence. We know that they are rather near the bottom of the totem pole. And when I say making a living, I mean getting out and digging and earning your own way. They have the problem of getting out and making a living, making ends meet. That is what comes home and stays on the doorstep of our citizenry throughout the Nation.

I do not hear of any complaint from the people of California because they do not have anything like equal representation here, numerically, with respect to what a smaller State has, wherever that smaller State is. The matter is understood, and things move along.

Things work out in this body in a marvelous way, but it is becoming more difficult. The pressures are becoming more numerous and greater and more intensified.

The PRESIDING OFFICER. The Senator's 20 minutes have expired.

Mr. STENNIS. I thank the Senator for yielding time to me. I would like to have more time during the day.

Mr. SCOTT. Madam President, I would be glad to yield more time now, or later, to the distinguished Senator.

Mr. STENNIS. I thank the Senator. That is all right.

Mr. SCOTT. Madam President, I appreciate very much the remarks the Senator has made. I feel that we all know and love and respect the distinguished Senator from Mississippi. He has served in our body for 31 years. He was an attorney for a long period of time; he has been a prosecuting attorney; he has been a trial judge. He was elected to the U.S. Senate in 1947. I feel that he knows as much about this body as any other Member of the Senate. So I am especially pleased that he takes the time to address himself to the problem before us.

I understand, Madam President, that the distinguished Senator from Vermont (Mr. LEAHY) would like to propound some unanimous-consent requests.

Mr. LEAHY. If the Senator will yield to me for that purpose.

Mr. SCOTT. I yield.

(Mr. LEAHY's request for certain committees to meet is printed earlier in today's RECORD.)

UP AMENDMENT NO. 1706

(Purpose: To provide representation for the District of Columbia in the House of Representatives)

Mr. SCOTT. Madam President, I call up an unprinted amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Virginia (Mr. SCOTT) proposes unprinted amendment numbered 1706.

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

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

The amendment is as follows:

On page 2, beginning with line 3, strike out all through line 12 and insert in lieu thereof the following: "House of Representatives, the District constituting the seat of government of the United States shall be treated as though it were a State.".

On page 2, line 13, strike out "Sec. 4." and insert in lieu thereof "Sec. 2.".

Mr. SCOTT. Madam President, the real crux of this resolution is in the first section, and it reads as follows:

For purposes of representation in the House of Representatives, the District constituting the seat of government of the United States shall be treated as though it were a State.

The amendment would provide the citizens of the District of Columbia the number of Representatives in the House of Representatives to which they would be entitled if the District were a State. It also eliminates three provisions of the pending resolution.

First, it does not gives the Disrtict two Senators. Second, it does not permit the District to participate in the process of ratifying constitutional amendments as if it were a State. Finally, it retains in force the 23d amendment to the Constitution dealing with the electoral college.

This amendment is not a weakening amendment, so proponents of House Joint Resolution 554 can vote for this. In fact, it strengthens the chances of the District of Columbia having voting representation in Congress for the first time.

As Senators know, at the present time we do have an elected delegate from the District of Columbia. We also have an elected delegate from Puerto Rico, the Virgin Islands, and Guam. The delegates can vote in committee but they cannot vote in the Hall of the House of Representatives.

The District of Columbia Congressmen would be Congressmen, not delegates, with all the rights that Congressmen from any State would have.

Representation in the House of Representatives only as proposed by my amendment would preserve the unique status of the District as a Federal enclave, holding the seat of Government of the Nation which was the clear intent of the framers of the Constitution.

I believe that it would eliminate the controversial and ambiguous language found in section 2 of the pending resolution. That is the question of what constitutes the legislature that would decide such questions as whether or not the chief executive of the District of Columbia could appoint Senators, whether that would be the legislature of the District of Columbia, or whether it would be the Congress of the United States because under article I, section 8 of the Constitution Congress has exclusive legislative jurisdiction over the District of Columbia subject to such exceptions as have been delegated.

We must remember that we are considering an amendment to the Constitution of the United States, the fundamental law of the land. We should be very cautious when we propose to add language to alter provisions of that great and historic document.

This amendment offers the people of the District their best chance for representation in Congress.

In my judgment House Joint Resolution 554 just simply goes too far. Three-fourths of the States are highly unlikely to ratify it. I believe we will have much more controversy than we had over the ERA amendment.

It proposes to make the District look like a State, to place it on an equal or superior position to other States—that is what the resolution presently before us does, not my amendment—to put it on a superior footing to other States, and to award it virtually all the attributes of the State without asking it to accept the full burdens and responsibilities of statehood. That strikes me as being unnecessary and unfair to the remaining members of the Union. It is virtually a certainty that the resolution before us will not be acceptable to the necessary three-fourths of the State legislatures even if it should be passed by the Senate and signed by the President.

Madam President, the House membership, as you know, is based on population. So there is no conflict in having this representation with the Constitution. But the State representation is entirely a different matter because the Senate is composed of representatives of the States and the city of Washington is not a State. The Senate membership is not based on population in any way. It is based on the fact that each State shall have two Members of the Senate.

Madam President, I have no further comments at this time.

Mr. LEAHY. Madam President, I ask unanimous consent that Terry Cronin of Senator DURKIN'S staff, be accorded the privilege of the floor during votes and deliberations throughout the day today.

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

The Senator from Massachusetts.

Mr. KENNEDY. Madam President. this reaches the heart of the issue that is before the Senate. Those of us who support this amendment do not do so just because we want to give something special to the District of Columbia or grant some favor. We are trying to end an injustice.

What we are trying to do is to put the people of the District of Columbia on the same footing for the House of Representatives and for the Senate of the United States as other areas in this country. The District of Columbia exceeds several States in population. The residents of the District pay taxes. They fought the war in Vietnam.

This amendment is basically flawed, Madam President, in that it provides some representation, but not full representation.

The people in the District of Columbia can vote for the President of the United States, but they cannot vote for Congress and the Senate. Now the Senator from Virginia is saying, they can vote for the President of the United States and the House of Representatives, but not for the U.S. Senate.

I can appreciate the sense of gradualism that has been part of this whole movement, but it certainly does not meet the objective of this constitutional amendment. Therefore, I intend to move to table the amendment unless the Senator wishes to make additional comments. If he does, I shall withhold that then.

The PRESIDING OFFICER (Mr. ZORINSKY). The Senator from Virginia.

Mr. SCOTT. Mr. President, this is the only thing I wish to mention. I hear the distinguished Senator speak of the people of the District of Columbia who fought and died in wars. That is true of people throughout our territories. I feel sure that there were people from Puerto Rico, with a population of more than 3 million people, who also fought in wars for this country, and certainly I have nothing but kind thoughts and commendations.

But I think that is something that is outside of the constitutional matters that we are considering.

I am sympathetic with the views and am agreeable with the views that the distinguished Senator has stated, but I just think this is sort of an emotional appeal that is being made rather than something that goes to the merits of this case.

Mr. President, I ask for the yeas and nays on my amendment.

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

The yeas and nays were ordered.

Mr. KENNEDY. Mr. President, I ask unanimous consent that it be in order now to ask for the yeas and nays on a motion to table.

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

Mr. KENNEDY. I ask for the yeas and nays on the motion to table.

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

The yeas and nays were ordered.

Mr. KENNEDY. Mr. President, the only point I make is that it was also an emotional argument when they talked about taxation without representation. That was an emotional argument. But it was not just an emotional argument. It was also true.

The same thing happens to be true here. The issue affects the fundamental issues upon which this Nation was founded. The people deserve to have a voice and a vote on matters of taxation and matters of life and death. The people of the District of Columbia do not have that right.

Mr. SCOTT. Mr. President, will the Senator yield just briefly?

Mr. KENNEDY. I yield without losing my right to the floor.

Mr. SCOTT. Mr. President, it is my understanding—and this has been verified by the Library of Congress—that the District of Columbia contributes 29 cents for every dollar it receives in Federal taxes. That is not taxation without representation.

Mr. KENNEDY. Mr. President, I move to table the amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Massachusetts to lay on the table the amendment of the Senator from Virginia. The yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Alabama (Mrs. ALLEN), the Senator from Min-

nesota (Mr. ANDERSON), the Senator from Arkansas (Mr. BUMPERS), the Senator from Mississippi (Mr. EASTLAND), the Senator from Montana (Mr. HATFIELD), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from HAWAII (Mr. INOUYE), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Tennessee (Mr. SASSER), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

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

The result was announced—yeas 60, nays 28, as follows:

[Rollcall Vote No. 343 Leg.]

YEAS—60

Bayh	Griffin	Muskie
Bellmon	Hart	Nelson
Bentsen	Haskell	Packwood
Biden	Hatfield,	Pearson
Brooke	Mark O.	Pell
Byrd, Robert C.	Hathaway	Percy
Case	Heinz	Proxmire
Chafee	Hollings	Randolph
Chiles	Humphrey	Ribicoff
Church	Jackson	Riegle
Clark	Javits	Sarbanes
Cranston	Kennedy	Sparkman
Culver	Leahy	Stafford
Danforth	Magnuson	Stevenson
DeConcini	Mathias	Stone
Dole	Matsunaga	Thurmond
Durkin	McGovern	Weicker
Eagleton	McIntyre	Williams
Ford	Melcher	Young
Glenn	Metzenbaum	
Gravel	Moynihan	

NAYS—28

Baker	Hatch	Roth
Bartlett	Hayakawa	Schmitt
Burdick	Helms	Schweiker
Byrd,	Hodges	Scott
Harry F., Jr.	Laxalt	Stennis
Cannon	Long	Stevens
Curtis	Lugar	Tower
Domenici	McClure	Wallop
Garn	Morgan	Zorinsky
Hansen	Nunn	

NOT VOTING—12

Abourezk	Goldwater	Johnston
Allen	Hatfield,	Sasser
Anderson	Paul G.	Talmadge
Bumpers	Huddleston	
Eastland	Inouye	

So the motion to lay on the table UP amendment No. 1706 was agreed to.

Mr. SCOTT. Mr. President, I yield such time as he may consume, not exceeding 20 minutes, to the distinguished Senator from Mississippi (Mr. STENNIS), and then yield to him additional time for the purpose of allocating it to Senators WALLOP and SCHMITT during my absence from the floor.

Mr. ROBERT C. BYRD. Will the Senator yield to me for a question?

Mr. SCOTT. Yes.

Mr. ROBERT C. BYRD. Does the Senator know how many amendments remain on his side of the aisle?

Mr. SCOTT. Mr. President, I do not know. I have two amendments of my own. It may be that there will be no further amendments, but I am not in a position to say that at this time. I do not know what other amendments there are. I do know there are numerous amendments, but I do not know whether they will be offered or not. My inclination or my judgment is that very few of them will be offered. What I am attempting to do now is to go downstairs and eat some lunch.

Mr. ROBERT C. BYRD. I would like to have some lunch. I usually do without, or I get a bowl of soup in my office. But that is neither here nor there. I am just trying to find out how many amendments remain. If the Senator is in a position to determine this a little later, what I am saying is it might be that we could go off this measure for an hour or 2 and do some other work and come back to it, say, at 5 o'clock, and allow an hour for debate between that and 6, if it were agreeable with the distinguished Senator.

Mr. SCOTT. Let me say to the distinguished majority leader that I will attempt to find out. I am not sure whether I will be able to, but at least I will try.

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

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. STENNIS. Mr. President, I have already had the privilege of speaking briefly this morning. Let me assure the membership who are here I am not here to try to take up some time. I have not written a speech just to kill time. I have what I think are some fundamental points. I know they are fundamental to me. I want to accommodate the leadership and every individual Senator. But I think these things ought to be said with as much emphasis as we know how to say them. I have put down some points ad seriatum.

I feel that if this matter should pass and be submitted to the legislatures of the various States, there ought to be something in the RECORD for the membership there who may want to look and see how different Senators feel about this thing, what they think will be the effect of it, and how it will work for Nebraska, California, Alabama, and Maine, as well as for the District of Columbia.

I am surprised that this proposal has this much support, to meddle with one of the blood cells, the very foundation of our system of government, particularly this unique body, the U.S. Senate.

No unit of Government has taken any more body blows than has the U.S. Senate. No body has absorbed more crises and calamitous situations for the country; no body has stood up more times to be counted on the whole during tumultuous times as has this body.

I read a demonstration of that the other night, when one President of the United States lacked only one vote of being found guilty on impeachment charges before this body. That was well over 100 years ago. One vote made the difference, but that left the Presidency still standing. This writer thinks that that is the vote that turned history. Otherwise, the Presidency itself would have rapidly deteriorated with the ensuing years.

That was a critical time for our country, as I see it, not those years that led to the most unfortunate of all wars, not those 4 years of that conflict between brother and brother, but those so called reconstruction years when finally the people did pull things back together, under the leadership of the President. The office itself was saved and the President remained as the leader of the Nation for a while. Things finally pulled themselves around and we got together and moved on into the greatest era any nation has ever had. And we have withstood other tests since that time, though maybe not quite as grave.

As I said before, we are here from all different groups, representing all different kinds of people, different States, where the economy varies, but we have an understanding of the system and of each other. Then there are things that bind us together. I think more than anything else it is the economy. I thank God that it is still the concern of most every American, this matter of making a living. That is the thing that holds us together.

We pull for an economy where everyone will have a chance to make a living. I hope we go back and retrain some of our citizens whom I think we have neglected in not emphasizing that enough, that every able-bodied person is expected to eventually earn his own way. Therefore, he has to be trained to do something worthwhile and constructive. That catches on with the youth if it is emphasized enough.

We have not emphasized it enough lately, I think. It was emphasized when I was coming along, when many of you were. We did not fail to get the lesson, either.

What I am leading up to now is, here we propose to bring in an altogether different kind of Senator, elected, chosen by people that all live in a city—a very prosperous city. It did have the highest per capita income of any government unit or any State in the Nation. If it is not at the top now, it is very close to it, with all these fine people who work for the Government guaranteed an increase, automatically, in salary if the economy goes up and so forth, guaranteed almost certainly against inflation.

You send from that constituency, send in a person here. He is going to be a product of their thinking without the variety of ways of making a living and ways of living and somebody—Idaho, Utah, Mississippi—somewhere, many will be adversely affected in their way of making a living when we create these policies in the economy. There are many close votes here, many close votes in committees, many in full committee, many close votes on the floor of this body.

I think one of the most important votes we have ever had here—two that I remember—just one vote decided this matter. And they are coming in here without any knowledge of life or problems of those who live in small villages, those who live out on the land—poor land, rich land, middle-type land, anything else—without any knowledge of the problems of little towns, being city government, or small cities—just the large city. That is all they know, without a—well, there may be one or two; I do not know of them, but without any industry, you might say, relatively speaking, in this fine group of 700,000 people, without a small industry, without a large industry or anything in between that is appreciable.

What about out in the West? You know, the most important assignment I ever had in the Senate was the Appropriations Committee, rivers and harbors, water resources—harbors, dams, irrigation, flood control—creating mighty wealth. I mean by that the total production of those projects caused by wealth and was divided up among the landowners and the people, a better standard of living and the paying of more taxes.

All those kinds of things go to make up the economy. If these two men come in, how are they going to stand on many other matters?

How do they stand on soybeans? I just happened to think of soybeans. They will not know top, side, nor bottom, where to go or where to stop or where to stand on soybeans and other agricultural commodities. I mean this. I see these pivot votes in these committees and subcommittees and on this floor, year after year, many, many times over. That is no discredit, but we are going into a venture here with the District of Columbia—give them two Senators but no responsibilities of statehood to go with it, no responsibilities of any kind. Why not just give it to Pittsburgh, let them have more equality or more representation?

That is the first city I thought about there. There is no such thing as having absolute equality of citizenship, anyway, in selecting Senators. The Constitution deliberately made it so that there would be unequal representation, so there is nothing sacred here that is being violated. This is the system of government we have, ladies and gentlemen, and it has virtues and values and strength because of these fundamentals.

Now we open the door one time and we shall have to open it again. We shall have to open it again.

Let us not say, well, if it is that bad, the States will turn it down. We have no basis to perform our responsibilities by saying, well, let the States correct my error. I respectfuly submit, we are in grave error here—grave error—in making this change.

My goodness alive, let it be our firm, solid, best opinion, at least, and if that goes contrary to what I advocate, then, at least, the system has worked. But let us not say, well, here, we will not bother about that; the States can take care of the situation.

I believe this, that if the States get into the facts in passing on their responsibilities, they are going to say that we are not wanting to punish anyone in being short on the privileges that go with American citizenship; we are not wanting to take away anything that belongs to another; but, at the same time, we are interested in protecting ourselves; we have to know more about this thing and we are going to protect ourourselves.

Our economy is so bound up in what the Congress does. Presidents come and go, but the continuity of Government is through the legislative branch, the Congress. And you know we pass on grave matters of the economy here every day—too many, I think. Too many, but, at the same time, it is a part of our life and of all those segments of this great economy we have. The Government is in it and I think will continue to be in it and will be controlling.

So there is nothing in the way of economic advantages or anything like that the people in the District are missing. It is this political power without obligation of statehood that goes with it, and it is political power that rightly belongs to someone else under the Constitution, intended that way.

They had quite a debate about this matter as to what State, if any State, the Capital was going to be located in. I am not a stranger to that record, what record there is, of the Constitutional Convention. They argued back and forth as much on that as anything else, and they finally reached a decsion that it would not be in any State.

In think, Mr. President, that justice can be done, good can be done on this matter of citizenship without our having to surrender one of the basic structures of our form of government.

I know this, in one form or another, has been up before. It shows a concern that is an honest concern. But ways have been found to partly meet these situations already, and I am sure other ways can be found and will be found. But I say to my colleagues, let us not set the precedent of going altogether out of bounds here and bestow statehood, in effect, upon the District of Columbia and then in the next Senate say, "No, we didn't mean what we said, we take it back."

That language in here says "shall be considered for these purposes as a State."

We know that is hocus-pocus of a kind that does not say in bad faith, but that is trying to have the cake and eat it, too.

So if we really are going to do this thing and entitle it to representation here, let us make it a State. I would not advocate making it an outright State, but that is the only way we can do it and make it consistent.

Another thing, why do they have to have two Senators? Who figured that one out?

If they have to have someone here that has the power to vote, one Senator representing 700,000 people is more representation than many of the States—some of which belong to the original 13—have here.

Take Massachusetts. Quality makes up for some things, but they have only two good Senators. But New York, long time the most populous State in the Nation, only two Senators for 21 million people, I believe it is about that many, or more now. Two Senators. High quality, but representation on a per capita basis.

California now being a little more populous, I think illustrates the same principle.

So, why two Senators for these 700,000 people? Who did that? Who said, "No, two." I do not know.

But if it is not a State and it does not have a population more than this, I cannot see any conceivable basis for saying they will have two Senators.

The PRESIDING OFFICER. The Senator's 20 minutes have expired.

Mr. STENNIS. I thank the Chair.

Mr. SCOTT. Mr. President, I am glad to yield further time to the Senator.

Mr. STENNIS. I have another point and I will go into that later.

Mr. SCOTT. Mr. President, again I thank the Senator for his comments, the remarks he made about the Senate representing the States and referring to the population of the States.

My own State of Virginia has between 5.1 million and 5.2 million with two Senators. Each of us represent approximately 2.6 million people.

AMENDMENT NO. 3525, AS MODIFIED

(Purpose: To provide a means for filling vacancies in the representation of the District of Columbia in the Congress)

Mr. SCOTT. Mr. President, I call up my amendment No. 3525, as modified, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Virginia (Mr. SCOTT), for himself and Mr. WALLOP, proposes an amendment numbered 3525, as modified.

The amendment is as follows:

On page 2, between lines 10 and 11, insert the following new section:

"SEC. 3. When vacancies happen in the representation of the District of Columbia in the Senate or the House of Representatives, the Mayor of the District of Columbia shall issue writs of election to fill such vacancies, except that the Council of the District of Columbia may empower the Mayor thereof to make temporary appointments to the Senate until the people of the District of Columbia fill the vacancies by election as the Council of the District of Columbia may direct.".

On page 2, line 11, strike out "SEC. 3." and insert "SEC. 4.".

On page 2, line 13, strike out "SEC. 4." and insert "SEC. 5.".

Mr. SCOTT. Mr. President, the modification in the printed amendment only adds the words on page 2 after "empower the mayor thereof to make temporary appointments," the words "to the Senate", because as drawn he would have had the authority to make interim appointments to both the Senate and House. That would be contrary to the Constitution and this is a clarifying amendment.

I hope that after a reasonable time to debate the matter, the distinguished Senator from Massachusetts will not move to table. In fact, I hope that he will accept this amendment because it is an amendment that will remove some of the ambiguities that are in the resolution that is now before us.

The first portion of the resolution before us grants representation in the Congress, full congressional representation, to the District of Columbia. The second would provide for participation in the election of the President and the Vice President. The same that is true today, I believe, under the 23d amendment.

But we have not discussed the third phase, to any extent I am aware.

According to article V of the Constitution, it is necessary for three-fourths of the State legislatures to ratify a proposed constitutional amendment.

Mr. KENNEDY. If the Senator will yield, does the Senator have a copy of the amendment?

Mr. SCOTT. Yes. The amendment should be on every Senator's desk. It is amendment No. 3525 and the only modification is adding the words "to the Senate" on page 2.

Mr. KENNEDY. I thank the Senator.

Mr. SCOTT. Mr. President, I do not believe we have discussed the third phase to any extent, but, according to article V of the Constitution, it is necessary for three-fourths of the State legislatures to ratify a proposed constitutional amendment that has been approved by two-thirds of the Members of both Houses of the Congress.

At the present time, we have 50 States, of course. That means that it is necessary to have 38 States to ratify it. But in the event the District of Columbia is treated as a State and in the event the District of Columbia would be counted, that would make 51 States, counting the District of Columbia as a State, and three-fourths of 51 would mean we would have 39 States that would be necessary for ratification.

This is not a crucial point, but it is a matter that I believe is worthy to at least be considered.

The second section of the joint resolution before us refers to the exercise of the rights and powers conferred under this article shall be by the people of the District constituting the seat of government as shall be provided by the Congress.

Now, that is subject to a second amendment that I would offer because by the people of the District constituting the seat of Government as shall be provided by the Congress, does the Congress under article I, section 8, having exclusive legislative jurisdiction, does it make the decision or do the people of the District of Columbia acting through their Council?

This raises a number of questions, but when we look at the 17th amendment to the Constitution, we find that when vacancies happen in the representation of any State in the Senate, the executive authority of such State shall issue writs of election to fill such vacancies.

Now, that is whether it is the House or the Senate. But the further words are provided:

Provided, That the legislature of any State may empower the executive thereof to make temporary appointments until the people fill the vacancies by election as the legislature may direct.

Are we talking about the legislature of the District of Columbia, the City Council, which has been delegated some legislative authority? Are we speaking of the Congress of the United States, which has exclusive legislative jurisdiction, except as to the extent that it has been delegated?

I would modify that for the purpose of clarification, so that in each instance the people of the District of Columbia or the legislature of the District of Columbia would be the ones to make it rather than the Senate. If we are going to treat the District of Columbia, for the purpose of representation, as if it were a State, then it seems reasonable to me to add this. Otherwise, we have some very vague things in this joint resolution. If we should act favorably upon this, the State legislatures are going to raise these questions.

I know that we have two bodies of Congress, and I know that there is some concern about one body not accepting the bill in exactly the same way as the other body prepares the bill. I know that it is necessary to go to conference when that is not done. But it is much easier to go to conference now and work out an imperfection, to work out a clarification in a bill, than it is to send it to the legislatures of the 50 States for their consideration.

So my amendment would add a section 3:

When vacancies happen in the representation of the District of Columbia, in the Senate or the House of Representatives, the Mayor of the District of Columbia shall issue writs of election to fill such vacancies, except that the Council of the District of Columbia may empower the Mayor thereof to make temporary appointments to the Senate until the people of the District of Columbia fill the vancancies by election, as the Council of the District of Columbia may direct.

Then it just renumbers the other paragraphs.

Mr. President, it seems unreasonable to me for those who have expressed such concern about the people of the District of Columbia making decisions with regard to voting rights and human rights to retain something in a joint resolution that is as uncertain as this. This would specify that the legislature, insofar as this bill is concerned and the representation in Congress is concerned, would be the City Council; that they could empower the mayor to make interim appointments to the Senate.

Mr. President, I yield such time as he may consume to the distinguished Senator from Wyoming.

I might add that the distinguished Senator is a cosponsor of the amendment.

Mr. WALLOP. I thank my friend and colleague, Senator SCOTT.

I shall add my remarks to those of the Senator from Virginia. I hope that, by encouragement, the sponsors and the floor managers might think very carefully about accepting this amendment, partly from the standpoint of consistency and partly because I hate to see the Senate subside into a level where it refuses to think any longer about the subject matter before it and does not take seriously the arguments that are being made.

The Senator from Massachusetts knows that I am not enthusiastic about the form of the joint resolution presently before us. There are several other preferable variations with respect to enfranchising the people of the District of Columbia. Be that as it may, we now have House Joint Resolution 554 as the document upon which we will vote.

I hope that, in the interest of consistency and of the arguments that can be made in its behalf, the amendment might be considered seriously by the floor mangers, as an amendment which those who support this measure in the House would not find difficult in accepting.

Mr. President, during the course of the debate on House Joint Resolution 554, many amendments have been offered which would have provided alternative means for insuring the residents of the District of Columbia with representation in Congress. Without exception, the proponents of the measure have voiced strong opposition to these amendments, fearing that any significant substantive change in House Joint Resolution 554 would undermine its chances for timely approval by this Congress.

The amendment offered by the Senator from Virginia (Mr. SCOTT), and me will effect an important change in House Joint Resolution 554, but one which proponents and opponents alike should support as an improvement to the proposed constitutional amendment. This amendment fills the void left by House Joint Resolution 554 with respect to procedures for filling vacancies in the House and the Senate caused by the untimely deaths of the Senators and Representative(s) of the District of Columbia or for other reasons.

Section 1 of House Joint Resolution 554 provides that the District of Columbia shall be treated as though it were a State for purposes of representation in Congress. It makes no provision for the filling of vacancies in either the House of Representatives or in the Senate in the event of the death or the resignation of the elected members from the District. Our amendment fills that gap. In short, the amendment vests the local government of the District of Columbia—the Mayor and the City Council—with the constitutional authority to fill vacancies in District seats in Congress without either the influence of, or interference from, Congress.

There is clear and unmistakable need for this amendment. Article I, section 2, clause 4 of the Constitution provides:

When vacancies happen in the representation from any State, the executive authority thereof shall issue writs of election to fill such vacancies.

The 17th amendment to the Constitution provides:

When vacancies happen in the representation of any State in the Senate, the executive authority of such State shall issue writs of election to fill such vacancies: *Provided*, That the legislature of any State may empower the executive thereof to make temporary appointments until the people fill the vacancies by election as the legislature may direct.

House Joint Resolution 554, by its very terms, does not make the District of Columbia a State for purposes of filling vacancies in Congress. Thus, the provisions of the Constitution cited above would not apply, and there would be no explicit guidance for filling seats left vacant by the untimely passing of the representatives and senators from the District of Columbia.

The other concern is that if I were a citizen of the District of Columbia, already concerned that I am not represented, I would not want to have my Senators and Representatives chosen by the Congress of the United States.

It would be irresponsible for this body to talk around the problem without ad-

dressing and solving it. The amendment we offer will avert future legal and constitutional questions should this proposed amendment be ratified and a vacancy in a District seat occur between scheduled elections.

A case in point: At present, Congress can veto any actions taken by the City Council. If the City Council were to appoint a Representative or a Senator to fill a vacancy in the House or Senate, respectively, would not Congress have veto power over the appointment? I suggest that it would. And under section 2 of House Joint Resolution 554, would not Congress be able to provide by legislation for a special election contrary, perhaps, to the wishes of the citizens of the District? Would not Congress be in the extraordinary position of influencing the selection of the District's congressional representatives? We seek to avoid this objectionable result by providing that the District, alone, shall fill vacancies in congressional seats. The Mayor and City Council of the District of Columbia shall provide for the interim replacement and subsequent general elections to fill vacancies. They shall do so free from Congress influence and not subject to Congress veto power.

Mr. President, I compliment the distinguished floor manager on the means, manner, and method by which he has defended this proposition in the Chamber. With respect to this amendment, I would call attention to the fact that he introduced the Senate version of House Joint Resolution 554, Senate Joint Resolution 65, on May 15, 1977 for himself, Mr. BAYH, Mr. BROOKE, and Mr. Humphrey. In that proposed amendment, they provided a section 2 which specifically relates, as does this amendment, to the problem of the replacement of Senators and Representatives in the event of vacancies in congressional seats from the District of Columbia. Their language was not dissimilar from ours, which says simply that when vacancies happen in the representation of the District in either the Senate or the House of Representatives the people of the District shall fill such vacancies by election.

The floor manager, sponsors, and other proponents of House Joint Resolution 554 have recognized the need to make provisions for filling vacancies in congressional seats for the District of Columbia. They have offered language on this point in Senate Joint Resolution 65. I suggest that the language of our amendment is a slight improvement over theirs in that it deals with the two distinctions that are found in the existing Constitution of the United States for the replacement of Members of the House of Representatives and Members of the Senate and I suggest it would be consistent with their previously stated positions to support this amendment.

Mr. President, in addition, I compliment the Senator from Virginia for drafting this. I think it is not a frivolous amendment in any way.

I also was stated as a cosponsor on another amendment of his, of which I generally approved. For the reason that I want to focus on this particular problem—the filling of vacancies in District of Columbia seats—I wish to ask unanimous consent that I may be permitted to withdraw as a cosponsor of amendment No. 3524 at this time.

The PRESIDING OFFICER. Is there objection?

Without objection, the Senator's sponsorship is withdrawn.

Mr. SCOTT. I thank the Chair.

Mr. WALLOP. I thank the Chair.

The Senator is proud and pleased to associate himself on amendment No. 3525 of the distinguished Senator from Virginia.

I hope seriously that the proponents will view this argument seriously and not move the Senate to a posture of cutting off further thought on the proposition before us because the thought is too serious and whatever we do here will last 100, 150, or 200 years. It seems to me the only responsible way to approach it.

I thank the Senator from Virginia for yielding to me.

Mr. KENNEDY. Mr. President, may I ask a question of the Senator from Virginia?

In section 3, line 3, when the amendment says "when vacancies happen," just when does this apply?

Mr. SCOTT. An incumbent Senator could die. That would be it. He could resign. We have had that within the Senator's recollection.

But under the same circumstances as appointments can be made by the Governor of a State upon authorization by the legislature of a State, and I believe that that is specified in article I of the Constitution. Let me just find it here.

Mr. WALLOP. The Senator is correct. In answer to the question posed by the Senator from Massachusetts, may I refer you to article I, section 2, clause 4, and the 17th amendment of the Constitution. Both of these constitutional provisions use the language "when vacancies happen."

Mr. SCOTT. Yes. The 17th amendment would be the preferable place. Let me find the 17th amendment and respond to the Senator. The second paragraph of the 17th amendment says:

> When vacancies happen in the representation of any state in the Senate,"

The word "happen" is used in the existing Constitution—

> The executive authority of such state shall issue writs of election to fill such vacancies provided that the legislature of any state may empower the executive thereof to make temporary appointments until the people fill the vacancies by election as the legislature may direct.

My amendment would only change the joint resolution to make it in compliance with the position of all of the States insofar as the filling of vacancies are concerned. We do not know just who will fill the vacancies because as the distinguished Senator knows under article I, section 8 full legislative power is vested in Congress. Would Congress, unless this amendment is adopted, authorize the Mayor of the District of Columbia to make the appointment, or would the City Council of the city of Washington authorize the Mayor to make the appointment?

This amendment says that the City Council of the city of Washington may authorize the Mayor to make an appointment to fill the vacancy and it clarifies it, and we do not have the uncertainty. That is the purpose of the amendment.

Mr. KENNEDY. Let me ask a second question. Does this language apply immediately after this amendment is ratified by the States? Under the language, vacancies would exist, but there has not been an election. Can the Senator specify whether his language would apply under that circumstance? Should not the first action be an election, instead of an appointment to fill the vacancy?

Mr. SCOTT. I would assume and for the——

Mr. KENNEDY. There would be vacancies in the representation in the Senate and the House of Representatives.

Mr. SCOTT. For the purpose of legislative history——

Mr. KENNEDY. The Senator offers the amendment to end the confusion of language in our constitutional amendment, and here on the face of his amendment, there is a confusion of language in the form of it.

Mr. WALLOP. Mr. President, will the Senator yield to me for 1 second?

Mr. SCOTT. I am glad to yield.

Mr. WALLOP. I suggest there is no more complication than there was in the Senator's own resolution. The unique problem for the moment between ratification and the first election would probably be best dealt with by appointments made in accordance with this amendment. However, if that is particularly troublesome. I am sure that language could easily be inserted in the amendment such that it would take effect only after the first elections.

Mr. KENNEDY. I do not know whether the Senator wishes to offer that as a perfecting amendment. I was listening to my friend from Virginia and the Senator from Wyoming talking about how our language was subject to different interpretations and how they were going to resolve these different interpretations. And then they offer an amendment which is subject on its face to different interpretations.

Mr. SCOTT. Mr. President, if the Senator will——

Mr. KENNEDY. Do I not have the floor, Mr. President?

The PRESIDING OFFICER. The Senator from Massachusetts has the floor.

Mr. SCOTT. I was asking if the Senator will yield.

Mr. KENNEDY. Just let me make a brief comment.

Mr. SCOTT. All right.

Mr. KENNEDY. And then I will be glad to yield.

This amendment is offered to deal with what will happen when vacancies occur. But there has been no amendment offered to establish the elections in the first place. It seems to me we are putting the cart before the horse. How will the District of Columbia establish the various congressional districts? How will it hold the first elections? There

should be at least a sense of order in offering amendments to clarify such details. The amendment deals with what is going to happen if there is a vacancy after an election.

It was for these reasons, Mr. President, that the issues were left for future action by statute. These issues can be resolved by subsequent legislation implementing the amendment.

Some kind of statute similar to this amendment may very well be agreed to in the future. It is not necessary that it be attached to the constitutional amendment.

But the legislative history ought to be very clear that the type of question about how the elections are going to be held, how vacancies are going to be filled, can be easily answered by statutes in the the future.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. SCOTT. What this amendment is attempting to do is to make the some provisions that are presently in the Constitution with regard to the States apply to the District of Columbia. There is nothing in the Constitution that refers to the first election of the Senators that the distinguished Senator mentions. I would assume that it would not be necessary or even desirable to have the mayor appoint the first Senators from the District of Columbia.

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

Mr. SCOTT. If the Senator will let me complete my statement—it seems reasonable to me that once you have your Senators who are elected by the people, and then death occurs or somebody resigns, as has happened in this body since I have been in the Senate, and you have an emergency situation and you do not want a vacancy in the Senate, until the District of Columbia actually has some Senators they are in no worse position by waiting a short period of time and letting the people elect the original Members of the Senate, in no worse position than they are today.

I am glad to yield to my friend from Wyoming.

Mr. WALLOP. I thank my colleague.

I would like to direct a couple of questions to the Senator from Massachusetts along these lines. First, if what the Senator says about filling vacancies is actually true, why did Congress bother to pass the 17th amendment, to use this very same constitutional amendment procedure for filling vacancies in Senate seats?; second, why is it now so poisonous to the Senator from Massachusetts to entertain an important amendment as this one is when it was the Senators' own language in his own proposal that was introduced in the Senate, Senate Joint Resolution 65?

You know, it does not strike me that this will in any way, affect the likely outcome of the vote that will take place this evening. It is not proposed by this Senator as threatening that vote. It really is in all honesty trying to deal with an apparent problem in H.J. Res. 554.

Mr. KENNEDY. Well, Mr. President, I certainly grant the sincerity of my colleagues from Wyoming and from Virginia.

But I still say the language included in the amendment before us is vague. I understand what the Senator is trying to do, but the language is vague because it reads "when the vacancies happen." Does a vacancy happen after ratification by the States, but before the first election?

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

Mr. KENNEDY. If I can just finish in reply to the comment of the Senator. The 17th amendment is a different situation, because in the 17th amendment we were moving to the direct election of Senators, at a time when the State legislatures chose the Senators. So we had sitting Senators at that time. That is quite a different situation.

Under the 17th amendment, State legislatures chose the Members of the Senate. We did have Senators who were serving and meeting their responsibility for the Senate. So it made sense to speak of vacancies.

In issues raised by the amendment are important ones, but they can be worked out satisfactorily by statute. It is not necessary to write them into the constitutional amendment. This amendment would require a conference with the House of Representatives, and I do not think such a charge is justified.

Mr. WALLOP. I assure the Senator that is not the intent of this Senator. I would work with him to see that such result did not take place.

But I wonder how——

Mr. KENNEDY. I yield to the Senator on his time.

Mr. WALLOP. I will ask the Senator one more question, if I may.

Mr. KENNEDY. Yes, just if the Senator could use his time.

Mr. SCOTT. I am glad to yield to the distinguished Senator.

Mr. KENNEDY. The other Senator has twice as much time as I have.

Mr. WALLOP. The only thing I would ask is why, when the proposed amendment would close a gap in the resolution with respect to filling vacancies, would the proponents of House Joint Resolution 554 move to table and defeat it? Surely the proponents who advocate enfranchising the District of Columbia voters do not wish to retain the authority to exercise the congressional veto power over the City Council of the District.

It just seems to me that is the worst kind of duplicity this Senate and Congress can involve itself in.

Mr. KENNEDY. The movement toward providing the right to representation has been a gradual and evolving process. I think important progress has been made. We have not resolved all the issues or all of the problems. The questions that have been raised here by the Senators can be resolved by statute. They do not need the constitutional amendment process.

Mr. WALLOP. I just have to disagree with the Senator. No one, and nobody, has construed the 17th amendment as being vague——

Mr. KENNEDY. Regular order, Mr. President.

Mr. WALLOP. Regular order? The Senator has the floor.

Mr. KENNEDY. The Senator has the floor and asks for the regular order.

The issues and questions on future elections can be worked out with the local authorities and Congress. It can be done by statute.

The irony is that those who say we are not granting enough authority to the District of Columbia are the same persons who are voting time after time and day after day against even providing them with the right to vote in the Congress and in the Senate of the United States.

Therefore, I move to table the amendment and I ask for the yeas and nays.

Mr. ROBERT C. BYRD. Mr. President, will the distinguished Senator withhold his motion?

Mr. KENNEDY. I withhold the motion.

Mr. ROBERT C. BYRD. I ask unanimous consent that the Senator from Massachusetts be recognized at the hour of 2 p.m. to make his motion to table.

The PRESIDING OFFICER (Mr. MELCHER). The Chair would inquire to table what?

Mr. KENNEDY. The amendment which is before us.

Mr. WALLOP. Mr. President, I suggest the Senator does not have the floor for the purpose of moving to table the amendment but only to make a response to the question of the Senator from Wyoming, to answer his question.

Mr. SCOTT. Mr. President, could we resolve this question by permitting me to yield to the distinguished Senator from New Mexico who desires to speak on the matter and, I think that would give us some time and we would be right at the hour of 2 o'clock? Certainly the Senator has a right—I am sorry that he takes the position that he does—but he has the right to offer a tabling motion, and I will support his right to a rollcall vote at a later time.

Mr. KENNEDY. Mr. President, I ask unanimous consent that it be in order to ask for the yeas and nays on the motion to table at this time.

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

Mr. KENNEDY. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. SCOTT. Mr. President, I ask unanimous consent that it be in order to ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. We have not resolved the question of whether there is a sufficient second. Let us see if there is.

There is a sufficient second.

The yeas and nays were ordered.

Mr. SCOTT. Mr. President, I ask unanimous consent that it be in order to ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. The Senator has that right.

Mr. SCOTT. Mr. President, I ask for the yeas and nays on my amendment.

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

The yeas and nays were ordered.

Mr. SCOTT. Mr. President, I yield the Senator from New Mexico such time as he may consume, not exceeding 20 minutes.

Mr. KENNEDY. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. KENNEDY. Do I understand that I will be recognized at 2 o'clock?

The PRESIDING OFFICER. There is a unanimous-consent request to that effect pending. Is there objection?

Mr. SCOTT. Mr. President, let me personally assure the Senator from Massachusetts that he will be recognized after the distinguished Senator from New Mexico finishes his remarks.

The PRESIDING OFFICER. Is the request withdrawn?

Mr. ROBERT C. BYRD. Yes.

The PRESIDING OFFICER. The request is withdrawn. The Senator from New Mexico is recognized.

AMENDMENT NO. 3505

(Purpose: To correct a typographical error in the twenty-fifth amendment)

Mr. SCHMITT. Mr. President, I call up my printed amendment No. 3505.

The PRESIDING OFFICER. There is an amendment pending at this time. It would require unanimous consent. Does the Senator ask unanimous consent to have his amendment considered now?

Mr. SCHMITT. Mr. President, I ask unanimous consent that the pending amendment be temporarily set aside, and the Senate proceed to the consideration of this amendment.

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

Mr. SCHMITT. Mr. President, this amendment 3505 which I have sent to the desk is to correct a typographical error, and the humor of that will be apparent momentarily.

The PRESIDING OFFICER. The clerk will state the amendment.

The assistant legislative clerk read as follows:

The Senator from New Mexico (Mr. SCHMITT) proposes an amendment numbered 3505:

On page 2, after line 12, insert the following:

"SEC. 4. The twenty-fifth article of amendment to the Constitution of the United States is amended by striking out 'department' in the second paragraph of section 4 and inserting in lieu thereof 'departments' ".

On page 2, line 13, strike out "SEC. 4" and insert "SEC. 5".

Mr. SCHMITT. Mr. President, on July 6, 1965, the Congress proposed to the States a constitutional amendment which, on February 10, 1967, was ratified as the 25th amendment. This amendment contains four sections. Section 1 states that the Vice President becomes President upon the death or removal of the President. Section 2 provides for the nomination and confirmation of a Vice President whenever there is a vacancy in that office. Section 3 provides for the Vice President to assume the duties of the President should the President declare that he is unable to discharge the powers and duties of his office. Section 4 is probably the most important and potentially the most controversial. This section provides for the removal of a President who is found to be unable to discharge his duties.

Since the ratification of the 25th amendment, section 2 has been invoked twice. Two Vice Presidents have been nominated by the President and confirmed by the Congress. Neither section 3 nor section 4 has yet been invoked. I hope, Mr. President, that it never becomes necessary to invoke these provisions. There is, however, a problem with section 4 in that it contains a typographical error which could, if uncorrected, pose some problems. Let me read the first paragraph of section 1.

Whenever the Vice President and a majority of either the principal officers of the executive officers of the executive departments or of such other body as Congress may by law provide, transmit to the President pro tempore of the Senate and the Speaker of the House of Represenatives their written declaration that the President is unable to discharge the powers and duties of his office, the Vice President shall immediately assume the powers and duties of the office as Acting President.

It is clear that the framers of this amendment intended that the Vice President and the majority of the Cabinet must make this determination, unless Congress decides otherwise.

The second paragraph, however, reads:

Thereafter, when the President transmits to the President pro tempore of the Senate and the Speaker of the House of Representatives his written declaration that no inability exists, he shall resume the powers and duties of his office unless the Vice President and a majority of either the the principal officers of the executive department or of such other body as Congress may by law provide, transmit within four days to the President pro tempore of the Senate and the Speaker of the House of Representatives their written declaration that the President is unable to discharge the powers and duties of his office.

The difference, Mr. President, is that paragraph 2 refers to the "principal officers of the executive department" rather than "departments" as in paragraph 1. The intent of the framers was clearly that the Cabinet be considered in both cases. The typographical error, not detected until after ratification, could change the meaning in the second paragraph. It may be argued in the future that it was not an error but the intent of the framer.

Mr. President, while this provision of the Constitution may never be invoked, and I hope it will never be necessary to do so, I for one would not want any problems with interpretation should it become necessary. The courts would probably rule that the framers of this provision intended that the Cabinet should be involved in the decision-making and not some other body such as the senior staff of the White House. The White House could be considered the executive department and the senior staff could be considered the principal officers. Should it become necessary to invoke this provision, it would be a crisis situation. I would not want to open the process to unnecessary court challenges as to the intent of the framers.

It is for this reason, Mr. President, that I propose this amendment to House Joint Resolution 554. While I do not intend to introduce a joint resolution proposing a separate amendment to the Constitution to correct this error, if the Congress is considering an amendment, this correction could be added. This amendment would strike the word "department" in the second paragraph of section four of the 25th amendment and insert in lieu thereof "departments."

Let me emphasize that this amendment will not change any of the provisions of House Joint Resolution 554. It would not add or detract from the issue which we are discussing. Whether the District of Columbia should have congressional representation will stand or fall on its own merits. What I am proposing, Mr. President, is more in the nature of a technical amendment to the 25th amendment.

Mr. President, I hope that the Senate will adopt this amendment to this joint resolution and to every joint resolution proposing a constitutional amendment until the error in the 25th amendment is corrected.

Mr. President, there has been some concern expressed by Senators that the adoption of the amendment of the Senator from New Mexico would potentially force the entire D.C. representation back to the House of Representatives for their approval. The precedents, coincidentally, in this matter were set in the consideration of the 25th amendment, which the Senator from New Mexico is attempting to correct.

The House agreed to the conference report on this amendment on June 30, 1965. The Senate agreed to the conference report on July 6, 1965. Therefore, it would obviously be in order for this additional amendment provided here on the floor of the Senate to be treated and agreed to by the House in conference rather than requiring any vote by the full House.

Ratification, by the way, of the 25th amendment was completed on February 10, 1967, a delay of slightly under 2 years.

I might also add that if, in fact, it was desired to submit the amended joint resolution to the full House, there is, of course, precedent for that being done also, particularly, for example, in the consideration of the 22d amendment dealing with two terms for a President. In that case, that amendment passed the House on February 6, 1947. The Senate amended the proposed article. The amended article was passed by the House, as amended, on March 24, 1947, and subsequent ratification took place February 27, 1951.

Mr. President, I reserve the remainder of my time.

Mr. LEAHY. Mr. President, the Senator from New Mexico raises an interesting point on the issue of a typographical error. I for one, having seen that point raised, would want to go back and review the Constitution very carefully and see whether there might be other typographical errors, or what may appear at least to me as typographical errors. Having found any, assuming I did, I would much prefer to go to the Judiciary Committee and the Subcommittee on Constitutional Law and ask them to look into it in some detail.

I have just checked briefly with Senator BAYH on the matter that the distinguished Senator from New Mexico has raised. I can see much merit in the point he has raised here. I understand, however, that the hearing record perhaps runs into thousands of pages on that constitutional amendment; that the transcript of the proceedings and the records of the proceedings are voluminous and have been locked away for the last 10 years.

I understand from Senator BAYH that he is perfectly willing to have the subcommittee go back into the issue, dig out the material, and find out, indeed, if there was a typographical error, and then determine how best that typographical error can be corrected, if indeed there is one.

I would suggest to the Senator from New Mexico, that being the case, that the best way to handle it would be to let the Judiciary Committee go back through it. I do not think it would come down to any kind of ideological battle if there is a typographical error, but, rather, the sole question would be how best to correct it. I would hope that the Senator from New Mexico might withdraw his amendment and allow the Judiciary Committee, and Senator BAYH's subcommittee, to make some kind of determination, I would assume working with the Senator from New Mexico, first, is there a typographical error, and, second, should there be a typographical error, what is the best way to correct it?

Mr. SCHMITT. I appreciate the comments of the distinguished Senator from Vermont. It is my personal understanding, after having talked with the Senator from Massachusetts, that he had no problems with this amendment. Certainly to this Senator's knowledge, I think the Senator from Vermont will find, after conducting his own research, that this is the only known typographical error in the present official version of the Constitution. I do not think he will find any other errors if he looks. Any other errors, so-called, would be errors of substance rather than errors of a typographical nature.

I would submit to the Senator, based upon all the research that my staff and I have been able to do on this, there is, I believe, universal agreement that this is, in fact, a true typographical error. I think there is universal agreement among the legal profession that although there is no question as to the way the courts would rule in terms of legislative history surrounding the 25th amendment, that, nonetheless, there is an opening for a court test at a time when the Nation will be undergoing a very, very severe crisis. That potential I believe should be put to zero by a clear and unequivocal correction of the error which has existed. It is not something that this Senator discovered. It is something that many people have known about for some time. It is only my intention to assist the courts in having a clear and correct Constitution in front of them for any future consideration.

Mr. LEAHY. May I ask the Senator from New Mexico, based on his examination, if there are other ways of correcting a typographical error rather than adding it as an amendment to the matter before us now? My concern, of course, is that any amendment sends this matter back to conference at a time when we are facing the possibility of a recess of the Congress in mid-October, along with all the other matters presently before us. I wonder if it is a matter that can be settled somewhat more easily somewhere else. I agree with the Senator that it should be corrected. If it can be corrected somewhere else, this Senator from Vermont would much prefer that.

Mr. SCHMITT. This Senator would also prefer that, yet we are all dependent upon our own research, and I have found no indication in that research that there is any other constitutional means by which we can correct a typographical error. It appears it has to be corrected by another amendment to the Constitution. Unless some other accommodation can be worked out, I intend to offer this amendment to all other substantive amendments that are coming before this body. I think it is something we have to do.

Although it is highly unlikely that section 4 of the 25th amendment will ever be required, nevertheless at the time it is required it needs to be as clean as possible in terms of any court test of that amendment.

Mr. LEAHY. Again might I recommend to my friend from New Mexico that the amendment is now at hand and perhaps he should allow Senator BAYH and his subcommittee to look into the matter to try to determine another vehicle rather than this one as the way of correcting this, or to handle it as a matter solely by itself.

Mr. BAYH. Will the Senator yield?

Mr. LEAHY. I yield.

Mr. BAYH. I appreciate the astute observation of our distinguished friend from New Mexico. If he and my friend from Vermont insist, of course, we can hold hearings on this matter, but I believe, as the sponsor of that 25th amendment, I can remember rather vividly what happened. I can speak with some authority. We do not need to hold hearings to assess whether that is a mistake or not. It is a mistake. In fact, since the Senator is rightly concerned that there not be any misinterpretation of this, it is my humble judgment that that can be accomplished without cranking up the process of subsequently amending the Constitution to add an "s". We were talking about "departments." If one examines the document that passed the House and the Senate, it has an "s" on it.

If one looks at the legislative history and, of course, if it ever got to the Court and the matter were contested, the Court would look to the documents on their face as they passed the bodies, not look at the typographical error, in the judgment of the Senator from Indiana; and if, indeed, they were concerned about there being some ambiguity, then they would look to the legislative history. The legislative history is replete with a number of instances where the Senator from Indiana and others who were involved in that particular issue at the time discussed at length the reasoning for the Cabinet and who should be included in the Cabinet, and we enumerated it in some detail, to point out that we are talking about more than one department.

I should say to my friend from New Mexico, he has raised this in a manner which makes it impossible for us to reinforce our judgment on that. I do not know whether he has had a chance to look at the legislative history to see the debates that did take place, but I am certain that he will find that there are a number of instances where that matter is very clearly stated.

(Mr. HART assumed the chair.)

Mr. SCHMITT. Mr. President, I believe that we have certainly continued, by this colloquy, to assist the courts in their interpretation, should they be forced to interpret. But I must repeat that it is not this Senator's intention to force a court to interpret. I am trying to make sure that, in what is obviously going to be, if it ever occurs, a time of great trial, of great uncertainty, of crisis in this country, should we ever come to the point of needing to use section 4 of the 25th amendment, in fact, it does not have any potential for a court test, because that is the last thing the country will need under those circumstances.

I would also add, in a comment on the suggestion of the Senator from Vermont that maybe we ought to correct this by a separate amendment process: I think that not only would be unlikely that we would do so for a typographical error; it also, probably obviously, is completely unnecessary, because a noncontroversial correction of the Constitution should be able to be introduced on any amendment and certainly be a conference process.

I would see no possibility whatsoever that that would cause any significant delay in the consideration by Conference of House Joint Resolution 554 before the adjournment of the 95th Congress.

I do think that if the Senators—and I particularly wish the Senator from Massachusetts had not left the floor, because it was with him that I carried on my discussion—if the distinguished Senators on the committee would agree that when there is a Senate-initiated constitutional amendment under their jurisdiction and during their tenure in the Senate, they would agree to include this error on that amendment—I realize that part of the concern—and I understand that concern—is that we would force the present joint resolution back to the House or back to conference and there would be some delay. I am sympathetic with their concerns on this. If I could have some

kind of commitment from the committee that they would, on some other resolution initiated by the Senate, add this particular correction, then I would be happy to withdraw the amendment from further consideration.

Mr. BAYH. Let me just say, Mr. President, that I should be glad to consider that. We have other vehicles moving through here that might have less of a chance of being involved in a controversy at the end of the session. I think, realistically, that the Senator from New Mexico realizes that that is a problem right now. It is rather clear, at least to the Senator from Indiana, having been involved in that, that we are talking about a mistake. There is no question about that.

I think that, on reading the legislative history and the floor debates, where we go into some detail as to what "cabinet" means, what "executive departments" mean, there can be no question in any court's minds as to what this means. But I understand the concern of the Senator from New Mexico.

(Mr. MELCHER assumed the chair.)

Mr. SCHMITT. I am not quite sure I understand the remarks of the Senator from Indiana. I should be happy to consider it. This seems to be such a noncontroversial issue that some kind of amendment to include it on the next Senate-initiated joint resolution for a constitutional amendment would be appropriate. I was hoping that the Senator from Massachusetts—who, we anticipate, will be chairman of the Committee on the Judiciary next year, unless I am as successful as I hope to be in the 1978 campaign for my other colleague—that he would make that kind of commitment. This Senator would feel very secure about alleviating this potentially very serious situation at some time in the future.

Mr. BAYH. Will the Senator yield?

Mr. SCHMITT. I am happy to yield.

Mr. BAYH. Perhaps the Senator should get the permission of the Senator from Massachusetts, but I think I know him well enough, having been his colleague all this time and having been chairman of the subcommittee that has jurisdiction on this matter, that I think our minds would be of the same notion that certainly, as the Senator with primary responsibility for holding hearings in the initial stages, I would be glad to pledge efforts to add this to another constitutional amendment, if that sits well with the Senator from New Mexico.

Mr. SCOTT. Will the Senator yield?

Mr. SCHMITT. I shall yield. I want to thank the Senator from Indiana on that commitment.

I do yield.

Mr. SCOTT. Of course, I shall not be here during the next Congress, but I have served as ranking minority member on the subcommittee with the Senator from Indiana and I say to my friend from New Mexico that the distinguished Senator from Indiana runs the subcommittee. If one gets assurance from him, that is as good as an assurance from the prospective future chairman of the full committee, because the distinguished Senator from Indiana will hold hearings—I am satisfied he will. There is friendship and cooperation between the prospective chairman and the chairman of the subcommittee. I did not hear exactly what the Senator from Indiana said, whether he had made an unequivocal commitment or not, but if he did, I assume that the Senator can depend on it.

Mr. SCHMITT. I think the commitment was as unequivocal as any Senator is capable of making it, which always leaves a little bit of room for equivocation. I would do the same if I were in his shoes.

I do see the Senator from Massachusetts here. I think the committee obviously, on an amendment as noncontroversial as this one, would, under a Senate-initiated constitutional amendment, be almost certain to include it so that it would not cause any delay in the consideration of that amendment on the floor of the Senate or of the House.

I realize that that is the concern of the managers of the bill. I do not know whether the Senator from Massachusetts would like to add his second to that of the Senator from Indiana or not.

Mr. KENNEDY. Mr. President, I think the Senator from New Mexico has served a very important purpose. I understand that the Senator has the commitment of the chairman of the Subcommittee on the Constitution to address this issue. I shall certainly work very closely with the Senator from Indiana to see that this flow is remedied. I should be glad to work with the Senator from New Mexico.

Mr. SCHMITT. I am happy to hear that from the Senator from Massachusetts and I thank the Senator from Vermont for yielding. I withdraw the amendment.

The amendment was withdrawn.

Mr. SCHMITT. Mr. President, I yield the floor to the distinguished Senator from Virginia.

AMENDMENT NO. 3525, AS MODIFIED

Mr. SCOTT. Mr. President, we were discussing amendment 3525, as modified. I want to restate that what we are attempting to do is clarify the provisions of the joint resolution now before us, 554, so that we shall know that the legislature referred to is the Council of the city of Washington, rather than the Congress of the United States, and that we are following the language of the 17th amendment that applies to the States of the Union.

While I am opposed to the resolution, it just seems to me if we are going to have a resolution to be submitted to the 50 States for their consideration, we should have as little ambiguity as possible, and that is what I have attempted to do.

I am quite willing to have a vote at this time. I understand that the distinguished Senator from Massachusetts desires to move to table. I believe it is close enough to 2 o'clock for him to make his motion at this time.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I move to table the amendment.

The PRESIDING OFFICER (Mr. SPARKMAN). The question is on agreeing to the motion to lay on the table amendment No. 3525, as modified, by the Senator from Virginia (Mr. SCOTT). The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Alabama (Mrs. ALLEN), the Senator from Minnesota (Mr. ANDERSON), the Senator from Mississippi (Mr. EASTLAND), the Senator from Montana (Mr. HATFIELD), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Louisiana (Mr. JOHNSTON), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

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

The result was announced—yeas 69, nays 22, as follows:

[Rollcall Vote No. 344 Leg.]

YEAS—69

Bayh	Glenn	Metzenbaum
Bellmon	Gravel	Moynihan
Bentsen	Griffin	Muskie
Biden	Hart	Nelson
Brooke	Haskell	Nunn
Bumpers	Hatfield,	Packwood
Burdick	Mark O.	Pearson
Byrd,	Hathaway	Pell
Harry F., Jr.	Heinz	Percy
Byrd, Robert C.	Hodges	Proxmire
Cannon	Hollings	Randolph
Case	Humphrey	Ribicoff
Chiles	Inouye	Riegle
Church	Jackson	Sarbanes
Clark	Javits	Sasser
Cranston	Kennedy	Schweiker
Culver	Leahy	Sparkman
Danforth	Long	Stevenson
DeConcini	Magnuson	Stone
Dole	Mathias	Thurmond
Domenici	Matsunaga	Weicker
Durkin	McGovern	Williams
Eagleton	McIntyre	Zorinsky
Ford	Melcher	

NAYS—22

Baker	Helms	Stafford
Bartlett	Laxalt	Stennis
Chafee	Lugar	Stevens
Curtis	McClure	Tower
Garn	Morgan	Wallop
Hansen	Roth	Young
Hatch	Schmitt	
Hayakawa	Scott	

NOT VOTING—9

Abourezk	Goldwater	Johnston
Allen	Hatfield,	Talmadge
Anderson	Paul G.	
Eastland	Huddleston	

So the motion to lay on the table amendment No. 3525, as modified, was agreed to.

Mr. BUMPERS. Mr. President, I move to reconsider the vote by which the motion to lay on the table amendment No. 3525, as modified, was agreed to.

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

The motion to lay on the table was agreed to.

Mr. LEAHY. Mr. President, I ask unanimous consent that David Julyan, of my staff, be accorded the privilege of the floor throughout the remainder of today during votes and deliberations.

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

Mr. MELCHER. Mr. President, I ask unanimous consent that Wayne Mehl and Ben Strong, of my staff, be accorded the privilege of the floor during the further consideration and votes on this resolution.

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

Who yields time?

Mr. SCOTT. Mr. President, I ask the Chair's indulgence for one moment.

The PRESIDING OFFICER. The Chair recognizes the Senator from Virginia.

AMENDMENT NO. 3524

(Purpose: To assure the right of the people of the District of Columbia to implement provisions relating to representation in the Congress)

Mr. SCOTT. Mr. President, I call up my amendment No. 3524 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Virginia (Mr. SCOTT) proposes amendment numbered 3524.

On page 2, line 9, immediately after "and", insert a comma and the following: "to the extent not in conflict with the people of the District of Columbia,".

Mr. SCOTT. Mr. President, before Senators leave, I advise them that I only intend to take 5 or 6 minutes on this amendment, and I do ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. KENNEDY. Mr. President, I ask unanimous consent that it be in order to ask for the yeas and nays on a motion to table.

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

Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. SCOTT. Mr. President, my amendment is a very minor one. It is somewhat akin to the amendment that was just tabled. I think the amendment that was tabled was a good amendment. I believe that it tended to remove some vagueness that is in the resolution before us, and I realize that the floor manager of the bill does not want to accept any amendment, good or bad, because he does not want to go to conference on this resolution.

But I say to Senators that, if we have vague proposals to submit to the 50 States, there will be a whole lot more disagreement among the 50 States than if we go to conference on a minor amendment and get an agreement in the conference.

The chances of actually having an amendment become law is going to be greater if that amendment is unclear or is vague.

All the proposed amendment does that is before us right now, this amendment No. 3524, is on page 2 add a few words to section 2.

Section 2 of the joint resolution now before us reads as follows:

The exercise of the rights and powers conferred under this article shall be made by the people of the District of Columbia constituting the seat of Government, and as shall be provided by the Congress.

That leaves a little doubt. Is the decision made by the people of the District of Columbia or is the decision made by Congress?

We all know that under article I, section 8, exclusive jurisdiction rests with Congress. Yet certain legislative authority has been delegated to the City Council of the city of Washington.

This amendment is very much like the other, but not as important an amendment and not as long an amendment. It merely adds the words: "to the extent not in conflict with the people of the District of Columbia,".

So section 2 would read:

The exercise of the rights and powers conferred under this article shall be by the people of the District constituting the seat of Government—

And here is the insert—

and, to the extent not in conflict with the people of the District of Columbia—

End of insert—

as shall be provided by the Congress.

In other words, if we are going to give the people of the District of Columbia the right to elect two Senators, it seems to me we should not have any vagueness as to whether decisions are made by Congress or by the City Council.

To me it is a relatively unimportant amendment. I thought the other one was much more important. I believe we are going to have a lot of conflict among the 50 States by not agreeing to the prior amendment. I think this is also a good amendment. It does relieve some uncertainties, some ambiguity, but I see no point in my discussing the matter further. I am willing to have an immediate vote on the amendment or on a motion to table in the event the distinguished Senator from Massachusetts desires to pursue his motion to table.

Mr. KENNEDY. Mr. President, the Senator is quite correct. We considered the substance of this amendment yesterday in a previous amendment by the Senator from Idaho.

In many of the amendments ratified by the States, the power to implement those amendments was retained by the Congress, and for very good reasons. It would be unwise to guarantee the right to vote, for example, by a constitutional amendment, and then fail to give Congress the power to implement it, as we did with the Voting Rights Act. In the shaping of this proposed amendment, we retain the power to implement it in the Congress of the United States.

The Senator from Virginia would transfer that power to the District.

I believe that the power to implement this amendment should be retained in Congress. The implementation will be by statute. It will take a majority of the House of Representatives and the Senate of the United States. That is the sound way to do it. That is the appropriate way to do it.

We are not interested in cluttering up the Constitution with possibilities that may or may not occur in the implementation of the amendment. It seems to me to be wise policy.

Again, those who are offering amendments say we are not going far enough in showing confidence in the people of the District of Columbia in the management of their own affairs. Yet they make arguments, as we have heard in recent days, that we are going too far in giving them Members of Congress and Members of the Senate, or not giving them the responsibilities of statehood.

The current language I think is appropriate to this amendment. It is sound, and it follows constitutional precedents. Therefore, I move to——

Mr. SCOTT. Will the Senator withhold that?

Mr. KENNEDY. I withhold that.

Mr. SCOTT. Mr. President, there has been some discussion that prior to final summation of the arguments for or against passage of the resolution we go to some other business.

I wonder if Senators on either side of the aisle who might want to speak to any extent against the resolution would see me during the rollcall and let me know. Otherwise, I am inclined to agree with whatever manner the distinguished majority leader wants to handle the time for the next couple of hours.

I just make that request and before the Senator from Massachusetts makes his motion to table.

Mr. KENNEDY. Mr. President, I move to table the amendment.

Mr. ROBERT C. BYRD. Mr. President, I want to thank the distinguished Senator from Virginia for his consideration.

The PRESIDING OFFICER (Mr. GRAVEL). The question is on agreeing to the motion of the Senator from Massachusetts to lay on the table the amendment of the Senator from Virginia. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator Minnesota (Mr. ANDERSON), the Senator from Mississippi (Mr. EASTLAND), the Senator from Montana (Mr. HATFIELD), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Louisiana (Mr. JOHNSTON), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

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

The result was announced—yeas 76, nays 16, as follows:

[Rollcall Vote No. 345 Leg.]

YEAS—76

Bayh	Eagleton	Lugar
Bentsen	Ford	Magnuson
Biden	Glenn	Mathias
Brooke	Gravel	Matsunaga
Bumpers	Griffin	McGovern
Burdick	Hart	McIntyre
Byrd, Harry F., Jr.	Haskell	Melcher
Byrd, Robert C.	Hatfield, Mark O.	Metzenbaum
Cannon	Hathaway	Morgan
Case	Hayakawa	Moynihan
Chafee	Heinz	Muskie
Chiles	Hodges	Nelson
Church	Hollings	Nunn
Clark	Humphrey	Packwood
Cranston	Inouye	Pearson
Culver	Jackson	Pell
Curtis	Javits	Percy
Danforth	Kennedy	Proxmire
DeConcini	Laxalt	Randolph
Dole	Leahy	Ribicoff
Durkin	Long	Riegle
		Roth

Sarbanes	Stafford	Weicker
Sasser	Stevenson	Williams
Schweiker	Stone	Young
Sparkman	Thurmond	Zorinsky

NAYS—16

Allen	Hansen	Stennis
Baker	Hatch	Stevens
Bartlett	Helms	Tower
Bellmon	McClure	Wallop
Domenici	Schmitt	
Garn	Scott	

NOT VOTING—8

Abourezk	Goldwater	Huddleston
Anderson	Hatfield,	Johnston
Eastland	Paul G.	Talmadge

So the motion to lay on the table amendment No. 3524 was agreed to.

Mr. LEAHY. Mr. President, I move to reconsider the vote by which the motion was agreed to.

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

The motion to lay on the table was agreed to.

Mr. SCOTT. Mr. President, I yield such time as he may consume, not exceeding 15 minutes, to the distinguished Senator from California (Mr. HAYAKAWA).

The PRESIDING OFFICER. The Senator from California.

Mr. HAYAKAWA. Mr. President——

Mr. SCOTT. Mr. President, may we have order in the Chamber, so that the distinguished Senator can be heard?

The PRESIDING OFFICER. The Senate will be in order. Senators will please cease their conversations or take them to the cloakrooms, so that the Senator from California may be heard.

The Senator from California.

Mr. HAYAKAWA. Mr. President, apropos of the legislation before us on voting rights for the District of Columbia, I would like to review in capsule form some facts about the growth of the District of Columbia.

It was a relatively obscure small town except for legislative purposes, and its first great spurt of growth came during the Civil War.

From that time on it was a much larger small town, but still a small town.

Then came World War I and the town grew very much larger. Then came the stock market crash of 1929, throwing the whole country into a huge depression. Then came the Roosevelt administration to do something about the depression. From 1933 onward we have had this enormous proliferation of the District of Columbia as the center of government and, therefore, as the center of population.

Washington continued to grow during the New Deal, and then on top of that came World War II. That again meant an enormous increase in the size of Washington, D.C., the number of people needed here, the number of administrative agencies, the number of procurement agencies, the number of military agencies, and so on. After that came the Korean war and the Vietnam war. Each of these added enormously to the population and the tasks in Washington, D.C.

Each of these required, as I say, not only additional legislators and all their staffs, but additional lawyers, additional lobbyists, additional people to implement the outcome of legislation and, of course, thousands upon thousands of bureaucrats and their families.

Most recently we have had the energy crisis. As soon as we had the energy crisis then, of course, we had the Department of Energy, with its $10 billion annual budget and its enormous bureaucracy.

In other words, there is a kind of fundamental conflict of interest between the District of Columbia and the 50 States if the 50 States undergo war, depression, a disaster of any kind. If a disaster is large enough, Washington automatically prospers. It is a fundamental conflict of interest, and disasters in the 50 States are, of necessity, and historically it is a fact, bonanzas for the District of Columbia.

Try to look at all this, then, from the point of view of the owner of property in the District of Columbia, the owner of an apartment building, a department store, a chain of grocery stores, a restaurant, a hotel. What would you want your Congressmen and Senators to do?

Well, actually, if, let us say——

The PRESIDING OFFICER. Will the Senator suspend? I hope Senators will show respect for their colleague while he is addressing the Senate.

Mr. HAYAKAWA. I thank the Chair.

As I was saying, Mr. President, suppose you were the owner of property in the District of Columbia, the owner of an office building, a department store, an apartment building, a restaurant, a chain of grocery stores, a hotel. What would you want your Congressmen and Senators to do? You would want, ultimately, of course, to see to it that the population of District of Columbia would continue to increase. Suppose there was some threat that it might be decreased? Suppose there was a measure before the House to dismantle the enormous HEW, the Department of Health, Education, and Welfare, and perhaps reduce its bureaucracy by half and send that other half out into the States, or fire them altogether? Suppose someone else were to propose a reduction of HUD or the Department of Energy so that these were cut in half?

These would be disasters from the point of view of Washington, but they would be a tremendous blessing to the rest of the country.

In other words, as I say, there is a fundamental conflict of interest between the welfare of Washington and the welfare of the rest of the States. Putting it as briefly as possible, the more disasters there are in the 50 States, the more prosperity there is in Washington, D.C. As a Congressman or Senator from the District, one would have to vote against any shrinkage of the District's economy if they have the best interests of their constituency at heart.

If they have the best interests of their constituency at heart, they would want more bureaucrats in Washington, more economists, more environmentalists, more lawyers, and more lobbyists to fight all of them.

So, fundamentally, as I say, the better things are for Washington, the worse things are for the rest of the country.

Let me repeat what I said a day or two ago when I emphasized the fact that the District of Columbia produces no wealth. We have no shoe factories or automobile factories; we have no fields of corn or wheat; we have no chicken farms; we have no cattle ranges; we have no mineral resources or stands of timber. The District of Columbia produces no wealth. It lives entirely on taxes imposed upon other States.

The distinguished Senator from Mississippi, whom I am happy to see on the floor, made this point earlier today, that there is no economic base for Washington other than the tax collected from other people.

Economically, the relationship between the District and the rest of the country is parasitical. Although the District of Columbia produces no wealth, Washington wallows in wealth. We have the highest salaries for comparable tasks in this city than anywhere else in the country. Nowhere else except in Alaska is the cost of living so high. The entertainment industry, the restaurant business, all sorts of subordinate or ancillary businesses are booming. Who pays for all this? The working people of Pennsylvania, California, Mississippi, Arkansas, Maine, South Carolina, Idaho, New Mexico—we are all paying for this. We are all paying tribute to this great Capital.

I shall not dwell upon the difficult constitutional problems presented by the legislation before us, by the proposal that the District of Columbia should have representation as a State in the Union. These constitutional problems have been adequately presented by others on this floor.

I would like to add, however, that the Founding Fathers foresaw these difficulties and, therefore, very carefully wrote into the Constitution that the District of Columbia should not have the powers of a State.

I believe, Mr. President, that this whole matter of race that has been dragged into this question is a red herring. The question is not whether the people here are predominantly white or predominantly black. By gosh, if Washington, D.C., were 85 percent Japanese-Americans I would still vote against the voting rights with the kind of legislation envisioned by the Senate at the present time.

It is entirely a question, in one respect, of economics, and, in another respect, of the Constitution and the intent of our Founding Fathers to create an enclave that does not have, because it is a nonproductive entity, the possibilities of pressure that any State has to have as a State. Since this is not a State, and was never intended to be, we should not treat it as such. I urge my colleagues to vote against this highly unconstitutional and highly pernicious piece of legislation. I thank the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. SCOTT. Mr. President, the distinguished Senator from New Mexico did request 5 minutes' time, but I do not see him in the Chamber.

Mr. President, I am glad to yield to the distinguished majority leader.

ORDER OF PROCEDURE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the pending measure be set aside temporarily until no later than the hour of 4 p.m. so that the Senate can take up the CETA bill in the meantime and dispose of some amendments.

I yield to the distinguished Senator from Hawaii.

Mr. MATSUNAGA. I wonder if the good Senator from Massachusetts would yield me 10 minutes to speak on this measure.

Mr. KENNEDY. Yes, I am happy to yield.

Mr. ROBERT C. BYRD. Would the Senator be content with 8 minutes?

Mr. MATSUNAGA. Seven minutes will be fine.

Mr. SCOTT. Mr. President, reserving the right to object, and I do not intend to object, I wonder if the distinguished majority leader would indicate how the time would be allocated after we reconvene and make that part of his unanimous-consent request?

Mr. ROBERT C. BYRD. I frankly have not been keeping up with the time.

An hour on each side at 4 p.m. How will that be?

Mr. SCOTT. Would the time that the distinguished Senator from Montana has reserved be a portion of my time or would it be equally divided between the Senator from Massachusetts and myself?

Mr. ROBERT C. BYRD. The suggestion has been made that, when the Senate goes back in at 4, the time be equally divided, 1 hour to each side, on representation for the District.

Mr. SCOTT. Mr. President, if the time that is reserved at the present time by the Senator from Montana would be equally divided, and he does have 20 minutes at this time, so we would have 50 minutes left, I would have no objection.

Mr. ROBERT C. BYRD. Very well. That would give the Senator from Montana 20 minutes and each side would have 50 minutes remaining.

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

UNANIMOUS-CONSENT AGREEMENT ON DISTRIBUTION OF TIME

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, immediately following the remarks of the distinguished Senator from Hawaii, the Senate turn to the consideration of the Comprehensive Employment and Training Act and proceed with consideration of that measure until no later than 4 p.m. today, at which time, it will return to the D.C. representation amendment; that, at that time, Mr. MELCHER have 20 minutes, Mr. SCOTT have 50 minutes, and Mr. KENNEDY have 50 minutes, unless there is additional time and unless the Senate goes back on the representation amendment before 4 p.m.; in which case, such additional time will be equally divided between Mr. KENNEDY and Mr. SCOTT.

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

The Senator from Hawaii is recognized.

REPRESENTATION OF THE DISTRICT OF COLUMBIA IN CONGRESS

The Senate continued with the consideration of the joint resolution.

Mr. MATSUNAGA. Mr. President, I rise in support of House Joint Resolution 554, a resolution proposing a constitutional amendment which would grant the District of Columbia full voting representation in the Congress, and, at long last, grant to the citizens of our Nation's Capital a full and equal voice on all issues of national concern.

Mr. President, some people may wonder why a Senator from Hawaii—a State nearly 5,000 miles away from Washington, D.C.— should feel so strongly that the District of Columbia should be granted full representation in the Congress as to speak in its behalf. For me, Mr. President, I stand in this historic Chamber in support of this resolution for the same basic reasons that I stood with the people of Hawaii two decades ago when they struggled to achieve statehood—for full voting representation in the Congress and equal rights as American citizens.

Mr. President, I believe that it is appropriate for me to speak on this matter at a time when Hawaii celebrates its 19th anniversary of its admission to the Union. As my colleagues know, we in Hawaii, prior to statehood, suffered the same injustices which the residents of the District of Columbia now suffer. We had virtually no voice in the Congress of the United States. We had a Delegate in the House of Representatives, who, like the Delegate from the District of Columbia, could not vote on the floor of the House. He had no effective voice, because he could not vote. We were not permitted in Hawaii to vote to elect the President and the Vice President of the United States. Even in the matter of running our local affairs, we were not entitled to elect our own Governor.

The residents of the District of Columbia, who are American citizens, subject to all the obligations of citizenship, do not have voting representation in the Congress. Only since 1964, with the ratification of the 23d amendment to the Constitution, have District residents—some three-quarters of a million citizens—been entitled to vote to elect the President and Vice President of the United States. Only since 1971, with the enactment of the District of Columbia Delegate Act, which I strongly supported as a Member of the other body, have the people of the District been represented in the House by a nonvoting Delegate. I might add that the distinguished Delegate from the District of Columbia, my good friend, WALTER E. FAUNTROY, has, since April 1971, vigorously represented his constituency as a nonvoting Delegate. However, his limited status in the Congress denies to the District what is at the very foundation of this Nation—full participation in the democratic process.

Mr. President, I have listened very carefully to the arguments being presented by the opponents of this resolution. Not once, to my knowledge, has any opponent of House Joint Resolution 554 denied the fact that some three-quarters of a million residents of the District of Columbia are being denied representation in their national legislature. This fact cannot be denied, it cannot be amended, nor will it just fade away. It is in my judgment, a glaring contradiction of the high principles of American democracy which we should no longer tolerate and no longer endure and ignore.

Mr. President, I do not have to remind my colleagues that a citizen's right to be represented in the Congress of the United States is no less precious than his right to free speech, free assembly, his right to privacy, and his right to due process under the law. The right of the people to be represented is the foundation of our constitutional form of government.

Accordingly, Mr. President, I do not believe that the Founding Fathers, the framers of our Constitution, intended to deny the citizens of the Nation's Capital equal representation in the Congress and equal participation in the democratic process. To believe that this was their intention would, in my judgment, be contrary to the simple concept of representative government which is the cornerstone of our Constitution. I am sure that the existence of a large, permanent population supporting all three branches of the Federal Government and living in the District of Columbia was not anticipated by the Founding Fathers. I might point out, however, that the framers, men of great wisdom without a doubt, built into the Constitution a process through which the Congress and the States could amend that document so that we could meet circumstances unforeseeable in their time.

I would like to add one final note, Mr. President. I have, in speaking on this issue today, indicated that my State of Hawaii, prior to becoming a State, suffered the same injustices now suffered by the District of Columbia. The people of Hawaii, who were eager to share in the benefits of statehood and participate equally in our democratic government, overcame all obstacles to admission to the Union. One of the primary reasons why we overcame them was the great record of service which the members of the 100th Infantry Battalion and the 442d Regimental Combat Team, of which both Senator INOUYE and I were members, many of whom were Japanese-Americans from Hawaii, established in World War II.

With respect to the people of the District of Columbia, they, too, have proudly and honorably fought in defense of our country. As the distinguished Senator from Massachusetts (Mr. KENNEDY) pointed out in the opening day of debate, 237 citizens of the District lost their lives in the Vietnam war. In effect, the District sacrificed more lives in that war than 10 other States. However, while every State during the Vietnam period had a voice in the decisions that affected the lives of thousands of their citizens who went to war, the District of Columbia had no such representation, no such voice in the Congress.

Mr. President, it behooves us as a nation and as a people dedicated to the protection of the rights and liberties of every individual, to remedy this in-

justice. We have before the Senate today a chance to set in motion the constitutional process that will allow us to do just that. We must no longer deny or ignore our responsibility to the three-quarters of a million citizens of the District of Columbia. We must no longer withhold from them the fundamental right of equal representation in the Congress, particularly at a time in the history of our Nation when that legislative body holds such a profound and growing influence on so many aspects of American life.

For this resolution to come this far and to fail in the Senate would be, in my judgment, unconscionable. Indeed, Mr. President, future Americans will little note, nor long remember what we say in this Chamber today; but if we do not find the courage to rise above political pressures, abandon partisan politics, and vote to send this important constitutional amendment to the States for ratification, they will never forget the injustice that we did here.

Mr. President, I reserve the remainder of my time.

● Mr. HASKELL. Mr. President, I would like to add my support to this very vital issue affecting both the human and civil rights of over three-quarters of a million citizens of these United States.

The enactment of House Joint Resolution 554 is essential to provide fair representation to the residents of the Nation's Capital. This is truly an amendment whose time has come.

During these past few days of floor debate on this issue some have argued that it was not the intent of our Founding Fathers to allow the citizens of the "Federal city" the right to vote. I must strongly question this reasoning; the framers of the Constitution established the ground rules for a new nation in 1776, they provided us with the principles, the basic ingredients needed to shape the future. They had no crystal ball, they could not foresee the Washington, D.C., that exists today; a city with a population larger than 10 States, whose residents have fought and died in every war since the War for Independence, and a city whose residents pay over a billion dollars annually in taxes to the Federal Treasury.

The basic principle of our Founding Fathers was representative democracy. What could be more consistent with that goal than the enfranchisement of the 760,000 citizens of Washington, D.C., into our Federal legislative process?

I will cast my vote today in favor of this amendment with two very important beliefs of our Founding Fathers in mind; "governments are instituted among men, deriving their just powers from the consent of the governed," and "no taxation without representation." I interpret this to mean that all citizens of these United States who pay taxes, who fight in our wars, and who carry the same burdens of citizenship, should have fair and equal representation in the Congress.

I believe it is time to put an end to the existing inequity within the democratic process. If we pass this amendment today our work will not be over, for we must encourage our State legislators back home to see the issue as clearly as we have and to speedily approve the measure within their legislative bodies.

This is an important day for not only the residents of the District of Columbia but for all of us, because the passage of this amendment today will provide an example of the adaptability of the democracy to the needs of the people. It is, in short, a tribute to the vitality of our governmental process.●

● Mr. BURDICK. Mr. President, I am in opposition to House Joint Resolution 554. I am in favor of representation for the District, but the resolution we are about to vote on providing for the election of two Senators from the District of Columbia would result in an unequal and unfair distribution of congressional power. Therefore, I am compelled to vote against House Joint Resolution 554.

The history of the Constitutional Convention shows that the Founding Fathers approved a two-Chamber legislature for a reason. The Members of the House of Representatives were to represent the people as individuals, and the Members of the House were to be elected proportionate to the population. The Senate, on the other hand, derives its powers from the States, as political and coequal societies, and these are represented on the principle of equality in the Senate. This was a compromise between the large populous States and the more sparsely settled agricultural States.

Applying these principles, we find that Washington is entitled to be represented in the House of Representatives proportionate to its population. This entitles Washington to two representatives on the basis of present population. The city of Washington does not qualify for representation in the Senate, because it is not a State, nor does it have the land mass or diversity that would qualify it for a State. It could well be argued, if the resolution is approved, that the New Yorks, the Chicagos, and the Detroits should likewise be represented by two Senators.

The citizens of Washington should have representation in the Senate, and this can be accomplished by annexing the District to the State of Maryland. When the District was formed, it was carved out of Virginia and Maryland. A portion of the District which composed about one-third of the area of the original District was reunited with Virginia in 1840. The citizens of that area now vote in Virginia. This is a precedent for the remaining two-thirds of the original District to rejoin the State of Maryland. Then the citizens of the District will have all the voting rights of the citizens of Maryland.

If this resolution should pass, the citizens of Washington would have a disproportionate voice in the Nation's affairs, which is greater than any other State. I cannot support a proposition that provides for this unequal representation.●

COMPREHENSIVE EMPLOYMENT AND TRAINING ACT AMENDMENTS OF 1978

The PRESIDING OFFICER (Mr. HOLLINGS). Under the previous order that the pending measure be set aside, the Senate will proceed to the consideration of S. 2570, the CETA bill.

The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 2570) to amend the Comprehensive Employment and Training Act of 1973 to provide improved employment and training services, to extend the authorization, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Human Resources with an amendment in the nature of a substitute.

Mr. MELCHER. Mr. President, I ask unanimous consent that Mary Gereau of my staff be granted privilege of the floor throughout this bill and the District bill and the votes thereon.

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

Mr. JAVITS. Mr. President, I ask unanimous consent that Jim O'Connell of my staff be granted privilege of the floor during debate and voting on this bill.

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

Mr. DOMENICI. Mr. President, I ask unanimous consent that Letitia Chambers and Eileen Winkelman of my staff be granted privilege of the floor.

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

Mr. NELSON. Mr. President, I ask unanimous consent that the following staff members be granted privileges of the floor during consideration of S. 2570, the Comprehensive Employment and Training Act Amendments of 1978: Scott K. Ginsburg, Joan Hunziker, Babette Polzer, Stephanie Smith, Craig Polhemus, Marianne Anders Benson, A. Bradley Mims, Tom Lindsley and Martin Jensen.

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

Mr. NELSON. Mr. President, I introduced legislation (S. 2570) with Senators WILLIAMS, JAVITS, HATHAWAY, RIEGLE, KENNEDY, and CRANSTON on February 23, 1978, on behalf of the administration to revise and extend the programs authorized by the Comprehensive Employment and Training Act of 1973 (CETA). This legislation was thoroughly considered by the Senate Human Resources Committee, and was unanimously reported favorably to the Senate by the committee on May 15, 1978.

S. 2570 reauthorizes the CETA programs for a period of 4 years except for certain youth programs which are reauthorized only through 1980. This legislation contains many of the initiatives set forth in the administration's bill as well as other necessary amendments to the CETA programs.

The CETA legislation authorizes a number of separate programs. CETA programs include: grants to prime sponsors—generally units of local and State governments—for comprehensive employment and training services including public service jobs; the Job Corps; youth programs; and the National Manpower Commission. Each of these programs now

is authorized by the CETA legislation. The legislation pending before the Senate, S. 2570, includes two major initiatives requested by the administration: a 2-year $400 million initiative to increase the involvement of the private sector in endeavors relating to employment and training activities for economically disadvantaged persons, and a $200 million demonstration program to test the efficacy of various employment programs for welfare recipients. Both programs were requested by President Carter.

THE PRIME SPONSOR SYSTEM

Prime sponsors are units of State and local government responsible for administering CETA programs within their communities. States may act as balance-of-State prime sponsors for smaller areas within their boundaries that are ineligible to become prime sponsors. Cities or counties with populations of 100,000 or more are eligible to become sponsors. Any combination of units of general local government may be designated as a prime sponsor so long as it includes any unit of general local government which has a population of 100,000 or more. Any unit of general local government or any combination of such units without regard to population, which in exceptional circumstances is determined by the Secretary to have a special capacity for carrying out CETA programs within certain labor markets, or rural areas with high unemployment may serve as a prime sponsor. Finally, the act provides that a limited number of concentrated employment program grantees which serve rural areas with high unemployment and have demonstrated special capabilities for carrying out employment and training programs in these areas may be designated as prime sponsors.

The number and distribution of prime sponsors among the various categories for the current and preceding 3 fiscal years is indicated below:

	Total	Cities	Counties	Consortia	Rural CEP's	Balance of States	States consortia
Fiscal 1975	403	58	156	134	4	51	
Fiscal 1976	431	62	175	140	4	50	
Fiscal 1977	444	55	179	145	4	51	
Fiscal 1978	447	67	187	138	4	43	8

Since its inception in 1973, CETA has become a major Federal program that significantly impacts on the Nation's economy. In fiscal year 1978 it is estimated that $9.9 billion will be spent on CETA programs: $2.5 billion will be spent on comprehensive employment and training programs other than public service jobs; $1.2 billion will be spent on youth programs; $5.9 billion will be spent on public service jobs program; and $320 million will be spent on the Job Corps.

For fiscal year 1979, the President has requested approximately $10.8 billion for the CETA programs, and it is estimated that $11.4 billion will be expended. This money will be spent as follows: $3.1 billion for comprehensive employment and training programs; $1.9 billion for youth programs; $6.1 billion for public service jobs programs; and $326 million for the Job Corps. A more detailed analysis has been prepared of the previous and proposed authorization levels and the appropriations under the CETA legislation, and it will be included in the RECORD at the conclusion of my remarks.

CONSIDERATION OF LEGISLATION

The Senate Human Resources Subcommittee on Employment, Poverty, and Migratory Labor held 8 days of hearings on the reauthorization of CETA. The subcommittee held 5 days of hearings in Washington, D.C., and 3 days of field hearings.

The subcommittee received testimony from congressional and administration witnesses, from public and private interest groups including representatives of counties, Governors, labor unions, community-based organizations, client groups, vocational education organizations, as well as from the Chairmen of the U.S. Civil Rights Commission and the National Commission for Manpower Policy. Witnesses from the Chamber of Commerce, the Business Roundtable, the Committee for Economic Development, and the Chrysler Institute testified before the subcommittee concerning their views on the role of the private sector in CETA.

During the hearings several specific areas of concern were raised by a number of these witnesses. Testimony focused on the need for greater targeting of resources on structurally unemployed persons, abuses relating to the administration of CETA funds, the need to increase private sector involvement in CETA and facilitate the transition of CETA participants into regular public employment and private sector jobs, and the importance of maintaining a countercyclical public service jobs programs.

S. 2570, as reported by the Human Resources Committee, addresses each of these concerns as well as many issues which have been raised about the CETA programs.

PROGRAMS FOR THE STRUCTURALLY UNEMPLOYED

A major focus of the committee's reauthorization of CETA is the increased emphasis on employment and training programs for hard-core unemployed persons.

The decline in unemployment during the past 19 month has reduced the overall unemployment rate. The Bureau of Labor Statistics reported that the overall unemployment rate on January 1977, was 7.4 percent. The unemployment rate in July 1978, was set at 6.2 percent, representing a reduction of 1.2 percent unemployment over this time period. The unemployment rate among adults—aged 20 and older—was 7.4 percent in January 1977; it now stands at 5.7 percent. Among adult men, the unemployment rate in January 1977, was 5.8 percent; it now stands at 4.1 percent.

Despite these declines in unemployment, the problem of structural unemployment—especially among minorities and youth—remains. Individuals in this situation face special difficulties in obtaining meaningful employment even in the best of economic circumstances.

An examination of the July figures makes clear that the unemployment rate, which is a national average, conceals vast differences among subgroups of the population.

The unemployment rate for blacks and other minorities was 12.5 percent in July, more than double the 5.3 percent level for all whites. Adult black males experienced an 8.4 percent unemployment rate; 11.6 percent of adult black women were out of work.

Women had a more difficult time finding work than men did. The adult female unemployment rate was 6.5 percent, compared with 4.1 percent for men.

Teenagers faced the worst unemployment problems of all. The unemployment rate for those aged 16-19 was 16.3 percent, as against a 6.2 percent rate for everyone 16 and over. The 16.3 percent rate represents a good deal of deterioration from the situation in June, when 14.2 percent of youths were jobless.

The expansion of employment programs for the hard-core unemployed—those who are economically disadvantaged because they have difficulty in obtaining and retaining a job—was supported at the subcommittee hearings by the administration, public and private interest groups, economists, community-based organizations, client groups, and the business community. The reduction of structural unemployment was a primary focus of the legislation proposed by the administration to amend CETA and is consistent with the goal President Carter set forth in the 1978 annual employment and training report of the President to reduce "structural elements of general unemployment" over the next 3 years.

In its third annual report to the President and the Congress, The National Commission for Manpower Policy also recommended that:

> CETA should serve primarily as an employability development machanism to assist the structurally unemployed to improve their prospect for regular employment and to increase their earnings.

This strong public and private sentiment for expanding opportunities for the hard-core unemployed is reflected in title II of S. 2570—comprehensive employment and training services.

Title II, part B, provides comprehensive services economically disadvantaged persons, including job search, outreach, supported work programs, education and institutional skill training, on-the-job training, work experience, and a whole array of employment services. These

services are now provided under title I of current law.

The formula distribution of funds for these services also parallels current law. The formula provides: of the amount available for distribution by formula, 50 percent is allocated to each State on the basis of the State's manpower allotment for the preceding fiscal year compared to the sums received by all States for these activities in that year; 37½ percent is allocated to States on the basis of the relative number of unemployed persons residing within the State compared to the number in all States; and 12½ percent is allocated to each State on the basis of the relative number of adults in low-income families residing within the State compared to the total number in all States. Not less than $2 million is to be set aside for distribution to the U.S. Trust Territories, Guam, the Virgin Islands, American Samoa, and the Northern Marianas.

Under current law, 80 percent of funds available for these activities is distributed by formula. S. 2570 provides that 85 percent of the funds available for these title II activities is to be distributed by formula. Of the remaining amount, 5 percent is to be available for vocational education assistance; 1 percent is to be available for operation of the State employment and training councils; 1 percent is to be available for States to establish linkages between prime sponsors and educational agencies providing training programs; 4 percent is to be available for the Governors' coordination and special services responsibilities under section 105; and, the remainder of funds is to be available for discretionary distribution by the Secretary of Labor.

These title II activities require as a condition of eligibility that the participant be economically disadvantaged. Eligibility for these programs is limited to persons who are underemployed, unemployed or in school youth, and who are also economically disadvantaged. Economically disadvantaged persons are defined as individuals whose income or whose family income annualized over the preceding 6 months does not exceed 70 percent of the BLS lower living standard income level; persons whose families receive cash welfare payments under a Federal, State, or local welfare program; a foster child on behalf of whom State or local government payments are made; or, in cases permitted by regulations of the Secretary, an individual who is or was institutionalized in a prison, hospital, or similar institution and faces employment barriers as a result of that institutionalization, or is a client of a sheltered workshop.

Title II, part D, authorizes a public service employment and training program for economically disadvantaged persons who have been unemployed for 12 weeks or more.

Wages authorized for public service employment positions have been limited to minimize the possibility of attracting workers from low wage jobs to CETA positions. This wage limitation also will serve to maximize the number of persons who will be able to participate in the program. The maximum wage a person may receive for a public service employment position under title II is $10,000, adjusted upward to $12,000 in high wage areas. Contrary to present law, prime sponsors may not supplement wages under the title II public service jobs program.

Salary limitations will help to prevent the use of CETA funds to finance highly paid skilled or professional positions. It is the committee's intent that the title II public service jobs program primarily be used to finance entry level positions for persons who, due to a lack of education, training, work experience, or other employment barriers, are unable to obtain unsubsidized employment.

Under the title VI countercyclical public service jobs program, a participant may receive a maximum wage of $14,400 in a high wage area. This includes limited supplementation of $2,400 by the prime sponsor paid from local resources. The disparity in wages between public service employment performed under titles II and VI is necessitated by the fact that prime sponsors are expected to serve two discrete client groups. Under title II, structurally unemployed persons with few job skills will be served. Under title VI, countercyclically unemployed persons who have employment skills but who cannot find a job because of economic conditions are to be served. Countercyclically unemployed persons generally have work experience and job skills which make them capable of holding a more skilled job than a structurally unemployed person. Thus a higher total wage is available to persons holding a title VI public service employment job.

For public service employment for the structurally unemployed under part D, the committee adopted a different allocation formula than for public service employment under title VI.

The committee bill provides that 85 percent of the funds available for part D are to be distributed by formula. Not less than 2 percent is to be allocated to Native American entities. The remaining amount is available to the Secretary for his discretionary distribution to prime sponsors and Native American entities.

Of the amount distributed by formula, funds are allocated to prime sponsors in the following manner: one-third on the basis of the relative number of unemployed persons who reside in areas within the jurisdiction of each applicant as compared to the number of unemployed persons who reside in all such areas in all States; one-third on the basis of the relative excess number of unemployed persons—the number in excess of 4½ percent—who reside in areas within the jurisdiction of the applicant as compared to the excess number of unemployed persons who reside within the jurisdiction of all prime sponsors; and one-third to prime sponsors on the basis of the number of unemployed persons residing in areas of substantial unemployment—an area with an unemployment rate equal to or in excess of 6½ percent—within the jurisdiction of the prime sponsor compared to the number of unemployed persons residing in all areas of substantial unemployement.

In the past, CETA participants have shuffled through one CETA program after another without the benefit of knowing what employment prospects they can expect upon termination from the CETA programs. To change this situation, S. 2570 requires that an employability plan be developed for each title II participant. This is expected to help guide the prime sponsor and the participant to select the most appropriate array of services for each participant. The individual's interests, skills, career objectives, as well as the supportive services necessary for each participant should be considered in formulating the plan. Participants should be provided with a realistic assessment of the likelihood of obtaining regular public employment or private sector employment upon completion of CETA services.

The committee bill also requires that appropriate training and supportive services accompany all work experience and public service employment programs under title II. A training requirement is important to assure that CETA positions are not simply "make work" projects, but actually provide the individual with a marketable skill. The supportive services requirement will provide prime sponsors with an important tool for helping structurally unemployed persons become better prepared for labor force participation. Often a person is unemployed because he needs job-related services which he cannot afford. For example, transportation, child care, or career guidance services may be significant impediments to employment for persons who are unable to find work. These are the kind of services which are authorized to assist hard-core unemployed persons to become prepared for work.

The preparation of the structurally unemployed for regular public or private employment is neither an easy nor an inexpensive process. However, such an investment benefits both society and the individual. The attainment of self-sufficiency for economically disadvantaged persons not only decreases the need for public assistance, but also enhances the human resources available to many families and communities.

COUNTERCYCLICAL JOBS PROGRAM

In many areas of the country, the current public service jobs programs have been very controversial. A variety of reasons account for this. Some prime sponsors have used CETA positions to return political favors or to create extremely high salaried professional and administrative positions. The substitution of Federal manpower dollars for local revenues used to support regular municipal employees is another problem that has been brought to the attention of Congress and the public. Indeed, a recent study by the Brookings Institute estimated that there is a substitution of CETA funds for State and municipal revenues at an average rate of about 20 percent. In other instances, public service jobholders have engaged in "make work" jobs, and are not receiving the kind of job training or valuable job experience that makes the Federal expenditures worthwhile.

Despite these current problems, the

Human Resources Committee voted to retain a countercyclical job program which is contained in title VI of S. 2570. The committee believes that a countercyclical employment program is necessary to deal with unpredictable economic conditions that may bring about the situation in which many workers lose their jobs and are in need of employment.

Some areas of the country have not fully recovered from the recent economic slump and need a residual public service jobs program to assist them in their efforts to reduce unemployment. Indeed, witnesses pointed out at hearings on the CETA program that the dual problems of structural and countercyclical unemployment are intricately related. It was noted by these witnesses that it is not possible to solve the problem of structural unemployment when more skilled and experienced workers also are seeking gainful employment.

Given this background, two points respecting the current and proposed countercyclical jobs programs should be made. First, the current public service jobs programs, as well as the other CETA jobs programs such as the youth employment programs, have assisted in reducing unemployment. Second, the committee bill—S. 2570—significantly modifies the current public employment programs to attempt to eliminate many of the problems confronting the CETA programs.

Mr. President, the CETA programs have been responsible for assisting thousands of workers to return to work. Some 750,000 persons were employed in the public service jobs programs as of March 1978. This represented a buildup from a level of 310,000 in January 1977. During the comparable period of time, the unemployment rate declined from 7.4 percent in January 1977, to 6.2 percent this past July. This reduction in unemployment occurred at the same time that an additional 5 million persons joined the labor force.

Though the exact impact CETA has had upon this declining unemployment rate is difficult to measure, Secretary Marshall and other prominent economists have credited the public service jobs programs as a "critical factor" in this reduction. Secretary Marshall also has stated that in order to keep unemployment under 6 percent during 1979, a full-scale public service jobs program is needed.

This legislation reported to the Senate by the Human Resources Committee provides the authority for a countercyclical—title VI—and a structural—title II—public service jobs program.

The title II and title VI programs each authorize appropriations of "such sums as may be necessary." This will allow the Budget and Appropriations Committees, in conjunction with the Human Resources Committee, to establish the appropriate levels for public service jobs depending upon future economic circumstances. However, S. 2570 provides that the first $3 billion to be spent on public service jobs is to be used for the title II public service jobs for the structurally unemployed. This will insure that Federal resources are applied first to structural employment problems, which have proven to be severe under all economic circumstances.

Eligibility for the title VI program is restricted to persons who have been unemployed 45 days or longer and whose family income over the preceding 3 months, which when annualized, does not exceed 85 percent of the lower living standard income level as compiled by the Bureau of Labor Statistics. Program participation is limited to 1 year within a 5-year period, though it may be extended for a period of no more than 6 months in areas of high unemployment. Under current law, a person may participate in CETA programs for an undefined period.

S. 2570 also changes current law by restricting the total wages which may be paid to a title VI participant. Current law does not impose any restrictions on the total wage that can be paid to a public service jobholder. A maximum Federal wage base of $10,000 is provided in S. 2570, which can be adjusted up to a level of $12,000 on the basis of a wage index. Thus, high wage areas will have a higher Federal wage base than low wage areas. Supplementation of the Federal wage base by local resources equivalent to 10 percent of a prime sponsor's title VI allocation is authorized. However, no individual may have his Federal base salary supplemented by more than 20 percent. Thus, in the highest wage areas, the maximum wage a title VI participant may receive is $14,400—a maximum Federal wage of $12,000 plus the maximum local supplement of $2,400.

In 1976, the Congress adopted a provision to the CETA statute that established a national average wage for public service jobholders of $7,800 per year. The purpose of this national standard is to maximize the number of persons served by the CETA programs.

S. 2570 continues to provide for a national average wage standard, while also providing that local area average wages may be adjusted on the basis of a local wage index.

S. 2570 provides that federally supported wage rates for public service jobholders under both titles II and VI may not exceed a national average of $7,800 per year. This national average is adjustable to an area-by-area basis in accordance with an area wage adjustment index. This wage adjustment index is to be determined by comparing average wages in regular public or private employment in a given area with the average of such wages in all such areas. This will assure that the average wage paid in any area of the country is not excessively high compared to wages paid for regular private or public sector employment in that same area.

The Committee bill retains the same formula for title VI as the one used for title VI in the current law, except that 85 percent rather than 90 percent of all funds available are to be distributed by formula.

S. 2570 provides that not less than 85 percent of the amount available for title VI is to be allocated to prime sponsors in accordance with the following formula: 50 percent is allocated on the basis of the relative number of unemployed persons who reside in areas within the jurisdiction of each prime sponsor compared to the number of unemployed persons who reside in all such areas in all States; 25 percent is allocated on basis of the number of unemployed persons residing in areas of substantial unemployment—areas with an unemployment rate equal to or in excess of 6½ percent—within the jurisdiction of the prime sponsor compared to the number of unemployed persons residing in all areas of substantial unemployment; and, 25 percent on the basis of the relative excess number of unemployed persons—the number of unemployed persons in excess of 4½ percent—who reside within the jurisdiction of the prime sponsor compared to the total excess number of unemployed persons who reside within the jurisdictions of all eligible prime sponsors.

The Secretary must reserve an amount of not less than 2 percent of the sums available for title VI for Native American entities. The Secretary may use the remaining amount in his discretion to assist prime sponsors and Native American entities.

S. 2570 contains a number of provisions intended to prevent substitution. It expressly prohibits the hiring of a CETA participant when any other person is on layoff from the same or a substantially equivalent position, and it provides that CETA jobs must be in addition to those that would be funded by a State or municipality. Time limitations on program participation, limitations on wages and supplementation, as well as restricted eligibility requirements for purposes of public service employment, also will help to prevent substitution. Further, current law provides that funds expended for title VI may be used for both activities of an unlimited duration and projects which are 12 months in length. Testimony received by the committee indicates that projects tend to reduce the rate of fiscal substitution. Thus, the committee bill provides that all public service employment under title VI is to be only in projects. The projects are to be of limited duration, but may be extended beyond 12 months upon review by the prime sponsor at least once a year, in accordance with regulations issued by the Secretary.

The practice of substituting Federal manpower dollars for local resources also will be curtailed significantly by the elimination of the "sustainment jobs" provisions which were enacted as part of the 1976 CETA amendments.

Under the provisions of the 1976 CETA amendments, all public service employment positions funded in addition to

those positions existing on June 30, 1976, approximately 260,000 positions—are to be filled by persons who meet strict eligibility criteria, and these jobholders also are to be employed in 12-month projects. Generally, persons are qualified for these positions if their previous annual family income is no more than 70 percent of the BLS lower living standard budget and if they have been unemployed for at least 15 weeks, or if they are receiving public assistance. One-half of the vacancies below the June 30, 1976, sustainment level created by attrition also are required to be filled by persons who meet the strict eligibility criteria set forth above.

The remaining 50 percent of the jobs below the June 30, 1976, sustainment level, as well as another 50,000 public service employment positions under title II of the current CETA law, however, can be filled by persons who are unemployed for a very short period of time—15 days in areas having at least 7 percent unemployment rate, or by persons who have been unemployed for at least 30 days in an area with an unemployment rate of less than 7 percent. Moreover, prime sponsors are not required to employ these persons in projects of limited duration. These positions are the "sustainment jobs."

S. 2570 would eliminate these "sustainment jobs" provisions from the CETA law. This means that all positions which become available either by attrition or by new program dollars would have to meet the targeted eligibility criteria of the new title VI program.

Current law provides that no more than 15 percent of public service employment funds may be used for administrative expenses, training and other supportive services. This has led to the situation in which not enough resources have been available for training and supportive services because administrative expenses have taken up a disproportionate amount of the total funds available for all of these services. S. 2570 therefore provides that no more than 10 percent of public service employment funds under title VI may be used for administrative expenses, and an additional amount of funds of no more than 10 percent may be used for training, supportive services and similar skill development services. The committee believes that these provisions will enhance the ability of public service employees to receive the various kinds of services they need to become employed in regular public or private employment.

Mr. President, the implementation of these various program reforms will improve the countercyclical jobs programs. It is important that such a program be available to deal with national economic downturns generally as well as to assist those areas of the country whose local or regional economies are in distress. The various program reforms set forth in S. 2570 will help assure that a countercyclical jobs program is available and that the program that is available is sensitive to the past experiences of the CETA program.

PROGRAM ABUSES

Mr. President, CETA has been the subject of some controversy because investigations by the Justice Department and the Labor Department have revealed such statutory violations as political favoritism, fraud, financial conflicts of interest, and nepotism. Though such abuses have not been pervasive, neither have they been limited to a few isolated instances.

The Secretary of Labor in response to this situation has taken strong affirmative steps to investigate and impede such practices. Last April, Secretary Marshall established the Office of Special Investigations, which, among other functions, is charged with special investigative and auditing responsibilities relating to CETA programs. Additionally, the administration proposed a series of amendments to increase the Department's ability to take appropriate and swift preventive action to curb program abuses. The committee bill includes most of these recommendations.

S. 2570 provides that CETA funds may be terminated in emergency situations without a hearing so long as one is held thereafter within 30 days; the Secretary of Labor may take direct action against a subgrantee or subcontractor of a prime sponsor while a recipient who receives financial assistance directly from the Secretary concurrently will be held responsible for the actions and omissions of its subgrantees and subcontractors; no person may be discriminated against or otherwise penalized for filing a complaint or cooperating in an investigation; the Secretary may make use of State and local agencies, especially law enforcement agencies, to monitor and enforce the provisions of the act; the Secretary is directed to publish regulations against such abuses as nepotism, conflicts of interest, and kickbacks; recipients are required to keep adequate records and make them promptly available to the Secretary as the Secretary directs, and the Secretary is given authority to subpena books and witnesses in cases of investigation; this legislation establishes that it is a Federal offense to embezzle CETA funds, to engage in kickbacks, and similar schemes, or to obstruct CETA investigations; and the legislation also provides bonding for officers, directors, agents, and employees of CETA recipients who handle funds or property in the administration of the CETA programs.

Taken together the provisions adopted by the committee will protect the integrity of CETA funds from fiscal mismanagement or unscrupulous individuals who would abuse the program at the expense of both the public and those persons for whom it is the purpose of the act to assist.

The committee has placed time limitations upon the duration for which a person is eligible for CETA assistance. The bill provides that the longest period of time during which an individual may participate in the various CETA programs is a total of 2½ years within a 5-year period.

Work experience is restricted to a total of 1,000 hours per year, except for in-school youth, and a total of no more than 2,000 hours of work experience may be performed by a person within a 5-year period.

The committee continues the limitation in current law which restricts participation in institutional or classroom training programs to 2 years within a 5-year period.

An individual may hold a public service employment position under title II for no longer than 18 months. An individual may hold a public service employment position under title VI for no longer than 12 months. These time limitations may be extended for 6 months in areas of high unemployment as determined by the Secretary.

The 2½-year program participation restriction and the limitation on public service employment will eliminate long-term employment by any individual in the CETA programs. These limitations will enable program participants to receive appropriate Federal manpower assistance while emphasizing the transition from CETA programs into regular public or private employment.

PRIVATE SECTOR PARTICIPATION

CETA program linkages with private employers is viewed by employment specialists as a useful opportunity for increasing the transition of CETA participants to unsubsidized employment. Notwithstanding this belief, and despite the fact that most employment opportunities originate in the private as opposed to the public sector, the private sector has played a limited role under CETA. In fiscal year 1977, less than 10 percent of federally assisted employment and training programs involved private business.

Under the Manpower Development and Training Act (MDTA), the predecessor to CETA, the Department of Labor made substantial investments in the private sector, primarily through the use of on-the-job training programs. Program follow-up studies from MDTA indicate that a high percentage of trainees were retained by employers after training was completed. With this background, the committee agreed to make a major recommitment to the role of the private sector in CETA programs.

Under a new title VII, Private Sector Opportunities for the Economically Disadvantaged, opportunities for low income persons to work for a private employer while receiving on-the-job training will be greatly expanded. This initiative is similar to that proposed by the Carter administration. It is intended to integrate the private sector in the development and implementation of CETA programs with the goal of increasing private employment opportunities for low income persons.

Under this initiative, a prime sponsor is authorized to establish a Private Industry Council composed primarily of labor and business leaders, including representatives of small and minority-

owned businesses. The primary function of these councils is to secure contract pledges from private employers to hire economically disadvantaged persons. On-the-job training is the kind of activity authorized by title VII, though a wide range of other employment services may be provided. Among its various functions, the Private Industry Council will be responsible for advising the prime sponsor on ways of increasing private sector linkages in other CETA programs.

An authorization of $400 million is provided for fiscal year 1979 and such sums as may be necessary for fiscal year 1980.

Private employers have frequently stated that they are the last group to be consulted on national employment policies, but the first group solicited as a source of jobs for the Nation's structurally unemployed. It is the purpose of title VII to interject the expertise and energy of the business community into the mainstream of federally assisted employment programs. The combined resources of the Federal Government and the American business community should create an effective partnership for developing solutions to the problem of structural unemployment.

The committee also authorized two smaller private sector demonstration projects to test the efficacy of employment vouchers and employer incentive bonuses. Both programs are targeted on the economically disadvantaged population. These programs should provide useful information about the impact of vouchers and incentive bonuses upon factors such as the rate of displacement created by employment subsidies, the population obtaining employment as a result of such subsidies, the retention rate of participating employees beyond the duration of the training subsidy, and the types of and degree to which various business and industries utilize such subsidies. A further explanation of these amendments is included in the more detailed explanation of the committee bill.

YOUTH PROGRAMS

In recognition of the epidemic employment problems facing the Nation's youth, the committee bill places a strong emphasis on youth programs. S. 2570 authorizes the Job Corps, summer youth program, youth incentive entitlement pilot projects, youth community conservation and improvement projects, youth employment and training programs, and the Young Adult Conservation Corps.

JOB CORPS

The Job Corps was originally enacted under the Economic Opportunity Act of 1964. This program provides intensive, primarily residential, courses of education and employment services to economically disadvantaged young men and women between the ages of 14 and 22 years.

The purpose of the Job Corps is to assist young adults in achieving their career objectives. All Job Corps members are persons who are not in school, unemployed, and need additional education, vocational training, counseling, and other services to help them obtain employment, return to school or enlist in the Armed Forces.

This year more than 24,000 persons will enroll in Job Corps programs across the country. The Department of Labor is in the process of expanding this program so that it can serve twice as many persons.

SUMMER YOUTH PROGRAM

The summer youth program is targeted on economically disadvantaged youth who are 14 to 21 years of age. Summer training and employment opportunities will be available this year to some 1,072,000 youth. The young people who participate in these programs perform a variety of useful tasks including city clean up projects, community gardening projects, and conservationist practices.

To alleviate the structural employment barriers confronted by youth, the Congress enacted the Youth Employment and Demonstrations Projects Act last year. The four programs authorized by this legislation serve different aged youth in a variety of employment and training situations.

YOUTH INCENTIVE ENTITLEMENT PROJECTS

The youth incentive entitlement pilot projects provides grants to selected prime sponsors to serve all economically disadvantaged youth ages 16–19 who reside within their jurisdiction.

The program is designed to aid youth to complete high school while pursuing part-time employment and training opportunities. Eligible youth are guaranteed a year-round, part-time job or training position conditioned upon their remaining in school. Participants also are offered counseling, academic tutoring, and other services.

As of June 30, 1978, 27,768 youth were enrolled in this program.

YOUTH COMMUNITY IMPROVEMENT PROGRAM

The youth community improvement program is designed to develop the vocational potential of jobless youth through well-supervised work of tangible benefit to the community.

Services are available to unemployed youth 16 through 19 years of age. A preference is given to out-of-school youth with the severest handicaps in finding employment.

Youth are employed on community-planned projects lasting up to 1 year. Supervision is by skilled tradesmen who are good instructors and sensitive to the needs of youth. To assure that the youth get individual attention, no more than 12 persons are assigned to each supervisor. Community-based organizations such as YMCA's, the Red Cross, and other private nonprofit agencies design the projects. Schools are asked to grant credit for employment experience, thus encouraging youth to return to school and complete their education. As of June 30, 1978, 17,402 persons were enrolled in this program, youth community improvement programs.

YOUTH EMPLOYMENT AND TRAINING PROGRAM

The youth employment and training program is designed to enhance the jobs prospects and career preparation of low-income youth who have the severest problems in entering the labor market.

As of June 30, 1978, 163,935 youth between ages 14 and 21 years of age were enrolled in this program. With the exception of 10 percent of the available positions, jobs and training opportunities are available only to youth from families with income at or below 85 percent of the lower living standard.

Youth employment and training programs provide for institutional and on-the-job training, work experience, vocational education, public employment opportunities, employment counseling, and other employment related services.

At least 22 percent of each prime sponsor's funds must be used for in-school-youth programs carried out with local educational agencies. Arrangements are flexible, and the educational agencies may contract with junior colleges, post-secondary schools, and other community agencies serving low-income or in-school youth. School-based counselors advise in-school program participants as to the relevance of their career and educational programs.

YOUNG ADULT CONSERVATION CORPS

The Young Adult Conservation Corps is a program designed to give young people experience in various occupational skills through productive work on conservation and other projects on Federal and non-Federal lands and waters.

Youth ages 16 to 23 years of age may participate in this program. The program is open to all youth regardless of their family income. As of June 30, 1978, 20,663 persons were enrolled in this program.

Young adult conservation corps programs are operated under a tripartite agreement between the Department of Labor (DOL), Agriculture (USDA), and Interior (USDI). Enrollees are involved in all types of conservation work: preservation, management, and improvement of vegetation and wildlife; development, rehabilitation, and maintenance of recreational facilities; prevention and control of insects and disease; and natural disaster damage control and cleanup.

This program provides for nonresidential projects to which enrollees commute and residential camps that provide food daily and are given work assignments, lodging, and supportive services 7 days a week, 24 hours a day, and from which work projects are assigned.

Mr. President, at this point I ask unanimous consent to present in the RECORD a more detailed statement which discusses the committee's bill, S. 2570, a section-by-section analysis of the bill, and several tables relating to the program activities and funding levels of the various CETA programs.

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

S. 2570—FISCAL YEAR 1979

[In thousands of dollars]

CETA title	Authorization	Budget authority	Estimated outlays
Title I: Administrative provisions			
Title II:			
Comprehensive services	Open ended	[1] 2,026,700	2,042,003
PSE	$3,000,000,000	(1)	
Title III (pts. A and B): [2]			
Migrant farmworkers	Not less than 5 percent of the 85 percent allocated to prime sponsors for comprehensive services under title II.	[3] 81,068	84,068
Indians and native Americans	Not less than 4.5 percent of the 85 percent allocated to prime sponsors for comprehensive services under title II.	[3] 64,854	62,854
Other national programs	Open ended [2]	69,200	69,200
Migrant and Indian initiatives	do [2]		25,000
STIP/HIRE	do [2]		275,000
Program support	do [2]	43,910	43,910
Welfare demonstrations		200,000	125,000
Title IV:			
Youth employment programs (pt. A)	Open ended	713,996	879,694
Job Corps (pt. B)	do	296,000	325,509
Summer youth (pt. C)	do	740,200	763,300
Young Adult Conservation Corps (pt. D)	do	216,900	306,540
Title V: National Commission for Employment and Training Policy	$3,000	(4)	3,000
Title VI: PSE	Open ended	[1] 5,955,286	6,103,922
Title VII: Private sector opportunities for the economically disadvantaged		400,000	250,000
Total		10,808,114	11,356,000

[1] Reflects administration's request for the inclusion of all PSE in title VI.
[2] Not more than 20 percent of the amount appropriated, excluding any amount available for carrying out title II–D and VI, shall be available for carrying out title III.
[3] Additional funding would be required to fulfill the statutory set-asides.
[4] The Commission receives funding from a variety of sources, though most of its resources are provided by the Department of Labor. The remaining amount is provided by various government agencies and private foundations.

CETA FUNDS

[In thousands]

CETA title	Authorization	Fiscal year 1977 Appropriation	Fiscal year 1977 Actual outlays	Fiscal year 1978 Appropriation	Fiscal year 1978 Estimated outlays
Title I	Open ended	$1,880,000	$1,756,209	$1,880,000	$2,034,000
Title II—PSE	do	1,540,000	495,957	(1)	1,069,000
Title II (pts. A and B),[2] migrant farmworkers	Not less than 5 percent of the 80 percent allocated to prime sponsors under title I.	63,200	60,921	75,200	71,200
Indians and Native Americans	Not less than 4 percent of the 80 percent allocated to prime sponsors under title I.	50,560	57,610	60,160	60,160
Other national programs	Open ended [2]	74,600	89,048	70,700	70,700
Migrant and Indian initiatives	do [2]	(3)	(3)	37,000	12,000
STIP/HIRE/DVOP	do [2]	370,000		100,000	75,000
Program support	do [2]	53,370	60,531	44,870	49,894
Summer youth employment	do [2]	595,000	574,994	756,000	704,000
Title III (pt. C), youth employment demonstration programs	do [2]	766,667	4	(1)	400,965
Title IV, Job Corps	Open ended except for the reservation.[3]	274,100	201,584	417,000	320,028
Title V, National Commission for Manpower Policy	Open ended	(4)	7,000	(4)	2,610
Title VI—PSE	do	6,847,000	2,340,409	(1)	4,873,500
Title VII, administrative provisions					
Title VIII, YACC	Open ended	233,333	40	(1)	143,653
Total, CETA fiscal year 1978 appropriations		12,736,830	5,631,307	3,440,930	9,884,100

[1] Fiscal year 1977 appropriation provides funding for these programs for fiscal year 1977 and fiscal year 1978.
[2] Not more than 20 percent of the amount appropriated, excluding any amount in excess of $250,000,000 for title II, is available for carrying out title III pts. A and B and title IV.
[3] Funded from title I Secretary's discretionary funds in fiscal year 1977.
[4] The Commission receives funding from a variety of sources, though most of its resources are provided by the Department of Labor. The remaining amount is provided by various Government agencies and private foundations.

ONBOARD ENROLLMENT IN EMPLOYMENT AND TRAINING PROGRAMS—END OF QUARTERS, 1974–78

	Total enrollment[1]	Comprehensive Employment and Training Act												
		Title I					Title II	Title III[3]						
		Total[2]	Classroom training	OJT	PSE	Work experience		Indians	Migrants	Title IV Job Corps	Title VI	Government grant	Work incentive program	Title IX, older workers
1974:														
Sept. 30	370,800	105,000	20,300	4,100	1,400	62,900	11,700	(4)	(4)	19,300		(4)	225,400	9,400
Dec. 31	617,500	286,700	66,600	13,400	4,100	163,200	56,000	5,600	(4)	19,300		16,500	224,200	9,200
1975:														
Mar. 31	1,000,500	462,200	124,300	28,100	11,500	225,800	143,900	10,600	10,300	20,800	101,800	14,400	227,300	9,200
June 30	1,102,700	513,800	111,400	37,900	19,500	265,000	136,800	20,000	42,000	20,700	110,800	13,700	236,200	8,700
Sept. 30	1,110,700	449,900	131,600	36,900	23,000	155,700	83,300	18,100	94,500	20,100	212,600	22,300	196,800	13,100
Dec. 31	1,202,000	495,000	141,500	36,800	20,500	207,300	62,300	15,600	74,300	19,500	267,000	27,800	227,600	12,900
1976:														
Mar. 31	1,323,700	574,500	173,600	41,500	22,900	232,400	57,500	15,200	54,500	21,000	287,000	41,300	259,500	13,200
June 30	1,244,700	505,300	159,500	43,500	22,700	186,400	94,500	13,800	70,200	21,000	205,900	42,500	278,200	13,300
Sept. 30	1,181,900	364,400	144,300	34,300	15,700	116,200	245,300	10,800	147,700	20,500	43,800	29,100	305,700	14,600
Dec. 31	1,228,100	411,800	147,800	32,700	12,800	181,900	242,600	10,100	191,300	19,300	28,800	25,000	283,600	15,600
1977:														
Mar. 31	1,219,400	474,100	182,700	43,800	11,400	214,000	62,300	10,200	77,400	20,900	220,500	31,400	305,700	16,900
June 30	1,314,300	461,800	183,200	53,600	12,700	163,700	71,100	7,600	89,700	21,100	291,900	33,600	320,200	17,300
Sept. 30	1,390,500	367,200	161,500	48,400	8,700	127,800	92,400	16,800	74,600	21,600	431,200	23,100	334,900	28,700
Dec. 31	1,479,000	434,400	173,000	48,100	7,600	183,900	107,500	17,800	(4)	21,500	504,000	20,300	337,900	35,600
1978: Mar. 31	1,634,200	470,900	253,500	53,100	6,600	184,800	127,200	(4)	(4)	23,600	605,600	23,500	346,000	37,400

[1] Total enrollment does not include apprentices. There were 245,900 registered apprentices as of June 30, 1977.
[2] Totals include participants enrolled in other activities.
[3] Estimated.
[4] Information not available.

YOUTH EMPLOYMENT AND DEMONSTRATION PROJECTS ACT PROGRAMS END-OF-MONTH ENROLLMENT

Month (1978)	January	February	March	April	May	June
Youth Employment and Training Programs (YETP)	18,917	50,014	88,771	122,928	154,635	163,935
Youth Community Conservation and Improvement Projects (YCCIP)	1,807	5,569	10,645	12,073	15,251	17,402
Youth Incentive Entitlement Pilot Projects (YIEPP)	(1)	(1)	8,712	15,566	22,000	27,768
Young Adult Conservation Corps (YACC)	8,159	9,598	11,409	12,851	16,540	20,653
Total	(1)	(1)	119,537	163,418	208,426	229,758

[1] Is not available.

SECTION-BY-SECTION SUMMARY ANALYSIS

Section 1—Short Title

This section provides that the act, with a table of contents, may be cited as the "Comprehensive Employment and Training Act."

Section 2—Statement of Purpose

This section provides that it is the purpose of the act to provide job training and employment opportunities for economically disadvantaged, unemployed or underemployed persons by establishing a flexible, coordinated and decentralized employment and training program.

TITLE I—ADMINISTRATIVE PROVISIONS

Part A—Organizational provisions

Section 101—Prime Sponsors

Subsection (a) defines eligible prime sponsors as: (1) a State, (2) any unit of general local government with population of 100,000 or more, (3) any combination of units of general local government which includes an otherwise eligible unit, (4) units or combination of units of general local government, in rural areas without regard to population, which have high unemployment, and there is a special need for services within the area, as determined by the Secretary (5) certain existing concentrated employment program grantees, designated by the Secretary, serving areas with high unemployment, and (6) units previously designated as prime sponsors, whose populations have decreased below 100,000, but have demonstrated their effectiveness to administer programs and still have that capability.

Subsection (b) provides that a State or a unit of general local government shall not qualify with respect to any area within the jurisdiction of a geographically smaller eligible prime sponsor unless the smaller unit has not submitted an approvable plan.

Subsection (c) provides that prime sponsors must submit a notice of intent to apply for prime sponsorship by a date prescribed by the Secretary, and the Secretary shall designate those that qualify as prime sponsors.

Subsection (d) provides that State prime sponsors shall make appropriate arrangements for appropriate area planning bodies to serve subareas within the State prime sponsor area.

Section 102—Authority of Secretary To Provide Services

This section provides that the Secretary may provide services to any area not served by a prime sponsor, to any area where the prime sponsorship has been revoked by the Secretary, or to any area where a plan has not been approved.

Section 103—Comprehensive Employment and Training Agreement and Annual Plans

Subsection (a) provides that the Secretary may not provide financial assistance unless the prime sponsor submits a comprehensive employment and training plan consisting of a comprehensive employment and training agreement and an annual employment and training plan. The agreement serves as the basic charter and includes descriptions of local labor markets, basic operational information, and the procedures used by the prime sponsor to insure that conditions of this act are met.

Subsection (b) provides that prime sponsors must submit an annual employment and training plan which describes programs and services to be provided to the eligible population. Such information includes changes in the local labor market, the performance and placement goals for the program year, changes in the administrative design of the program, and a description of the relationship between and the efforts to coordinate programs under this act to other employment and training programs operating in the area.

Section 104—Review of Comprehensive Employment and Training Plans

Subsection (a) provides that a prime sponsor's plans must be submitted for comment, at least 45 days before being submitted to the Secretary, to specific offices or organizations specified in the section. The plan must also be made available for review to specified other groups and to the general public.

Subsection (b) provides that the prime sponsor shall consider any comments or recommendations received, and transmit to the Secretary comments and recommendations of the Governor, the State employment and training council, and the prime sponsor planning council.

Subsection (c) provides for the Secretary to review each prime sponsor's comprehensive employment and training plan to assure that it meets the requirements of the act, the regulations, and other applicable law.

Subsection (d) provides that the Secretary shall disapprove any plan not satisfying the review under subsection (c), provided that the prime sponsor has at least 30 days to remedy any defect.

Section 105—Governor's Coordination and Special Services Plan

Subsection (a) provides that any State seeking financial assistance under this act shall submit a Governor's coordination and special services plan to the Secretary.

Subsection (b) details what shall be included in the Governor's plan.

Subsection (c) provides that the Secretary shall only approve the Governor's plan if it meets the requirements of this subsection.

Section 106—Complaints and Sanctions

Subsection (a) provides that each prime sponsor shall establish and maintain a grievance procedure for handling complaints from participants, subgrantees, contractors, and other interested persons. It also provides that the Secretary shall promulgate regulations to insure that recipients establish formal hearing processes so that determinations as to the merits of complaints are made within 60 days. It also provides for secretarial investigations of the complaint, with a determination within 120 days.

Subsection (b) provides that the Secretary shall revoke a prime sponsor's plan and terminate financial assistance provided that prior notice and opportunity for a hearing are given, if the Secretary determines that the prime sponsor maintained a pattern or practice of discrimination. The Secretary may revoke the plan or terminate financial assistance if the prime sponsor has incurred unreasonable administrative costs, failed to give due consideration to continued funding of programs of demonstrated effectiveness, failed to give due consideration to the eligible population in areas of chronic or concentrated unemployment, materially failed to expend funds in a reasonable period of time or violated several other conditions.

Subsection (c) authorizes the Secretary, after a finding that a recipient has failed to comply with the act or regulation, to terminate or suspend, in whole or in part, financial assistance to the recipient, and where appropriate, take such corrective actions as ordering the repayment of misspent funds, withholding future funding, and taking direct legal action against recipients, subgrantees, subcontractors and operators under nonfinancial agreements, or ordering the recipient to take legal action to recover misspent funds or protect the integrity of the program. Furthermore, it provides that the Secretary may, in emergency situations, immediately terminate or suspend assistance, in whole or in part, provided that an opportunity for a hearing is given to the recipient within 30 days.

Subsection (d) authorizes the Secretary to protect persons who either make complaints or testify against a recipient from actions by the recipient.

Subsection (e) provides that nothing in this act precludes a person who alleges a violation of the act or regulations from instituting a civil action.

Subsection (f) provides that the Secretary may withhold funds otherwise payable under the act in order to recover amounts expended in any fiscal year in violation of any provision of the act.

Subsection (g) provides the Secretary with the authority to make arrangements to use appropriate State and local government personnel with reimbursement, to carry out the provisions of this section and section 134.

Subsection (h) provides that prime sponsors and other recipients receiving funds directly from the Secretary remain responsible and liable despite the right of direct action by the Secretary against subcontractors and subgrantees.

Section 107—Judicial Review

This section provides that a recipient's right of review is in the courts of appeal if the recipient is dissatisfied with the Secretary's action in finally disapproving a plan, withholding funds, or taking an action with respect to a sanction.

Section 108—Reallocation

Subsection (a) authorizes the Secretary to reallocate funds from one recipient to another if the former is unable to use such allocated funds within a reasonable period of time.

Subsection (b) provides that the Secretary will give 30 days advance notice to the prime sponsor, the Governor and the general public, during which time comments may be submitted to the Secretary. After considering any comments, the Secretary shall notify the Governor and prime sponsor of any decision to reallocate funds, and publish such decision in the Federal Register. In allocating funds, the Secretary shall first give priority to prime sponsors within the same State, then to prime sponsors within other States.

Section 109—Prime Sponsor's Planning Council

This section provides that each prime sponsor shall establish a planning council and

sets forth the composition and requirements for such council.

Section 110—State employment and training council

This section provides that each State shall establish an employment and training council and sets forth the composition and requirements for such council.

Section 111—Consultation

This requires the Secretary of Labor to consult with the Secretaries of Health, Education, and Welfare, with respect to services of a health, education, and welfare character, and other Federal officials as appropriate.

Section 112—Authorization of appropriations

Subsection (a) provides for a such sums as may be necessary authorization of the act, for titles II, III, and IV, parts B and C, title VI, and title VII, through fiscal year 1982; title IV, part A and D and title VII are authorized through 1980.

Subsection (b) provides that appropriated funds shall remain available for obligation in the succeeding fiscal year and obligated funds may be expended during a period of two years after obligation.

Subsection (c) provides authority for forward funding for programs under this act.

Subsection (d) provides that the funds available for carrying out title III shall not exceed 20 percent of the amount appropriated for the act (excluding any amount made available for carrying out title II–D and title VI) and that of the funds available for title III, the Secretary shall transfer not less than $3 million nor more than $5 million to the National Occupational Information Coordinating Committee.

Part b—General provisions

Section 121—Conditions Applicable to All Programs

This section contains the provisions applicable to all programs, including nondiscrimination, protection of employed workers, employee benefits, occupational safety and health, and prohibitions on political and sectarian activities.

Section 122—Special Conditions Applicable to Public Service Employment

This section provides conditions applicable to the public service employment program, including wage rates, protection of employed workers, and duration of employment.

Section 123—Special provisions

This section contains special provisions applicable to programs under this act.

Section 124—Wages and allowances

This section provides that basic wages and allowances will be paid to enrollees.

Section 125—Labor Standards

This section governs the applicability of the Davis-Bacon Act.

Section 126—Definitions

This section defines terms used in the act.

Section 127—Secretary's Authority and Performance Standards

This section provides the Secretary with the authority to issue rules, regulations, and guidelines for the administration of the act. It also provides that the Secretary shall assess the adequacy of each prime sponsor's proposed performance and placement goals in accordance with performance standards which recognize that performance varies with the local situation. It further provides the Secretary with the authority to enter into contracts, grants, and agreements, as deemed necessary to carry out the act.

Section 128—Reports

This section provides for an annual report by the Secretary and periodic reports by each prime sponsor.

Section 129—Services and Property

This section authorizes the Secretary to accept gifts in the name of the Department.

Section 130—Utilization of Services and Facilities

This section authorizes the Secretary to utilize services and facilities of other Federal and State agencies.

Section 131—Interstate Agreements

This section gives the consent of Congress to interstate agreements required by this act subject to the approval of the Secretary.

Section 132—Prohibition Against Political Activities

This section provides that no program funded under this act may involve political activities and states that State and local government employees whose principal employment is in connection with programs financed under this act, and who are covered by the Hatch Act, must comply with the provisions of that act.

Section 133—Nondiscrimination

This section prohibits discrimination on the basis of race, color, religion, sex, national origin, age, handicap, political affiliation, or citizenship, and provides appropriate remedies in cases where discrimination has been found to have taken place.

Section 134—Records, Audits, and Investigations

This section requires each recipient of financial assistance to maintain records on participants and programs and keep such records for the Secretary's inspection. It further provides that the Secretary may investigate any matter deemed necessary to insure that no violations of the program have occurred.

Section 135—Bonding

This section provides that all employees of recipients of financial assistance who handle funds under this act be bonded, and that the Secretary establish the amount and other bonding requirements by regulation.

TITLE II—COMPREHENSIVE EMPLOYMENT AND TRAINING SERVICES

Part A—Financial assistance provisions

Section 201—Purpose of Program

This section provides that it is the purpose of this program to provide comprehensive employment and training opportunities throughout the Nation. The programs shall include the development and creation of training, upgrading, retraining, education, and other services needed to enable individuals to secure and retain employment at their maximum capacities so as to increase their earned income.

Section 202—Allocation of Funds

Subsection (a) provides that 85 percent of the funds available for parts A, B, and C will be allocated to prime sponsors according to the following formula: 50 percent—previous year's allocation (for fiscal year 1979 this would apply to the fiscal year 1978 title I allocation); 37.5 percent—total unemployment; 12.5 percent—low-income adults; and not less than $2 million shall be allocated among Guam, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands and the Northern Marianas).

Subsection (b) provides that 5 percent of the funds available for parts A, B, and C shall be used only for supplemental vocational education assistance.

Subsection (c) provides that 1 percent of the funds allocated under parts A, B, and C shall be available to the Secretary for paying the costs of the State employment and training council, except that no State shall receive less than $50,000.

Subsection (d) provides that 1 percent of the funds available under title II shall be available to the Governor for linkages with educational institutions and agencies.

Subsection (e) provides that 4 percent of the funds available under parts A, B, and C shall be available for Governor's coordination and special services programs.

Subsection (f) provides that the remainder of the funds shall be used at the Secretary's discretion for purposes that include providing 90 percent of the previous year's funds, continuing support for rural concentrated employment programs, continuing funding of programs of demonstrated effectiveness, and for encouragement of consortia where they demonstrate advantages.

Section 203—Conditions for Receipt of Financial Assistance

This section provides that a prime sponsor may only receive financial assistance upon submission of a satisfactory comprehensive employment and training plan, that not more than 5 percent of the prime sponsor's funds may be used for upgrading and retraining programs (part C), and that public service employment and work experience shall be combined with training and supportive services.

Section 204—Supplemental Vocational Education Assistance

This section provides that the Secretary shall make grants to Governors to provide financial assistance, through State vocational education boards, to provide needed vocational education services, and that the funds only be used for providing services to participants in programs under this title in accordance with an agreement between the State vocational education board and the prime sponsor

Section 205—Participant Assessment

This section provides that each prime sponsor shall assist each individual receiving assistance under the title in establishing a personalized employability plan in order to determine which program activities are appropriate for that individual. It also provides that an assessment of each person's need for training and supportive services shall be made at the time of entrance to a program and reviewed periodically.

Part B—Services for the economically disadvantaged

Section 211—Description of Program

This section lists the types of services and activities which may be provided under this title, including job search assistance, education and institutional skill training, on-the-job training, supported work programs and activities, the development of labor market information, necessary supportive services, and any programs authorized by part A of title III, title IV, and title VII of this act.

Section 212—Limitation on Use of Funds

This section provides that no prime sponsor receiving funds under this title shall use funds allocated for parts A, B, and C for public service employment.

Section 213—Eligibility for Participation

This section provides that a person must be economically disadvantaged and unemployed, underemployed, or in school, in order to participate in the programs authorized by this part.

Section 214—Services for Youth

This section provides that services for youth under this part shall be designed to assist eligible youth in overcoming the particular barriers to employment experienced by youth and provides that the Secretary shall insure that each prime sponsor's plan include programs and services for eligible youth.

Section 215—Services for Older Workers

This section provides that services for older workers under this part shall be designed to assist eligible participants in overcoming the particular barriers to employment experienced by older workers and provides that the Secretary shall insure that each prime sponsors' plan include programs and services for older workers.

Part C—Upgrading and retraining

Section 221—Occupational Upgrading and Retraining

This section provides that prime sponsors may conduct occupational upgrading programs, including supportive services, through agreements with public and private employers, pursuant to regulations of the Secretary, for individuals operating at less than their full skill potential, primarily those in entry level positions or positions with little normal advancement opportunities. Further, prime sponsors may also conduct retraining programs, directly or through agreements with public and private employers, pursuant to regulations of the Secretary.

If either upgrading or retraining programs concern jobs covered by collected bargaining agreements, such programs shall have the concurrence of labor organizations representing the employees in those jobs.

Part D—Public service employment opportunities for the economically disadvantaged

Section 231—Statement of Purpose

This section provides that it is the purpose of this title to provide economically disadvantaged persons who are unemployed with transitional employment in jobs providing needed public services, and related training and services to enable such persons to move into unsubsidized employment or training.

Section 232—Authorization

This section provides that there are authorized to be appropriated such sums as may be necessary for fiscal year 1979 and the three succeeding fiscal years. Further, the section provides that from the sums appropriated under this act for any fiscal year for public service employment under this part and title VI, the Secretary shall first make available $3 billion for carrying out this part for such fiscal year.

Section 233—Financial Assistance

This section provides that the Secretary shall provide financial assistance to prime sponsors under this part for transitional public service employment and that not less than 90 percent of the allocated funds used by a prime sponsor shall be used for public service employment wages, benefits, training, and supportive services. The remainder of the funds are available for administrative and other allowable costs.

Section 234—Allocation of Funds

This section provides that of the funds made available for this part, 2 percent shall be made available to Native American entries described in 302(c)(1)(A) and 85 percent shall be made available to be allocated to prime sponsor. The prime sponsors shall be allocated in accordance with the following formula:

33⅓ percent on the relative number of sponsor's area;

33⅓ on the excess number of unemployed in the prime sponsor's area; and

33⅓ percent on the relative number of unemployed in areas of substantial unemployment.

The remainder of funds not so allocated is to be used by the Secretary for discretionary purposes.

Section 235—Expenditure of Funds

This section provides that funds available under this part shall only be available for public service employment activities or projects carried out by project applicants as defined in section 126 or activities set forth in section 211.

Section 236—Prime Sponsors and Program Agents

This section provides that the provisions of section 606 with respect to prime sponsors and program agents shall apply to this part.

Section 237—Eligibility

This section provides that to be eligible a person must be unemployed for at least 12 weeks and be economically disadvantaged. The section also restates that the provisions of section 122(i) with respect to duration apply to this part.

Section 238—Wages

This section provides that no person shall be paid wages at a rate in excess of $10,000 per year, adjusted upward for an area by the ratio that the local wage rates bear to the national average, but not by more than 20 percent; and shall be paid in accordance with the hourly wage of section 124. The section further provides that persons in public service employment under this part may not have their wages supplemented.

TITLE III—SPECIAL FEDERAL RESPONSIBILITIES

Part A—Special national programs and activities

Section 301—Special Programs and Activities

This section provides that the Secretary shall use funds available under this title to provide additional employment and training services to segments of the population who are in particular need of them because they have particular disadvantages in the labor market, including offenders, persons of limited English proficiency, handicapped individuals, single parents, displaced homemakers, youth and older workers.

Section 302—Native American Employment and Training Programs

This section provides for employment and training programs for native Americans, Alaskan Natives and Hawaiian natives. To carry out these programs, the Secretary shall reserve not less than 4.5 percent of the funds allocated under section 202(a)(1).

Section 303—Migrant and Seasonal Farmworkers Employment and Training Programs

This section provides employment and training programs for migrant and seasonal farmworkers. To carry out this program the Secretary shall reserve not less than 5 percent of the funds allocated under section 202(a)(1).

Section 304—Job Search and Relocation Assistance

This section provides that the Secretary may provide job search and special relocation assistance. Job search assistance is available for economically disadvantaged, unemployed, and underemployed persons. Relocation assistance is available only to involuntarily unemployed persons who cannot reasonably be expected to secure full-time employment in the community in which they reside and have a bona fide offer of employment.

Section 305—Veterans Information and Outreach

This section provides that the Secretary, in consultation with the Secretary of Health, Education, and Welfare and the Administrator of the Veterans' Administration, shall provide for an outreach and public information program for veterans.

Part B—Research, training, and evaluation

Section 311—Research

This section provides that the Secretary shall establish a comprehensive program of employment and training research and for experimental, demonstration, and pilot projects, including a variety of welfare demonstration programs.

Section 312—Labor Market Information and Job Bank Program

This section provides for the development of a comprehensive system of labor market information on a national, State, local or other appropriate basis and for the development of a computerized job bank.

Section 313—Evaluation

This section provides that the Secretary shall provide for the continuing evaluation of all programs conducted under this act and for studies of the comparative effectiveness of programs under this act and those under title IV–C of the Social Security Act (work incentive program).

Section 314—Training and Technical Assistance

This section provides for technical assistance to prime sponsors by the Secretary of Labor in consultation with the Secretary of Health, Education, and Welfare and other appropriate officials.

Section 315—National Occupational Information Coordinating Committee

This section authorizes the National Occupational Information Coordinating Committee to use the funds available under section 112(d) in giving special attention to the labor market information needs of youth.

Section 316—Evaluation and Incentive Grants

This section provides that a prime sponsor may volunteer for an evaluation of its title II program by the Secretary of Labor. The Secretary awards funds to these prime sponsors who do well.

Section 317—Voucher Demonstration Projects

This section provides for a demonstration program of employment and training vouchers for use with private employers by economically disadvantaged persons who are unemployed or underemployed.

TITLE IV—YOUTH PROGRAMS

Part A—Youth employment demonstration programs

Section 401—Statement of Purpose

This section establishes pilot, demonstration, and experimental programs to explore methods of dealing with youth employment and training, but it is explicitly not its purpose to provide make-work.

Subpart 1—Youth incentive entitlement pilot projects

Section 411—Entitlement Pilot Projects Authorized

This section authorizes the Secretary to enter into arrangements with selected prime sponsors to demonstrate the efficacy of guaranteeing employment to economically disadvantaged youth who are aged 16–19 and in school, or are willing to return to school for the purpose of obtaining a diploma or seek a high school equivalency certificate.

Section 412—Employment Guarantees

This section details the eligible employment opportunities and training or combination thereof which shall be part-time up to an average of 20 hours per week during the school year and may be full-time up to an average of 40 hours per week during the summer.

Section 413—Selecting Prime Sponsors

Subsection (a) provides that the Secretary shall take into consideration the extent to which the selected prime sponsors devote funds available under title II and part C of this title for the entitlement program. The Secretary shall not select any prime sponsor failing to submit specified information and assurances.

Subsection (b) provides that in approving incentive entitlement projects, the Secretary may test a variety of approaches such as subsidies to for-profit employers, arrangements with unions for apprenticeship training, alternative administrative mechanisms, the addition of economically disadvantaged youth between 19 and 25 who have not received their high school diploma, the inclusion of career counseling, outreach, on-the-

job training, and apprenticeship, and the inclusion of adjudicated youth.

Section 414—Special Provisions

This section lists examples of eligible employment and prohibits funds from being used to provide public service previously provided by a political subdivision or local educational agency in the area served.

Section 415—Reports

This section provides that the Secretary is required to submit an interim report on December 31, 1978 and a final report on March 15, 1979, to Congress on the projects funded under this section.

Subpart 2—Youth community conservation and improvement projects

Section 421—Statement of Purpose

This section provides the purpose of subpart 2 is to establish a program of community conservation and improvement projects to provide work and training opportunities for eligible youths for a period not to exceed 12 months.

Section 422—Definitions

This section defines terms for purposes of subpart 2.

Section 423—Allocation of Funds

Subsection (a) of this section provides that funds for subpart 2 shall be allocated so that not less than 75 percent shall be allocated among the States on the basis of the relative number of unemployed persons within each State as compared to all States. No State would be allocated less than one-half of 1 percent, and one-half of 1 percent would be allocated in the aggregate for Guam, the Virgin Islands, American Samoa, the Northern Marianas Islands, and the Trust Territory of the Pacific Islands.

Subsection (b) provides that of the funds for subpart 2, there would be made available 2 percent for projects for native American eligible youth, and 2 percent for projects for eligible youths in migrant and seasonal farmworker families.

Subsection (c) provides that the remaining subpart 2 funds are to be allocated as the Secretary deems appropriate.

Section 424—Community Conservation and Improvement Youth Employment Program

This section authorizes the Secretary of Labor to enter into agreements with eligible applicants to pay the costs of community improvement projects to be carried out by project applicants employing eligible youths and appropriate supervisory personnel.

Section 425—Project Applications

Subsection (a) of this section provides that project applicants shall submit applications for funding of projects under this subpart to the appropriate eligible applicant.

Subsection (b) requires that project applicants provide descriptions and assurances with respect to projects.

Section 426—Proposed Agreements

Subsection (a) of this section provides that any eligible applicant desiring funding under this subpart shall submit a proposed agreement to the Secretary and shall make available to the Secretary all project applications approved by the eligible applicant and by any program agent in the area served by the eligible applicant.

Subsection (b) provides that the proposed agreement shall describe the method of recruiting youths and a description of job training and skill development opportunities.

Subsection (c) provides for review of all project applications by the prime sponsor's planning council prior to being submitted to the Secretary.

Section 427—Approval of Agreements

Subsection (a) of this section provides that the Secretary may approve or deny on an individual basis any of the project applications submitted by an eligible applicant.

Subsection (b) provides that assurances must be satisfactory to the Secretary that programs will permit in-school youths to coordinate their jobs with classroom instruction and, to the extent feasible, permit youths to receive credit from the appropriate educational agency, postsecondary institution, or particular school involved.

Section 428—Work Limitation

This section provides that no eligible youth shall be employed for more than 12 months in work financed under this part, except as provided by the Secretary.

Subpart 3—Youth employment and training programs

Section 431—Statement of Purpose

This section sets forth the purpose of part C to establish comprehensive programs to enhance the job prospects and career opportunities of young persons.

Section 432—Programs Authorized

This section authorizes the Secretary to provide financial assistance to enable eligible applicants to provide employment opportunities and appropriate training and supporting services for eligible participants.

Section 433—Allocation of Funds

Subsection (a) provides: (1) 75 percent of the funds available for such subpart shall be allocated by formula to prime sponsors; (2) 5 percent of the total amount available for part A shall be allocated by formula to Government for special statewide services; (3) not less than 2 percent of the total amount available for part A shall be made available for native American programs (deducting funds available under subpart 2 for native American projects); (4) not less than 2 percent of the total amount available for part A shall be made available for migrant and seasonal farmworker programs (deducting funds made available under subpart 2 for migrant and seasonal farmworkers programs); and (5) the remainder of the funds available for subpart 3 shall be available for the Secretary's discretionary projects.

Subsection (b) provides that the allocated funds will be distributed as follows:

37.5 percent—total unemployment.

37.5 percent—total number residing in areas of substantial unemployment—(unemployment in excess of 6.5 percent).

25 percent—total low-income.

Subsection (c) provides that the amounts available for the Governors will be used for the activities listed in the section.

Subsection (d) provides that not less than 22 percent of the funds allocated to each prime sponsor are to be used for in-school youth programs operated under joint agreements between the prime sponsor and the local education agency or agencies in the prime sponsor area.

Section 434—Eligible Applicants

This section provides that eligible applicants are prime sponsors, sponsors of native American programs under section 302(c)(1), and sponsors of migrant and seasonal farmworkers programs under section 303.

Section 435—Eligible Participants

This section, provides that an eligible youth is (1) unemployed, underemployed, or in school and 16–21 years, inclusive (or if authorized by regulations, 14–15 years), and (2) from families with incomes at or below 85 percent of the BLS lower living standard budget. The section further provides that 10 percent of the funds for this subpart may be used to fund programs which include youth from all economic backgrounds.

Section 436—Conditions for Receipt of Financial Assistance

Subsection (a) of this section provides that the Secretary shall not provide financial assistance to an eligible applicant unless it has provided specific descriptions and assurances.

Subsection (b) provides for establishing a youth council to make recommendations to the prime sponsor's planning council with respect to the planning and review of activities under subparts 2 and 3.

Subsection (c) provides that no work experience for in-school youth program shall be entered into unless an agreement has been made between the prime sponsors and a local education agency. Each agreement shall be administered, under contracts with the prime sponsor, by a local educational agency or agencies or a postsecondary educational institution or institutions. Certain assurances are required to be set forth in the agreement.

Section 437—Review of Plans by Secretary

This section provides that provisions of section 102, 106, and 107 of the act apply to programs and activities under section 482.

Section 438—Secretary's Discretionary Projects

This section provides that the remainder of the funds are available for the Secretary to use to support innovative and experimental programs to test new approaches for dealing with the unemployment problems of youth and to enable eligible participants to prepare for, enhance their prospects for, or secure employment in occupations through which they may reasonably be expected to advance to productive working lives.

Section 439—Youth Employment Incentive and Social Bonus Program

This section provides that the Secretary shall carry out in no more than ten areas of high youth unemployment, a program to provide bonuses of up to $2,500 per youth to employers who employ at least 5 youths for 1 year, who prior to employment are economically disadvantaged, unemployed, and have no significant previous employment.

Subpart 4—General provisions

Section 441—Authorization of Appropriations

This section provides that of the funds available for carrying out part A:

15 percent are for subpart 1.

15 percent are for subpart 2.

15 percent are for subpart 3.

Section 443—Special Conditions

This section sets forth maintenance of effort, labor standards, participant protections, and similar requirements.

Section 444—Special Provisions for Subparts 2 and 3

This section provides that appropriate efforts shall be made to insure that youths participating under subparts 2 and 3 shall be youths experiencing handicaps in obtaining employment, and it further provides the Secretary with authority to reallocate funds under subparts 2 and 3.

Section 445—Academic Credit, Education Credit, Counseling and Placement Services and Basic Skills Development

This section provides that the Secretary make efforts to encourage academic credit for activities under the act, and provide appropriate counseling and placement services to facilitate transition.

Section 446—Disregarding Earnings

This section provides that earnings by a youth under this part be disregarded for family income determinations under other Federal or federally assisted programs.

Part B—Job Corps

Section 450—Statement of Purpose

This section states that it is the purpose of Job Corps to assist young persons who need and can benefit from this unusually intensive program.

Section 451—Establishment of the Job Corps

This section provides that there is established with the Department of Labor a Job Corps.

Section 452—Individuals Eligible for the Job Corps

This section provides that an eligible youth is one who: (1) requires additional training, education, or intensive counseling; (2) is currently living in a deprived environment; and (3) has the capabilities to be a Job Corps enrollee.

Section 453—Screening and Selection of Applicants—General Provisions

This section authorizes the Secretary to prescribe certain specific standards and procedures for the screening and selection of Job Corps enrollees.

Section 454—Screening and Selection—Special Limitation

This section provides that no individual can become a member of Job Corps unless there is reasonable expectation that the person can participate successfully in group situations. It further provides that a person on probation or parole may be selected only if such selection is satisfactory to those individuals supervising that person and does not violate applicable laws and regulations.

Section 456—Job Corps Centers

This section provides that no individual may be enrolled for longer than two years (except as authorized by the Secretary), that enrollment in Job Corps does not relieve a person from military obligations, and, except for good cause, an enrollee will be assigned to a center nearest the enrollee's home.

Section 456—Job Corps Centers

This section provides for the establishment of Job Corps centers.

Section 457—Program Activities

This section details the activities and training which may be offered at a Job Corps center.

Section 458—Allowances and Support

This section details the basic, readjustment, and dependent allowances that may be provided to a Job Corps enrollee.

Section 459—Standard of Conduct

This section provides that Job Corps standards of conduct shall be provided and enforced, and that dismissal can result from violations of the standards.

Section 460—Community Participation

This section provides that the Secretary shall encourage and cooperate in activities to establish a mutually beneficial relationship between Job Corps centers and nearby communities. This includes the establishment of community advisory councils to facilitate joint discussion of common problems and planning programs of mutual interest.

Section 461—Counseling and Job Placement

This section provides that the Secretary shall counsel and test each enrollee at regular intervals and make every effort to place the enrollees in jobs in the vocation for which the enrollee was trained.

Section 462—Evaluation and Developmental Projects

This section authorizes the Secretary to undertake experimental, research, or demonstration projects in order to promote better efficiency and effectiveness in the program.

Section 463—Advisory Boards and Committees

This section authorizes the Secretary to make use of advisory boards and committees in connection with the operation of Job Corps.

Section 464—Participation of the States

This section provides that the Secretary shall take action to facilitate the participation of States in the Job Corps program, including entering into agreements with States to assist in the operation or administration of Job Corps center.

Section 465—Application of Provisions of Federal Law

This section provides that Job Corps enrollees will not be deemed Federal employees for all purposes, including hours of work, rates of compensation, leave, unemployment compensation, and Federal employee benefits, except they shall be deemed employees for the following purposes: title II of the Social Security Act, workers' compensation, tort claims, and income tax.

Section 466—Special Provisions

This section provides that the Secretary shall take immediate steps to achieve an enrollment of 50 percent women, consistent with economy, administrative practice, and the needs of the population to be served and that all studies, evaluations, proposals, and data produced or developed with Federal funds become the property of the Federal Government.

Section 467—General Provisions

This section contains general conditions applicable to the administration and operation of the program.

Section 468—Utilization of Funds

This section provides that funds from title II and part C of title IV which are used for the Job Corps program, may be used in accordance with the provisions of this part.

Section 469—Secretarial Reports

This section provides that the Secretary of Labor shall submit a report on Job Corps to Congress by March 1 of each year.

Part C—Summer youth program

Section 480—Establishment of Program

This section provides for the establishment of a summer youth employment program, which shall provide eligible youth with useful work and sufficient basic education and institutional or on-the-job training to assist these youths to develop their maximum employment potential and to obtain employment not subsidized under this act.

Section 481—Eligible Sponsors

This section provides that program sponsors will be those prime sponsors qualified under title I and Native American entities described under section 302(c)(1).

Section 482—Financial Assistance

Subsection (a) provides that 95 percent of the funds shall be allocated to prime sponsors and the remainder shall be used at the Secretary's discretion.

Subsection (b) provides that unused funds for the previous year will be added to the amount available for allocation.

Subsection (c) provides that 95 percent of the funds will be allocated in the following manner to prime sponsors:

50 percent on the basis of the previous year's allocation.

37.5 percent on total unemployment.

12.5 percent on the total number of low-income adults.

In no case shall a prime sponsor receive a lower allocation than in the previous year. Out of the discretionary funds, funds for Native American entities shall be allocated on the relative number of Native American youths 14–21 years, inclusive; and funds for Guam, the Virgin Islands, American Samoa, Northern Mariana Islands, and the Trust Territory of the Pacific Islands shall be equal to the same percentage of total funds as in the previous year.

Section 483—Secretarial Authority

This section provides authority for the Secretary to issue such regulations, rules, and guidelines as are necessary.

Part D—Young adult conservation corps

Section 490—Statement of Purpose

This section sets forth the purpose of part D, which is to establish a Young Adult Conservation Corps to provide youth employment in conservation and other work on Federal and non-Federal public lands and waters.

Section 491—Establishment of Young Adult Conservation Corps

This section provides for the establishment of a Young Adult Conservation Corps to carry out projects on Federal or non-Federal public lands and waters. The Secretary of Labor is to administer this part through interagency agreements with the Secretaries of the Interior and Agriculture, who are to have responsibility for the management and program of each Corps center.

Section 492—Selection of Enrollees

Subsection (a) of this section provides that enrollees of the Corps shall be selected by the Secretaries of the Interior and Agriculture only from candidates referred by the Secretary of Labor.

Subsection (b) provides that membership in the Corps shall be limited to unemployed individuals who are 16 to 23 years old, inclusive.

Subsection (c) provides that the Secretary of Labor shall make arrangements for obtaining referral of candidates for the Corps from the public employment service, prime sponsors, and sponsors of native American and migrant programs under the act, the Secretaries of the Interior and Agriculture, and such other agencies and organizations as the Secretary of Labor deems appropriate. The Secretary of Labor shall undertake to have an equitable proportion of candidates referred from each State.

Subsection (d) provides that in referring candidates from each State, preference shall be given to rural and urban areas within the State which have substantial youth unemployment, including areas having unemployment rates of 6.5 percent or greater.

Subsection (e) provides that no individual may be employed in the Corps for a total period of more than 12 months.

Section 493—Activities of the Corps

Subsection (a) of this section provides that, consistent with each inter-agency agreement, the Secretary of the Interior or Agriculture, as appropriate, shall determine the location of each residential or nonresidential campsite, in consultation with the Secretary of Labor. This subsection lists types of conservation and natural resource work which may be performed.

Subsection (b) provides that the Secretaries of the Interior and Agriculture shall undertake to assure that projects are consistent with the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976 as well as such other standards as each Secretary shall prescribe consistent with the provisions of Federal law.

Subsection (c) provides that, to the maximum extent practicable, appropriate projects shall be highly labor intensive, be projects for which work plans can be readily developed, be able to be initiated promptly, be projects likely to have a lasting impact both as to the work performed and the benefits to the youths participating, provide work experience to participants in skill areas needed in work on projects, be located where existing residential facilities are available, and be similar to activities of persons employed in seasonal or part-time work for specified Interior and Agriculture Department agencies.

Subsection (d) provides that the Secretaries of the Interior and Agriculture may provide for such transportation, lodging, subsistence, medical treatment, and other appropriate services, supplies, equipment, and facilities. Wherever economically feasible, existing but unoccupied or underutilized Federal, State, and local government facilities, and equipment of all types (including military facilities and equipment) shall, where appropriate, be utilized for purposes

of the Corps work camps with the approval of the Federal agency, State, or local government involved.

Subsection (e) provides that where appropriate, the Secretary, in conjunction with the Department of Health, Education, and Welfare, shall make suitable arrangements to have academic credit awarded by educational agencies for competencies derived from work experience obtained through programs under this part.

Section 494—Conditions Applicable to Corps Members

Subsection (a) of this section provides that members of the Corps shall not be deemed Federal employees except for purposes of the Federal Employees Compensation Act, the Federal Tort Claims Act, title II of the Social Security Act, the Internal Revenue Code, and 5 U.S.C. 5911 relating to allowances for quarters.

Subsection (b) provides that the Secretary of Labor shall, in consultation with the Secretaries of the Interior and Agriculture, establish standards for rates of pay (which shall be at least the minimum wage rate set forth in section 6(a)(1) of the Fair Labor Standards Act); for reasonable hours and conditions of employment; for safe and healthful working and living conditions.

Section 495—State and Local Programs and Special Projects

Subsection (a) of this section provides that, consistent with interagency agreements with the Secretary of Labor, the Secretaries of the Interior and Agriculture may make grants or enter into arrangements to carry out projects under this part with any State agency or institution, any unit of general local government, any public agency or organization, or any private nonprofit agency or organization which has been in existence for at least 2 years.

Subsection (b) provides labor protections including maintenance of effort provisions applicable to the State and local projects.

Subsection (c) provides for reserving 30 percent of the funds appropriated for the State and local projects.

Section 496—Secretarial Reports

This section requires that a report on the activities of the Corps be submitted to Congress no later than February 1 of each year.

Section 497—Antidiscrimination

This section provides that the Corps will be open to youth from all parts of the country of both sexes and youth of all social, economic, and racial classifications.

Section 498—Transfer of Funds

This section provides that the funds necessary to carry out this program will be transferred from the Secretary of Labor to the Secretaries of the Interior and Agriculture according to their interagency agreements.

Section 499—Authorization of Appropriations

This section authorizes such sums as may be necessary for fiscal year 1978 and 2 succeeding fiscal years.

TITLE V—NATIONAL COMMISSION FOR EMPLOYMENT AND TRAINING POLICY

Section 501—Statement of Purpose

This section provides that the National Commission for Employment and Training Policy will have the responsibility for advising the President and Congress on national employment and training issues.

Section 502—Commission Established

This section provides for the establishment of the National Commission for Employment and Training Policy and states what the composition of the Commission is to be, and how it is to operate.

Section 503—Functions of the Commission

This section describes the functions of the Commission.

Section 504—Reports

This section provides that the Commission shall report at least annually to the President and the Congress.

Section 505—Authorization of Appropriations

This section authorizes $3 million for fiscal year 1978 and such sums for the 3 succeeding fiscal years.

TITLE VI—PUBLIC SERVICE EMPLOYMENT PROGRAM

Section 601—Statement of Purpose

This section states that it is the purpose of this title to provide eligible persons who are unemployed with transitional employment in jobs providing needed public services in qualifying areas.

Section 602—Authorization

This section provides that such sums as may be necessary are authorized for fiscal year 1979 and 3 succeding fiscal years.

Section 603—Financial Assistance

Subsection (a) provides that not less than 80 percent of the funds allocated are to be used for public service employment wages and benefits; not less than 10 percent of the funds shall be expended for training and employability counseling and services for persons under this title. The remainder may be used for administrative and other allowable costs.

Subsection (b) provides that in filling teacher positions in elementary and secondary schools each prime sponsors will give special consideration to unemployed persons with previous teaching experience who are certified in the prime sponsor's State.

Section 604—Allocation of Funds

Subsection (a) provides that not less than 2 percent of the amounts authorized shall be available for programs to be carried out by native American entities.

Subsection (b) provides that not less than 85 percent of the funds shall be allocated to prime sponsors in the following manner:

50 percent—total unemployment in the prime sponsor area.

25 percent—number of unemployed persons residing in areas of substantial unemployment (unemployment of at least 6.5 percent).

25 percent—number of unemployed persons in excess of 4.5 percent in the prime sponsor area.

Subsection (c) provides that the remainder is available at the Secretary's discretion.

Section 605—Expenditure of Funds

Subsection (a) provides that funds under this title shall be used for projects which are no longer than 12 months in duration, except that a program may be extended where the project has demonstrated its effectiveness.

Subsection (b) provides that each project applicant shall submit an application to the appropriate program agent or prime sponsor and shall contain such information as is required by regulation.

Subsection (c) provides for expenditure of the 10 percent of funds for training and employability counseling available under section 603.

Section 606—Prime Sponsors and Program Agents

This section provides that financial assistance is available to prime sponsors, native American entities described under section 302(c)(1)(A), and program agents.

Section 607—Eligibility

This section provides that a person, in order to be eligible, must be unemployed for at least 45 consecutive days and have a family income not exceeding 85 percent of the BLS lower living standard budget; it limits individual participation to 12 months after September 30, 1978 (subject to a waiver provision of the Secretary).

Section 608—Wages

This section provides that no person employed in public service employment under this title may be paid at a rate in excess of $10,000, adjusted upward by the ratio which local wage rates bear to the national average.

Section 609—Wage Supplementation

This section provides that participants in programs under this title may have their wages supplemented, but (1) the total amount of funds used to supplement wages may not exceed the equivalent of 10 percent of the prime sponsor's allocation under the title, and (2) the total wages paid to any participant may not exceed an amount equal to 20 percent of the maximum federally supported wages for the prime sponsor area.

TITLE VII—PRIVATE SECTOR OPPORTUNITIES FOR THE ECONOMICALLY DISADVANTAGED

Section 701—Statement of Purpose

This section provides that it is the purpose of this title to demonstate the effectiveness of a variety of approaches to increase the involvement of the business community in employment and training activities under this act, and to increase the private sector employment opportunities for persons who are economically disadvantaged and unemployed or underemployed.

Section 702—Allocation of Funds

Subsection (a) provides that financial assistance will be available to each prime sponsor—95 percent of the funds are allocated according to the title II–A formula, and the remainder is available for prime sponsors who join together to establish a single private industry council and native American entities described under section 302(c)(1)(A).

Section 703—Conditions for Receipt of Financial Assistance

This section provides the requirements a prime sponsor must meet in order to receive assistance under this title.

Section 704—Private Industry Councils

This section provides for the establishment of private industry councils (a majority of whose members will be from the business sector), and provides that the council shall participate with the prime sponsor in the development and implementation of programs under this title.

Section 705—Program Activities

This section describes the types of activities that can be carried out in order to demonstrate the purposes of this title.

Section 706—Report

This section requires the Secretary to report to Congress by March 1, 1980, on an evaluation of the activities conducted under this title, and any accompanying legislative recommendations.

Section 707—Authorization of Appropriations

This section provides that there are authorized to be appropriated $400,000,000 for fiscal year 1979 and such sums for fiscal year 1980.

Section 3—Criminal Provision

This section provides for criminal penalties for theft or embezzlement of CETA funds, improper inducement, and obstruction of investigations.

Section 4—Transitional Provision

This section provides that, in order for an orderly transition from the current program to the requirements contained in these amendments, the Secretary may provide financial assistance in the same manner and on the same conditions as currently provided until April 1, 1979.

Section 5—Reports

This section provides that the Secretary shall submit by February 1, 1979, recommendations on improvements in the Wagner-Peyser Act. The Secretary shall also develop

methods to ascertain annual energy development and conservation employment impact data by type and scale of energy technologies used and present such data to the Congress, OMB, the Department of Energy, and the Department of HUD.

Section 6—Assistance to Plant, Area, and Industry-Wide Labor-Management Committees

This section provides for the establishment of joint labor-management committees on plant, area, and industry-wide bases to improve labor-management relationships, job security, and organizational effectiveness under the direction of the Federal Mediation and Conciliation Service.

Section 7—Repealer

This section repeals section 104 of the Emergency Jobs and Unemployment Assistance Act of 1974, Public Law 94-563.

Section 8—Assistant Secretary

This section provides that the Department of Labor shall have an additional Assistant Secretary, and that the current Deputy Undersecretary for Legislation and Intergovernmental Relations may fill the Assistant Secretary's position without confirmation.

COMMITTEE BILL (S. 2570)—ORGANIZATION OF TITLES

S. 2570 restructures the Comprehensive Employment and Training Act Amendments of 1973 as follows:

TITLE I

Title I of the current CETA law authorizes a nationwide program of comprehensive employment services including institutional training, on-the-job training, work experience, public service employment, job counseling, testing, and placement services.

Title I of S. 2570 authorizes most of the administrative and general provisions applicable to the CETA programs.

TITLE II

Title II of the current CETA law authorizes a program of transitional public service employment and other employment services in areas with an unemployment rate of at least 6.5 percent for 3 consecutive months.

Title II of S. 2570 provides for services authorized by Title I of the current CETA law. It further authorizes an upgrading and retraining program as well as a transitional public service employment program for the structurally unemployed.

TITLE III

Title III of the current CETA law authorizes national employment programs for special target groups such as youth offenders, older workers, persons of limited English-speaking ability, Native Americans, migrant and seasonal farmworkers, and others with particular labor market disadvantages. The Secretary of Labor is authorized to undertake research, demonstration, and evaluation programs. Title III authorizes the Summer Youth Program and the Youth Employment and Demonstration Projects Act of 1977, except for the Young Adult Conservation Corps which is authorized in title VIII.

Title III of S. 2570 also authorizes services for groups with particular employment problems as well as research, demonstration, and evaluation programs. The Committee bill further authorizes a voucher program, welfare demonstration project, and incentive programs for prime sponsors who administer exemplary programs. Youth programs authorized by the current title III are placed in Title IV under the Committee bill.

TITLE IV

Title IV of the current CETA law authorizes the Job Corps, a program of intensive education and employment services for disadvantaged youth, to be carried out primarily in a residential setting.

Title IV of S. 2570 authorizes youth programs including the Job Corps, Summer Youth Program, Youth Employment and Training Program, Youth Incentive Entitlement Pilot Projects, Youth Community Conservation and Improvement Projects, and Youth Adult Conservation Corps.

TITLE V

Title V of the current CETA law authorizes the National Commission for Manpower Policy, an advisory group that has been assigned responsibilities for examining the Nation's employment needs and goals and advising the Secretary of Labor on national employment issues.

Title V of S. 2570 authorizes and reconstitutes the Commission. The Commission is renamed the National Commission for Employent and Training Policy.

TITLE VI

Title VI of the current CETA law authorizes a countercyclical public service employment program.

Title VI of S. 2570 also authorizes a countercyclical public service employment program; however, various provisions of the program have been modified substantially.

TITLE VII

Title VII of the current CETA law authorizes most of the administrative and general provisions applicable to CETA.

Title VII of S. 2570 authorizes a new private sector program. The primary purpose of this initiative is to create private sector jobs for economically disadvantaged persons.

TITLE VIII

Title VIII of the current CETA law authorizes the Young Adult Conservation Corps, which provides employment to youth in conservation and other projects of a public nature on Federal and non-Federal public lands and waters.

S. 2570 does not authorize a Title VIII. The Young Adult Conservation Corps program is authorized by Title IV.

Mr. NELSON. Mr. President, I ask unanimous consent that a letter to me as chairman from Mr. Marshall, the Secretary of Labor, be printed in the RECORD.

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

U.S. DEPARTMENT OF LABOR,
Washington, D.C., August 21, 1978.

Hon. GAYLORD NELSON,
Chairman, Subcommittee on Employment, Poverty, and Migratory Labor, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This letter is to express the views of the Department of Labor with respect to S. 2570, the "Comprehensive Employment and Training Amendments of 1978." The Department strongly supports passage of this bill which would reauthorize the Comprehensive Employment and Training Act of 1973 (CETA) for another four years, while making important changes in the design and management requirements of the programs conducted under the umbrella of CETA.

S. 2570 makes significant improvements in CETA. The bill targets CETA towards those most in need by imposing strict income and unemployment eligibility tests. It limits the length of time any individual can stay in a CETA program so as to eliminate substitution of CETA workers for permanent workers, to increase the number of persons who can be served, and to increase the transition from CETA into regular jobs.

S. 2570 also places strict limitations on the Federal wages that can be paid PSE workers and the amount by which local jurisdictions can supplement the Federal base. This will assure that CETA jobs are not more attractive than career-type jobs in the private economy.

The bill also increases the authority of the Secretary to eliminate fraud and abuse in the CETA program by giving him increased regulatory authority and by allowing him to directly attack violations of CETA by subgrantees and subcontractors of prime sponsors if the prime sponsor takes no action.

S. 2570 simplifies the paperwork burden on prime sponsors. Prime sponsors will have to provide in their comprehensive employment and training plans each year only the information that had changed from the previous year. In addition the information required of prime sponsors has been limited to that information that is necessary for the Secretary to determine that the program is being conducted efficiently, effectively, and in conformance with the Act's requirements and purposes.

We strongly support the passage of S. 2570. CETA has met the needs of this Nation for a program that will train the structurally unemployed so that they can have marketable skills. At the same time it has served the Nation well in a time of economic crisis by providing employment to those persons who were countercyclically unemployed.

Under the proposed legislation, an increased emphasis would be placed on training as a component of any public service employment. Special programs would be conducted to help individuals facing special disadvantages in the labor market—such as the elderly and the young, the handicapped, displaced homemakers, and those of limited English-speaking proficiency. The Job Corps and the summer youth proggram would be extended, as would the youth programs that are experimenting with methods for improving the unsatisfactory unemployment situation of this Nation's young adults.

In addition, title VII of the bill would introduce into CETA a major new attempt to involve the private sector in the design and implementation of programs. Under the new Private Sector Opportunities for the Economically Disadvantaged program, the private sector of the economy would work with prime sponsors to create opportunities for the economically disadvantaged in private industry. This program represents a critical effort to create permanent, career-type jobs in the private sector for those who are not in the mainstream of the economy.

We understand that Senator Bellmon intends to offer a series of amendments to S. 2570 that would increase the integration of CETA with State public assistance offices, would increase services to those on public assistance, and would make clear the eligibility for public service employment of those families receiving aid under title IV (Aid to Families with Dependent Children) and title XVI (Supplemental Security Income) of the Social Security Act. We support the purpose of these amendments and hope they will be adopted.

The amendments also include a proposal to eliminate the requirement that before any funds can be made available for title VI countercyclical PSE, $3 billion must be available for title II structural PSE. We support this amendment. As we have seen in the past, the needs of the economy for structural or countercyclical PSE job opportunities change over time. We do not believe that the authorizing legislation should lock CETA into so rigid a formula. We believe it would be preferable to leave the amounts for title II and title VI to the flexibility of the budget and appropriation processes.

Finally, we are opposed to any amendment that may be offered to remove the Young Adult Conservation Corps (YACC) from the jurisdiction of the Labor Department. The current arrangement, whereby the Department makes referrals to the Departments of Agriculture and the Interior for the program and also promulgates certain regulations within our specific expertise and jurisdiction,

has created a strong and smoothly run program. We believe that this program stability and the benefits generated by the central coordination of all employment and training policies in the Department of Labor are essential to maintain.

The Office of Management and Budget advises that there is no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

RAY MARSHALL,
Secretary of Labor.

Mr. NELSON. Mr. President, the distinguished Senator from New York (Mr. JAVITS), who is the ranking minority member, and I have worked on this legislation over a period of years and along with the rest of the committee and staff in great detail this year.

I yield the floor.

Mr. JAVITS. Mr. President, as the ranking minority member of both the Human Resources Committee and its Subcommittee on Employment, Poverty and Migratory Labor, I urge my colleagues, on both sides of the aisle, to give their support to S. 2570, the Comprehensive Employment and Training Act Amendments of 1978.

Thanks to the leadership of our chairman, the Senator from New Jersey (Mr. WILLIAMS) and our subcommittee chairman, the Senator from Wisconsin (Mr. NELSON), the bill reported by our committee reflects a continuation of the strong spirit of bipartisan collaboration that has long characterized congressional action on manpower legislation. We have been working with the White House, Secretary Marshall and Assistant Secretary Green in framing the CETA bill, and the result is that we bring to the Senate a bill that truly deserves the affirmative vote of a substantial majority of our colleagues.

The experience of the CETA program since its enactment in 1973 has not been without its share of problems. We have had the whole issue of the categorization of programs, and the philosophical debate over whether CETA should be administered like a manpower revenue-sharing program or whether the balance should be more in favor of somewhat more centralization of administration. There have been some serious problems, including "fiscal substitution," that is, the use of Federal funds to finance what local governments could have financed with their own resources; inadequate training of the structurally unemployed; inadequacy of private sector involvement; underrepresentation of the unemployed poor in the program; sometimes excessive wages; participant ineligibility; low rates of transition to unsubsidized employment; and the tendency of some CETA participants to remain in the program for too long. The Human Resources Committee has been very much aware of these and other expressed concerns and, in cooperation with the administration, has worked hard to remedy the defects of the program as much as possible. The provisions of S. 2570 will ameliorate the problems with which we have all been properly concerned.

But I do not wish to dwell unnecessarily upon the negative today; it is not a time for recrimination. CETA and the prime sponsor network it established have done a commendable job in dealing with the problem of unemployment and have facilitated our transition to a decentralized employment and training delivery system in our country. Our prime sponsors, on the whole, deserve much credit for taking on the administration of Federal manpower programs and for helping make CETA work, even though the near catastrophic recession of 1974–75 occurred almost immediately after CETA took effect on July 1, 1974. Their exemplary performance in the economic stimulus buildup last year, when the PSE program was expanded from 310,000 to 725,000 job slots in less than 1 year, went largely unheralded, except by those of us who appreciate the speed with which the employment-generating effects were felt.

Much of the credit for the sharp improvement in the unemployment situation in recent months should be given to CETA and our prime sponsor network. Our committee's decision to maintain our decentralized CETA system for an additional 4 years should properly be interpreted as a vote of confidence in our prime sponsors.

On balance, therefore, Mr. President, the pluses have far outweighed the minuses in CETA and, for the most part, the minuses do not reflect major inherent defects in the concept of a decentralized, decategorized approach.

In my judgment, the committee has left no stone unturned in meeting its responsibility to make the necessary statutory changes to improve the operation of the CETA programs, and presents to the Senate what I believe is a tight, 4-year bill. We have addressed every major issue in this multifaceted law and have recommended language which we believe will make a significant contribution in relieving the burden of unemployment in our country and in remedying the problems that have characterized the operation of these programs.

Mr. President, before describing the major provisions of the committee bill, I wish to discuss the organization of S. 2570.

STRUCTURE OF THE BILL

The Human Resources Committee recommends that several major changes be made in the organization of the Comprehensive Employment and Training Act.

Title I of the existing law, enacted in December 1973, establishes the principal administrative arrangements for our decentralized manpower delivery system and contains authority for the conduct by prime sponsors of comprehensive employment and training programs. Approximately $2 billion is appropriated for title I, to fund about 430,000 annual slots, in round figures.

The Human Resources Committee adopted the administration's proposal that, in the interests of streamlining the CETA grant mechanism and reducing the excessive burden of paperwork under which our prime sponsors have labored, title I be redesigned to contain only the administrative provisions. The committee bill, therefore, transfers all of the present administrative provisions of CETA to title I and proposes to establish a single grant application procedure for for prime sponsors. In addition, the general provisions applicable to all programs—for example, wage standards—are transferred from title VII of the existing law to the new title I. This new format should help simplify the local administration of CETA programs by reducing the redundancy that has often characterized separate application and reporting procedures under each title.

In this connection, Mr. President, I point out that the committee has modified the administration proposal in respect of the staff of local planning councils. The administration bill would have required prime sponsors to appoint an "independent" staff "solely accountable" to the planning council. The committee was concerned that this approach might fractionalize the planning process so S. 2570 requires prime sponsors only to provide a full-time staff which is "responsible for serving the council." The staff may be affiliated with the local prime sponsor, therefore, and may be accountable in its work to the prime sponsor and the council.

The committee also adopted the administration's proposal to transfer the program authority for comprehensive employment and training services from title I of existing law to title II of the new bill.

Title II of the present law, also enacted in 1973, authorizes establishment of a transitional public employment program in areas of substantial unemployment (ASU). About $1.125 billion is currently appropriated for title II, to provide some 125,000 positions per year. The administration proposed originally to consolidate all authority for public service employment into a revised title VI—the existing countercyclical jobs title. Under that plan, public employment programs now authorized under title II and title VI of existing law would have been combined into a single new title VI, and the new title II would have contained only authority for the comprehensive manpower services outlined above.

I had a number of serious reservations about this plan, including the fact that the proposed consolidated title VI would have reduced targeting on the long-term unemployed and would not have channeled any more funds into areas of high unemployment. In addition, I had made up my mind some time ago and, indeed, proposed in my own CETA bill (S. 2435) that Congress needs to delineate more clearly between Federal jobs programs for the structurally unemployed and those for the cyclically unemployed. To the extent that it is possible to distinguish between these two types of unemployed—and the experts, at places such as Brookings, seem to think it is—we ought to design our remedial programs accordingly. Thus, I proposed, as I had in S. 2435, that a new public service employment program, targeted specifically at the structurally unemployed—defined as the low-income, long-term unemployed—be written into title II of the committee bill. Title VI could then remain as our temporary, counter-

cyclical unemployment program. I felt this to be the only way we could take account adequately of the significant differences in the problems and the employment and training needs of the structurally and cyclically unemployed.

The Human Resources Committee shared these concerns and, consequently, S. 2570 proposes establishment of a special new public service employment program for the economically disadvantaged, in a new part D of title II. The key features of title II–D are: First, targeting on those individuals who are unemployed 12 or more weeks and who are in families with incomes at or below 70 percent of the BLS lower living standard budget; second, a heavy emphasis on training and employability development for the structurally unemployed; and third, a somewhat more targeted allocation formula, to provide increased Federal assistance to those areas which have high concentrations of the eligible unemployed.

The allocation formula in title VI of the committee bill is the same as that in title VI of the existing law, to wit: 50 percent is allocated on the basis of relative "total unemployment" in the prime sponsor area; 25 percent is allocated on the basis of the relative number of unemployed persons in "areas of substantial unemployment" (ASU) in the prime sponsor's jurisdiction; and 25 percent is allocated on the basis of relative "excess unemployment" (numbers of unemployed over 4½ percent of the prime sponsor labor force).

The allocation formula recommended by the committee for the new PSE program in title II-D is only slightly different from that of title VI, to wit: precisely the same formula factors: total unemployment, ASU unemployment, and excess unemployment but a change in their relative weights. Instead of 50–25–25, as in title VI, we have recommended 33⅓–33⅓–33⅓ for title II–D. In other words, compared with title VI, the formula in II–D gives equal weight to total unemployment, ASU unemployment and excess unemployment. In addition, the amendment offered in committee by the Senator from Massachusetts (Mr. KENNEDY) and I, would change the time frame used in computing ASU unemployment, after fiscal year 1979, from the highest consecutive 3 months unemployment in a particular year to the annual average number of unemployed persons in the areas of substantial unemployment.

For the new public service employment program for the economically disadvantaged in title II, therefore, the committee opted to recommend that the same weight be placed on the severity of unemployment in an area as is placed on total unemployment.

I might add, Mr. President, that there were a number of options before the committee that would have produced a drastic geographic redirection of CETA funds. Some would have had the committee make CETA a symbol of the "frostbelt-sunbelt" controversy. The committee concluded, however, that some form of unemployment characterizes almost all prime sponsor areas and that, since the existing formulas in titles I and VI do enable the unemployed to be assisted wherever they reside, even though CETA funds are spread very thinly over the country, they should not be altered at this time.

With respect to the new public service employment program for the structurally unemployed, however, the committee did feel that in allocating funds some distinction should be made among the types of unemployment in an area—frictional, seasonal, cyclical and structural—and that, among these, relatively greater weight should be placed upon severe structural unemployment.

In recognition of the high priority the committee places upon the public service employment program for the structurally unemployed, S. 2570 provides that no funds may be appropriated for title VI PSE until at least $3 billion (or about 350,000 slots) has been appropriated for title II–D.

Title VI of the committee bill, in contrast to title II–D, deals with the unique and serious unemployment problems of those persons thrown out of work during a period of economic recession.

Mr. President, there could not be a more propitious time for Senate consideration of title VI. I do not wish to sound like a harbinger of doom, but we must acknowledge the possibility that our country may slip into another recession in 1979. The sudden resurgence of inflation to an annual rate in excess of 7 percent has tempered what can be done through conventional stimulative policies to reduce further the national unemployment rate. Moreover, exceptionally slow or stagnant economic growth in the remainder of this year and next may cause the unemployment rate to move back up to 7 percent or higher. If this scenario transpires, and many economists anticipate just that, or worse, CETA must be ready to step into the breach to afford short-term employment opportunities, in my judgment, to at least 25 percent of the unemployed in excess of the number unemployed at a 5-percent unemployment rate. In round figures, if the rate moves up to 7 percent or 7 million unemployed, we will need at least 500,000 temporary jobs for the cyclically unemployed.

The committee has designed title VI specifically to deal with this problem. Those eligible would include persons unemployed for at least 45 consecutive days and whose incomes are at or below 85 percent of the BLS lower living standard budget. It is true that these requirements are somewhat looser than those of title II–D, which are heavily targeted at the hardest hit of the structurally unemployed, but the committee had in mind the recession situation, which calls for a different approach. The committee felt that in the recession situation, when the "working poor" sometimes taste unemployment for the first time in their lives, it would be unfair to stipulate that persons who had been earning $9,000 per year, as opposed to $7,500, would be ineligible unless they waited another month.

Mr. President, another organizational improvement the committee proposes is to consolidate all authority for youth employment programs in title IV. Presently, the Summer Program for the Economically Disadvantaged, and the new youth programs enacted last year in the Youth Employment and Demonstration Projects Act, are in title III. Job Corps, which is a comprehensive program for unemployed youth is authorized in title IV. And the Young Adult Conservation Corps, also enacted last year as part of YEDPA, is authorized in title VIII. Under the committee bill, all of these programs, which together account for some $2.2 billion per year in budget authority would be authorized under title IV.

Mr. President, I would like now to turn to some of the specific provisions of S. 2570.

ELIGIBILITY

Mr. President, the committee bill proposes to improve the targeting of all CETA programs at those individuals who are most in need of Federal employment and training assistance. Under current law, all of the unemployed, underemployed and disadvantaged are eligible to participate in CETA programs and, consequently, the poor have not always been given first priority. In fiscal year 1977, for example, while 78 percent of title I participants were economically disadvantaged, only 49 percent and 67 percent, respectively, of title II and VI participants were disadvantaged. Sections 213, 237, and 607 of S. 2570 would require that all CETA participants in titles II and VI be economically disadvantaged, that is, be members of families whose earnings are below the lower living standard budget of the Bureau of Labor Statistics—70 percent of this standard (or about $7,500) for titles II and III and 85 percent (or about $9,000) for title VI.

The effect of these provisions will be to recast CETA as a jobs and training program for those situated at the lower ranges of family income. The committee has heeded the counsel of the distinguished minority leader (Mr. BAKER) the Senator from Oklahoma (Mr. BELLMON) and others, including this Senator (my own bill, S. 2435 proposed similar targeting) who urged that we try to target CETA more sharply at the structurally unemployed. Beginning in October of this year, it will be possible to characterize CETA as an employment program for the poor and near poor—those on whom the burden of unemployment is most oppressive. It is my hope that prime sponsors will do everything possible to implement these new requirements as swiftly as is consistent with prudent program management.

I might note, in concluding this section of my statement, Mr. President, that I am deeply concerned about the mismatch that may occur between the funding formulas of CETA and the new eligibility criteria. S. 2570 would, as I have just explained, sharply target CETA programs at the hardest-to-employ (in terms of low income and length of unemployment) without making the corresponding changes in the funding formulas, because of data inadequacies, and so forth. I would hope the Department would monitor this potential prob-

lem very carefully—including insuring that prime sponsors are enrolling only those persons who satisfy the eligibility criteria. In addition, the Department will need to be prepared to reallocate funds from those areas which have difficulty locating enough eligibles to those areas that have large concentrations of eligible persons. I, for one, will watch this very closely and do all I can to see that Federal funds are directed to those areas most in need.

WAGES

Related to the subject of participant eligibility are the questions of CETA wage levels and the duration of individual participation in CETA programs. The committee is well aware that there have been instances of high-wage CETA jobs in some areas, even though the Federal maximum has been $10,000 under existing law. Prime sponsors have been free to supplement the Federal contribution with local funds without limit, and the result has been that wages in some CETA-supported slots exceed $20,000 per year. The principal effect of this phenomenon, in my judgment, is that some prime sponsors, in trying to maximize the potential service benefits to themselves, have created too many CETA positions in the higher wage-higher skilled jobs, for which the structurally unemployed can not always qualify.

The question of CETA wage levels, therefore, requires that a decision be made on whether CETA is to be principally a program to supplement municipal services or a program of jobs and training for the hard-to-employ. There is some trade-off between these objectives because if the former objective is to be emphasized, the law must permit prime sponsors to pay wages high enough to attract and maintain persons who are qualified to perform such local public services. If the latter consideration is to be given the highest priority, however, then the wage levels must themselves serve as the automatic allocative mechanism for discouraging the more highly skilled from competing for available CETA positions. Thus, the wage standards can be the principal device for insuring that those most in need of Federal employment and training assistance are given priority for assistance in CETA programs.

At the same time, however, those wage levels need to be high enough, one, to enable participants to have access to meaningful employment so they can obtain useful work experience from their participation in these programs and, two, to take account of the near 30 percent inflation that has occurred since 1973. Furthermore, we must be careful not to create a situation in which there is a chance that local "equal pay for equal work" standards might be vitiated by placing lower wage workers into higher wage classifications, thus encouraging displacement of existing personnel. All of this is further complicated by the fact that wage levels vary considerably from region to region in the United States, so what may be appropriate in one area may be insufficient in another.

The Human Resources Committee grappled with all these considerations in its deliberations on S. 2570 and I believe it has formulated what is a generally acceptable approach. First, the maximum federally assisted CETA wage provided for in the committee bill is $10,000, adjusted upward to reflect area wage levels by an appropriate area wage index. The extent of the adjustment is limited to no greater than 20 percent of the Federal maximum, or $2,000. Thus, the maximum Federal wage in a title II or title VI PSE position, in even the highest wage areas of our country, would be $12,000 per year.

This does not mean, however, that every PSE jobholder would earn $12,000, even in the highest wage areas of our country. The committee bill requires that prime sponsors maintain in their jurisdiction an average CETA Federal wage no greater than $7,800 per year, as adjusted upward by the index referred to above. In the high wage areas, therefore, while some jobholders could earn $12,000 per year in Federal funds, an average PSE wage of about $9,300 would have to be maintained. This would serve to self-limit the number of higher wage CETA jobs that would be available in a given locality.

SUPPLEMENTATION

In addition, the Human Resources Committee considered the question of permissible wage supplementation with non-Federal funds. The committee received testimony ranging from those who would allow prime sponsors to use their own funds to supplement Federal wages without restriction to those who would place a blanket prohibition on all local supplementation. Guided by our desire to limit wage levels in order to facilitate greater targeting of CETA jobs, the committee agreed to place strict limitations on wage supplementation. First of all, supplementation is prohibited in title II public service employment. The committee felt that since extra training and support services would be mandated in the jobs program for the structurally unemployed—title II–D—the total cost per job would be excessive if supplementation were also permitted. Also, since title II–D jobholders could be assigned to regular job classifications, that is, not restricted to separate 1-year projects, we wished to insure that, to the maximum extent possible, positions be reserved for the hardest-to-employ.

Supplementation is permitted in title VI, under strict limitations. The total amount of non-Federal funds which can be used by a prime sponsor to supplement wages of jobholders may not exceed an amount equivalent to 10 percent of the title VI CETA grant allocated to the prime sponsor. Moreover, the wage of a particular job may not be supplemented by more than 20 percent of the maximum federally supported wage. Thus, if a prime sponsor is in a high-wage area and can pay a maximum Federal wage of $12,000, it may supplement CETA wages with non-Federal funds, but by no more than 20 percent, or $2,400. Some title VI jobholders in high wage areas could earn up to $14,400, therefore, when Federal and non-Federal funds are combined. The number of such jobholders would, of course, be limited both by the 10 percent of allocation restriction and by the requirement that an average wage of $7,800, adjusted, be maintained by the prime sponsor, though the value of non-Federal supplements is not included in the calculation of the area's average Federal wage.

The restrictions on supplementation do not apply to those currently in PSE positions, since this would constitute a change in a term of their employment and could lead to drastic wage cuts.

LENGTH OF PARTICIPATION

A corollary of the wage issue is the matter of participation duration. There have been instances where CETA enrolees have remained on the program for long periods of time—some, we are told, have been enrolled since the Emergency Employment Act of 1971. In many cases this has occurred because conditions of very high unemployment in an area have left few alternatives to CETA. In at least as many instances, however, the incentives to transition out of CETA and into other employment have not been great enough.

S. 2570 deals with this issue in section 122(i) (2) and (3), respectively, where participation in PSE is limited to 78 weeks in any 5-year period for new employees and to 52 weeks for those on board as of October 1, 1978. Existing CETA workers will be given 1 more year of participation, therefore, while new enrollees will be allowed to remain in the program for a year and a half. Under title VI, participation is limited to 1 year for all enrollees.

Our committee was cognizant of the possibility, however, that in areas of severe unemployment it might be improvident to force enrollees off the CETA program and into an uncertain labor market. For this reason, section 122(i)(4) provides the Secretary of Labor with authority to waive the limitation on participation and grant an extension of up to 6 months for individuals. The authority to grant 6-month extensions to prime sponsors in exceptional circumstances would enable them to maintain either existing or new enrollees beyond the expiration dates. It is my expectation that in granting these waivers, the Secretary will take account of the unusual unemployment problems of our cities, and that he will be alert to the possibly severe disruption of essential services that could result if all existing CETA employees are summarily dismissed on October 1, 1979. We need a weaning process here and I believe the waiver authority gives us sufficient flexibility.

EDUCATION-WORK LINKAGES

As some of my colleagues know, the late Senator Humphrey and I collaborated last year to draft a new program in our Youth Employment bill, which was enacted ultimately in Public Law 95–93, to initiate a new partnership between prime sponsors and local education agencies in improving the transition of youth from school to work. I feel just as strongly today, indeed I am encouraged by the experience we have had with this program throughout our country so far.

The very brief experience chronicled in the March 1978 report of the De-

partment, "Youth Initiatives," and in the first interim report of the National Council on Employment Policy indicates that a new spirit of collaboration has been initiated between prime sponsors and local education agencies; these separate human development systems are working together as never before at the local level, jointly to design and administer programs to strengthen the linkages between the classroom and the workplace. I am hopeful that these "collaborative processes", as former Labor Secretary Wirtz calls them, will enable us to build better bridges between the world of education and the world of work to improve the transition of the youth of our country from school to work.

I understand, Mr. President, that there has been some confusion over our intent with respect to the role of community colleges in the 22 percent setaside program of section 433(d). Let me say first that it was never my intent to exclude the postsecondary institutions from participation in programs administered pursuant to agreements between local education agencies and prime sponsors. In fact, it was my expectation that community colleges would be included in some of the programs operated pursuant to these agreements. However, we did not intend that prime sponsors should negotiate agreements with postsecondary institutions, for the simple reason that it was our judgment that poor youths enrolled in secondary schools deserved greater priority for Federal assistance than youths enrolled in postsecondary institutions. After all, most community college students are high school graduates and have embarked already upon career tracks. Given the extremely limited funding available for this program and the fact that there are some 15,000 school districts in the United States, one can understand that we did not wish to have excessive dilution of the impact of this new program. Were prime sponsors given the opportunity to negotiate with community colleges as well as local education agencies, secondary school youth—many of whom may drop out of the school systems permanently—might not be assisted. So the emphasis clearly was, and continues to be, on the relationship between prime sponsors and local education agencies in the 22 percent setaside program of title IV.

In the bill before us today, however, we have tried to enhance the involvement of all educational institutions, including postsecondary institutions, in the development, review and implementation of CETA programs. I wish to pay tribute, in this regard, to Senators WILLIAMS, NELSON, CRANSTON, RIEGLE, and CHAFEE, all of whom supported my efforts to extend the opportunities for improved education—work linkages in the committee bill. There are a number of specific new provisions which should be highlighted at this point.

Most prominent among these is the 1 percent setaside of title II, found in section 202(d). This provision would make available to State Governors an amount equivalent to 1 percent of the total appropriation for title II for the purpose of encouraging cooperative arrangements between prime sponsors and educational institutions. There is so much that can be accomplished in alleviating the problems of unemployment and underemployment in our country if collaboration processes between these agencies can be encouraged.

Frequently we hear criticism from manpower officials that educational institutions do not adequately prepare people for work; that today's curricula are not relevant enough to labor market conditions. Educators reply that some CETA manpower programs' participants receive little training and employability development. They go on to complain that PSE is often a temporary stop-gap measure, lacking in much long-run value to the CETA participants. Is it not apparent that manpower agencies and educators need to be working partners and to learn from each other?

My own view of this is that State Governors—the chief elected officials of the State—are in the best position to nudge the manpower and educational systems together. In so many ways, such as incentive grants for joint programs, in-service programs and conferences and technical assistance the Governor can be the catalyst for initiating a new partnership between prime sponsors and educational institutions. Indeed, my own proposal for the 1-percent setaside is complemented by the provisions of section 105(b)(1) of the committee bill, which provide that coordination of employment, training and education programs shall be a new function of Governors in CETA programs, and shall be described in the Governor's Coordination and Special Services Plan submitted to the Secretary.

Beyond these innovative provisions, title I of S. 2570 includes language in section 103, which requires prime sponsors to consult with and involve educational agencies in the development and implementation of CETA programs; and in section 104, which directs prime sponsors to make their proposed comprehensive employment and training plans available to educational agencies and institutions for their review and comment. In short, it is the intent of our committee that prime sponsors take affirmative action to involve educational institutions—local education agencies, postsecondary institutions, vocational education agencies, and so forth—in the planning, development and implementation of their CETA programs.

This does not mean, of course, that educational agenices will have any presumptive role in the delivery of services to eligible participants. But, prime sponsors will have to take a hard look at the ability of educational institutions to provide the kind of training and employability development so desperately needed in today's labor markets.

TRAINING IN CETA

In this connection, Mr. President, I wish to discuss very briefly what the committee has done in mandating that we have more training in our CETA programs. This has long been a major personal concern of mine—to wit, that participants in PSE and non-PSE activities do not receive enough training. I share the view that we should not raise unrealistic expectations by operating training programs in fields and areas where no jobs are likely to materialize. This practice is unfair to participants and indeed, is dishonest.

But we cannot ignore the fact that 4 million new jobs were created in 1977 and over 1.5 million new jobs in the first 4 months of this year. So the jobs are there, in many cases, but our workers need the skills that are required to get and keep these jobs. Even in our cities, where unemployment is so shocking, there is demand for skilled clerical and service employees, for example.

It appears that there have been some reasons for the neglect of training, especially in PSE programs. Under existing law, 85 percent of the funds allocated to prime sponsors had to be used for wages—so little was left over for administration, overhead, training and supportive services such as counseling. And in the big buildup of 1977, pirme sponsors were under some pressure to place people on projects as quickly as possible. This left little time for prudent labor market planning or for the design of appropriate supplemental training programs.

The Human Resources Committee, on the recommendations of Senator NELSON and I, has taken several steps to insure that training is afforded CETA participants. First, training will be a mandated part of the title II–D program, "Public Service Employment for the Economically Disadvantaged." Every participant placed in a PSE slot under title II–D must be given appropriate training. Second, title II–D PSE programs must be designed, according to the statement of purpose in section 231, "to provide * * * transitional employment * * * to enable persons to move into employment or training not supported under this act."

In other words, Mr. President, PSE programs shall be designed to transition persons into unsubsidized employment, so prime sponsors will be required to operate those kinds of programs which improve the chances that participants will transition into permanent employment opportunities.

We intend title II–D to be a springboard into unsubsidized employment, therefore, and we have reinforced that intent by limiting enrollee participation to 18 months.

Title II–D, will become, I hope, like a "work/training-study program" for the structurally unemployed. I would like to see prime sponsors fund those kinds of programs in which the structurally unemployed spend, for example, two-thirds of their time on the job and one-third learning the necessary skills in classrooms or other modes. This is why it is so essential that educational institutions and community based organizations be involved in the design and implementation of title II–D as well as the rest of title II. These organizations can help prime sponsors design employment programs that emphasize the training aspects; they can insure that the idea of job preparation through work/study becomes a reality for people of all ages. Why

should we not experiment with PSA programs that entail part-time work and part-time learning, particularly for single heads of households? In my judgment, if we can have a jobs programs that has training built into it, which we do not now have, CETA will work far more effectively and it can become a permanent part of our country's human resources development strategy. Just think of the impact a work/training program of this kind could have on our welfare population.

In short, Mr. President, I think we can lay to rest once and for all the allegation of "make-work," and so forth by establishing this new work/training-study program in which the principal thrust is employment, but the principal objective is employability development and labor market preparation. I might add in this connection, Mr. President, that prime sponsors will not be required to place enrollees into projects in title II–D PSE because we wish to maximize the transition potential of this program and because it is unlikely that the low income, long-term unemployed are substitutable for regular personnel.

The third thing we have done in the committee is to give our prime sponsors the wherewithal they need to implement the training aspects that would be mandated in the bill. Section 233(b) of S. 2570 provides that not less than 90 percent of the funds allocated to prime sponsors be used for wages, training and supportive services. In other words, we have transferred training funds from the 15-percent pot in which they have been included historically, to the same pot where wages are provided for. Thus, training funds are given equal weight with wage funds in title II–D, PSE, in order to make possible a significant expansion of training and education.

Indeed, this is precisely the recommendation made by the National Commission for Manpower Policy in its recent interim report to Congress on "Job Creation Through Public Service Employment":

> Since the Commission looks upon PSE as providing temporary employment opportunities for the structurally unemployed, their transition into regular jobs must be the goal. While the length of time enrollees should spend on a PSE position may have to be adjusted in light of conditions in the local labor market, the proposed assignment should be in the range of twelve to eighteen months. Limits on the duration of participation in a PSE job are needed to enable a larger number of people to participate, to encourage enrollees to search for unsubsidized positions, and to limit job displacement.
>
> While a PSE position for this stipulated period may provide the support essential to some workers to facilitate their transition into regular employment, the Commission believes that for other workers with inadequate competences or obsolete skills, it is essential that they be afforded the opportunity to acquire new skills to improve their prospects of obtaining regular jobs. In order to improve the prospects of successful transition, the Commission recommends (4) that local sponsors be required to provide remedial education and skill training to enrollees in need of such assistance, and that they be directed to involve local employers more actively in the planning of local PSE programs so that they can contribute to designs aimed at improving transition.

INVOLVING THE PRIVATE SECTOR

This discussion of job training and of preparation for unsubsidized employment brings me to the next important part of the committee bill—title VII, "Private Sector Opportunities for the Economically Disadvantaged." Mr. President, I wish to be absolutely clear about one thing in this respect: I believe this proposal—to engage the private business community more directly in the development and operation of our training programs for the hard-to-employ—could not be more timely or more creative. I have advised the President personally that this may be the most important thing we do in CETA this year, and he deserves credit for proposing the idea this year.

I have long been identified in the Senate as the principal advocate of business-government partnerships to deal most effectively with many of our domestic social problems. Just last November, in a speech in New Orleans before the U.S. Conference of Mayors, I said:

> I believe a private-public partnership needs to be re-established so that the long term unemployed can be given training and a real chance at lifelong careers. And in late 1976, the late Senator Humphrey and I teamed up on a proposal in our youth employment bill, S. 170 to establish a program called "Youth Opportunities in Private Enterprise."

This program, like that described in title VII of S. 2570, was designed to foster improved cooperation between the public and private sectors in the development of job opportunities and would have encouraged prime sponsor local governments to fund on-the-job training programs in which for-profit employers and community based organizations were involved.

The key concept of title VII and of the proposals I have authored in this connection is that our Federal employment and training programs must concentrate both upon the supply side of the labor market, that is, upon skills development, education and training, and upon the demand side of the labor market—that is, upon the hiring and training decisions of individual firms.

It is true that OJT and private sector placement are going on in our CETA programs; we do not suggest here today or in our bill that prime sponsors or nonprofit community based organizations bear the responsibility for the lack of greater business community involvement. As Labor Secretary Marshall has pointed out, there has been a "missing link" in our CETA programs and we have not had the funds or the authority to marshal adequately the resources of the business community in training and placing the unemployed.

Since Senator NELSON has already explained in detail the provisions of title VII of S. 2570, and since I discussed these myself at great length on May 25 in a Senate speech following the White House meeting called by the President, I will not describe title VII at this point. But I do wish to underscore the role of community based organizations and local education agencies in the private industry councils that prime sponsors will establish under title VII.

The PIC's, as they are called, will have the responsibility of encouraging businesses to become involved in CETA training programs; the PIC's will promote OJT, for example, and will be the prime sponsor's direct link to the private sector. Heretofore, prime sponsors have not had at their disposal a link with the private business sector. There were various organizations, of course, that had greater or lesser success in private sector job development, but these did not exist in every area. Now every prime sponsor will be required to designate a PIC—which may be either an existing organization or an organization newly formed for this purpose, or may be a group of persons selected individually by the prime sponsor—which will be an operational entity promoting, fostering, and facilitating private sector participation.

There are two things that remain to be clarified about title VII. The first is that activities conducted under title VII, particularly OJT, should in no way displace similar activities being conducted under title I by other organizations. We have to be careful, amid all the fanfare about title VII, that we do not undercut implicitly or otherwise, the solid OJT programs now operated under title I. We would not like to see the PIC's, for example, competitively promoting OJT contracts among the same employers now engaged by prime sponsors or their grantees.

In this connection, I want to reassure my colleagues that the PIC's will not undercut the prime sponsors' role in CETA. Section 703(a)(b) and section 704(c) together provide that a condition of financial assistance under title VII will be that the prime sponsor and the PIC shall develop jointly the private sector initiatives program to be operated under title VII; that no activity will be funded which does not have the approval of both the prime sponsor and the PIC; and that the proposed plan for activities to be conducted under title VII shall be jointly agreed to before it is submitted to the Secretary by the prime sponsor. Some had expressed the concern, on the basis of the introduced bill that, in effect, there was no prime sponsor for title VII. The committee has addressed this concern directly through the new language of section 703(a) which reaffirms the preeminent role of the prime sponsor in the overall CETA plan while providing the opportunity for a relationship of collegiality and comity in the mutual consideration and approval of title VII activities.

This brings me to my next point, Mr. President, the role of CBO's and LEA's on the private industry councils. While in committee I was unsuccessful in mandating that these organizations be represented on the PIC's, I did succeed in obtaining language in section 704 which permits their representatives to be appointed by prime sponsors. This is an important provision because many community-based organizations (CBO) and local education agencies (LEA) have a demonstrated record of effectiveness in working with the private sector to obtain

employment and training opportunities for the disadvantaged.

I was very concerned that in the original title VII as sent up by the President CBO's and LEA's seemed to be overlooked and I feared they might interpret our actions as a vote of no confidence in what they have been doing. They are responsible for much of the OJT that takes place today and, in any event, do not deserve to be faulted because there is not more OJT. The Urban League, OIC, SER, VERA, and the other voluntary associations can teach us so much about placing and preparing the disadvantaged for employment in the private sector and, thus, should not be overlooked in title VII. I hope prime sponsors will take advantage of what CBO's and LEA's have to offer to help the PIC's succeed in what will be a difficult enterprise: getting the disadvantaged into regular employment. Indeed, there is no question in my mind but that the two institutions are indispensable to the success of title VII.

COMMUNITY BASED ORGANIZATIONS

Mr. President. this brings me to another subject of great importance. S. 2570 proposes significantly to enhance the role of community-based organizations in local CETA programs. I was a strong supporter of the amendment offered by Senators SCHWEIKER and RANDOLPH to direct that in selecting program operators prime sponsors give special consideration to community based organizations of demonstrated effectiveness. These organizations have a special relationship to the poverty community CETA is intended to serve and, thus, are well situated to reach the disadvantaged. This is a particularly valid consideration in the minority communities—black and Hispanic—where the Opportunities Industrialization Centers OIC's and Urban League affiliates, for example, have had such great success. Our committee intends that prime sponsors take a very hard look at the CBO's and consider carefully whether other competing program operators have the same capabilities and effectiveness that characterize the CBO's of our country.

I might add at this point that I do not believe prime sponsors have utilized adequately the services of community development corporations. The CDC's are authorized under title VII of the Economic Opportunity Act and are included in the definition community-based organizations in section 125(1) of this bill. CDC's like Bedford-Stuyvesant restoration in Brooklyn, N.Y., are private enterprise oriented, and can provide valuable private sector work experience for the unemployed, especially minority youth. Also, they are located in special impact urban and rural poverty areas and thus are situated where the endemic problems of minority unemployement are most debilitating. I hope the Department of Labor will encourage prime sponsors to use the CDC's capacity for providing private sector training opportunities as the vital bridge—intermediaries—to unsubsidized employment for disadvantaged minorities.

RETIREMENT

Another important subject that warrants attention today is the question of the appropriateness of using CETA funds for contributions to PSE workers' retirement systems. The Subcommittee on Employment, Poverty, and Migratory Labor heard a great deal of testimony on this subject, which was precipitated by recent regulations prohibiting the use of CETA funds for this purpose.

The problem, of course, is that few federally funded public service employees can be expected to remain in their positions long enough to vest and thus qualify for benefits, hence the use of CETA funds can become, in effect, revenue sharing for municipal pension funds. On the other hand, current law does provide that CETA jobholders are entitled to the same benefits received by regular personnel of the same employer. Prime sponsors find themselves between the rock and a hard place, therefore, because they are required to make contributions to retirement funds on behalf of PSE workers but cannot use CETA funds for that purpose. Section 121(o) of S. 2570 deals with the problem by authorizing the Secretary of Labor to issue regulations providing for the use of CETA funds for contributions to retirement systems, where those contributions bear a reasonable relationship to the costs of providing retirement benefits to CETA participants. In other words, the contributions permitted must be based upon some actuarially sound estimate of the benefits that will accrue to CETA participants.

This provision of the committee bill is central to the amendment the managers have worked out with a number of Senators and which the committee will accept. The amendment provides that local governments may classify CETA workers as temporary personnel for purposes of determining the appropriate retirement coverage, if any, and that allowable Federal costs shall be as provided for in section 121(o), to wit: based on the cost of providing retirement benefits to participants. In addition, existing CETA employees are "grandfathered in," and CETA funds may continue to be used for retirement contributions as long as they remain in the program. Thus, the test of "reasonable relationship of retirement costs to participant benefits" would apply only to participants enrolled after July 1, 1979.

PROGRAM FOR OFFENDERS

Mr. President, I also wish to touch upon the new provisions in title III, section 301(b)(2). which I sought, which directs the Secretary of Labor to conduct a special program to provide employment and training assistance for offenders.

In my judgment, we have really missed the boat in this vital area, and the statistics on the rate of recidivism in our country are evidence of that fact. We must make a major effort to provide special training programs to enable offenders to become productive members of society. A criminal record is such a great obstacle to regular employment that many offenders find it so difficult to believe that employers share the view that they have paid their debt to society. And this barrier is compounded by the fact that most ex-offenders lack marketable job skills. Small wonder it is that many ex-offenders resort to crime again when they are unable to find employment.

I hope Secretary Marshall will get squarely behind this program and encourage prime sponsors to submit innovative proposals in this area. My knowledge of present programs, like those operated by the Vocational Foundation in New York City and the supported work program, which receive really de minimis amounts of money, indicates that the benefits to society can be enormous relative to the economic, social, and human costs of crime. In my judgment, it would be appropriate for the Department to seek at least $5 million for the offenders program for fiscal year 1980 and to begin gearing up for that level by using as much of the fiscal year 1979 appropriation for title III as can be made available.

CETA-ES RELATIONSHIP

Mr. President, the relationship between CETA prime sponsors and State employment security (ES) offices has been a strained one since CETA was enacted in 1973. The employment service was left in somewhat of an anomalous position by CETA because its enactment brought about a major restructuring of our manpower delivery system. The then-existing networks of Federal-State-local relationships were severely disrupted as the decentralized-decategorized system was put in place. There have been many suggestions to deal with this situation, most notably the very gifted and provocative proposal of Representative BILL STEIGER. Others have suggested that it would be prudent to assign functional responsibility for delivery of specific services to CETA and to ES—employability development to the former and job development to the latter.

The Subcommittee on Employment, Poverty, and Migratory Labor studied many of the suggestions that have been put forward but decided in the end that it would be premature to mandate any consolidation of CETA and ES at this time. I have been persuaded that, to a greater or lesser extent, cooperation between prime sponsors and the Employment Service seems to be evolving quite naturally around the country and that the necessary accommodations are being made to achieve a working relationship. Furthermore, I suspect that some tension between these two agencies may be healthy, particularly in a decentralized system.

In any event, the committee decided not to take any action that would mandate a linkage between CETA and ES. The committee has directed the Secretary to report to Congress on the need, if any, for reform of the Wagner-Peyser Act, and plans to take up that legislation next year. While the Secretary of Labor will be making recommendations for legislation, the committee intends that the Department utilize available expertise in and out of Government in studying the Wagner-Peyser Act. I raised my concern in committee about the idea of the Department studying and reporting on itself, especially in respect of a matter as important as the CETA-ES relationship. I would hope the Department

would also contract for a study of the Wagner-Peyser Act to be done by some of the institutions which have an expertise in this area, such as Brookings, the Urban Institute, the National Academy of Sciences or one of the other expert groups. Alternatively, the Human Resources Committee might contract for such a study to be done. Then the committee will have the best possible expertise available to it in its deliberations on this matter next year.

LABOR-MANAGEMENT COMMITTEES

Mr. President, finally I wish to discuss today the provisions of section 6 of the committee bill, which would establish authority for the Federal Mediation and Conciliation Service to conduct a program in encouraging and assisting plant, industry, and area-wide labor-management cooperative committees.

I had been almost a lone voice in this "desert" for many years, Mr. President, in proclaiming the benefits that could redound to our country if we would begin to consider some innovative means to enlarge the commonality of interests which are outside of collective bargaining between labor and management. The collective bargaining process is, of course, our principal means for joint determination of the terms and conditions of employment. But there is a need for a new, supplemental dimension in labor-mangement relations in our country, to wit; a forum in which an ongoing dialog could be established, to discuss and involve workers in matters not addressed normally in the framework of collective bargaining. I refer to problems in the workplace—alcoholism, drug abuse, work hazards, continuing education, culture and the arts, recreation, group activity, participation in plant decisionmaking and working life values.

With the proper safeguards to protect the collective bargaining process, joint labor-management cooperative committees can do much to harmonize the relationship between labor and management in the workplace—and stabilize the labor relations climate—in a particular area and bring out new values. This in turn can help to improve employee morale, reduce tensions in the workplace and foster local and regional economic development.

I understand, Mr. President, that some have expressed concern about the fact that the proposed administering agency for this program is FMCS and not the Labor Department and its Labor-Management Services Administration or the Commerce Department. I wish to make clear that the decision of the committee to go instead with FMCS was a considered one and, I think, eminently justified. There are three criteria which are indispensable to the successful administration of this program, to wit: First, experience with labor-management committees; second, a reputation for absolute impartiality between business and labor; and third, a field staff of professionals who know and understand the local conditions under which these committees may operate. The Federal Mediation and Conciliation Service satisfies all three of these prerequisities. I hope the judgment of the Human Resources Committee will be sustained by the Senate and that we will be able to get this innovative program underway soon.

Mr. President, I hope my statement will bring about a better understanding of the concepts of the committee bill. Programs funded under the Comprehensive Employment and Training Act will be of even greater importance in the coming years, Mr. President, particularly if we are facing limits on what we are able to do in reducing unemployment through direct aid and budgetary policy. It may very well be that we have reached the phase where further reductions in unemployment will require much greater use of CETA's targeted structural and countercyclical employment and training programs.

The CETA bill reported by the committee meets this challenge and that of severe and prolonged structural unemployment—especially in our cities and among minorities. We may well encounter this situation—or worse—in the coming months and years. I commend S. 2570 to the Senate.

Mr. WILLIAMS. Mr. President, it is with great pleasure that I welcome the Senate's decision to proceed to the consideration at this time of S. 2570, the Comprehensive Employment and Training Amendments of 1978.

As chairman of the Committee on Human Resources, I can assure you that the road to this point has been long and hard and studded with controversy. There have been innumerable difficult decisions that had to be made, and there will be more in the days ahead as the Congress moves toward enactment of this important legislation.

But I am greatly encouraged by the signs of gathering consensus that the CETA program is valuable to the Nation, that it should be reauthorized, and that the committee's bill is a solid effort to strengthen the program and refocus it on the most pressing needs of today and of the months ahead.

The administration of President Carter has endorsed the bill with minor changes that we are prepared to accept. The State and local officials who comprise the system of CETA prime sponsors that operate the program have stated their support. Several of my colleagues have prepared amendments to further strengthen the bill and have offered their support for the legislation as so amended.

Mr. President, we owe a special debt of gratitude for their tireless and inspired work on this legislation to the distinguished chairman of the Subcommittee on Employment, Poverty, and Migratory Labor (Mr. NELSON) and the distinguished ranking minority member of the subcommittee and the full committee (Mr. JAVITS). Their expert and determined leadership has made it possible to bring before the Senate a very complex and meaningful bill which I believe has earned the overwhelming support of our colleagues.

Over its 5-year history, CETA has become one of the Federal Government's most important programs. It is one of the cornerstones of a new and thriving partnership that engages the cooperation of the Congress, the administration, and State and local governments in common effort to meet national priority needs. But more important, it has become a basic tool for helping unemployed and disheartened citizens find a meaningful and satisfying place for themselves in a working nation. Each year, more than 4 million Americans are provided the chance for job training or temporary employment under the CETA program.

From the standpoint of the Nation's economic health, CETA has been vital in the recovery from the worst recession in 40 years. The system of State and local prime sponsors was in its infancy when that recession began 4 years ago. We asked them to make it their first priority to provide jobs for workers who were thrown out of work by the economic contraction. The original priority of providing training and job development for the chronically unemployed had to be compromised in the economic emergency.

Under the extremely difficult circumstances, the prime sponsors performed well. They developed thousands of public service work projects, the overwhelming bulk of which contributed demonstrably to their communities. At the same time, they tended to the skill development needs of the chronically unemployed, provided hundreds of thousands of summer jobs for youth each year, and developed new and imaginative youth employment and training programs for dealing with the Nation's most severe unemployment problems.

Mr. President, with S. 2570 we are requesting that the prime sponsor system readjust its focus to meet the needs of the chronically unemployed in a recovering economy. Training and employability development, which are more pertinent to this challenge, would be greatly emphasized under this legislation. And the participation of private business would be specifically expanded in an effort to convert new skills into permanent employment in the private sector.

Critics of the program, becoming all the more disenchanted with reports of abuses of CETA funds, have leveled their sights on this legislation. The criticism of abuses has been well deserved, although it is important to bear in mind that misuse of funds constitutes a small percentage of the overall CETA effort.

But abuse must be rooted out, and the committee has taken strong steps to insure that it is. The bill mandates greater accountability over the management of funds by prime sponsors, their program agents, and subcontractors. New anti-abuse and fraud amendments were added by the committee to improve audit procedures, provide for ready access by the Secretary of Labor to prime sponsor records, and provide criminal penalties for obstructing investigations.

Another area of major concern has been the substitution of CETA workers for regular employees of public and nonprofit bodies and for providing services that customarily had been provided with other financial resources. The committee has dealt with this concern, as well.

The bill would tighten eligibility requirements for public service employment, place restrictions on the maximum

level of Federal wages paid to participants, limit the amount by which wages may be supplemented by local funds, restrict participation to long-term unemployed persons, and require termination of employment of participants to insure that CETA jobs provide only temporary employment.

A new provision added in committee requires an assessment of each participant's employment and training needs upon entry into CETA, and the development of a personalized employability plan. The responsibility of the prime sponsors and program agents would be to develop the participant's employability through a mix of services designed especially for that individual.

In an effort to target program services on special groups most in need, the bill contains a number of demonstration programs with limited authorizations so that different approaches to the problems can be explored in model programs.

The achievement of long-term economic objectives and lower unemployment rates depends partly on the success of policies to reduce structural unemployment. How well the structural aspects of unemployment are reduced will determine how far we can go in reducing unemployment without risking a new round of inflation.

AN INFLATION HEDGE

S. 2570 is a tool not only for cutting unemployment but also for ameliorating the inflation rates that threaten to steer the economy into another recession.

The economic report of the President, released this year, reinforced the critical role of CETA in economic policy:

> Reaching a low rate of unemployment without initiating increases in the rate of inflation will require effective structural programs as well as overall monetary and fiscal policy. Programs that increase access to jobs for groups with high unemployment not only serve the interests of economic justice, but help us avoid the excessively tight labor markets and inflationary pressures that might otherwise arise in a period of high unemployment.

The Committee for Economic Development, an independent group of businessmen, released a report in which a clear consensus emerged that "unemployment and underemployment are costly both to society and to the economy." The CED study recommended that—

> Government programs to train and provide jobs for the hard-to-employ, including public service employment, must continue to play a major role in national manpower policy.

The business group welcomed "recent increased emphasis by both Congress and the administration on direct measures to deal with the unemployment problems of hard-hit groups, particularly disadvantaged youths and veterans."

Assistant Secretary of Labor for Policy, Evaluation, and Research, Arnold Packer, in testimony before the Joint Economic Committee, explained the importance of CETA to the Nation's economy:

> During a time of increasing risk of accelerating inflation, targeted employment and training programs can play an important role. First, since PSE jobs targeted to the structurally unemployed do not attract workers with skills likely to be in short supply, it is less inflationary to expand PSE employment by increasing aggregate demand through a tax cut or other form of macro stimulus. Second, successful training programs increase the pool of skilled workers from which firms may draw, and thus help to eliminate labor market bottlenecks and inflationary wage pressure in the private sector.

The activities proposed in this legislation would utilize this tremendous human resource through training, skill development, public service employment, location of jobs for special groups with very high unemployment rates, and improved coordination of information for career choices by new entrants in the labor force.

ABUSE PREVENTION

Abuses in CETA programs are manageable and would be reduced substantially under the committee's amendments. Secretary Marshall has noted that out of 450 local prime sponsors and 2,800 subgrantees, the Department received and investigated 203 allegations of improper activities inolving the CETA system last year. The Department's investigations concluded that, at a minimum, well over 95 percent of the agencies that administer the CETA program are operating effectively.

In the past, the major problem for the Department's investigative actions was in getting timely access to CETA records. These proposed amendments would make destruction of CETA records, as an effort to thwart an investigation or audit, a criminal offense.

In order to provide the most effective review and investigation of potential program abuses, the Department of Labor has consolidated the functions of audit and investigation into one permanent Office of Special Investigations. Their ability to effectively monitor and investigate the CETA programs has been greatly enhanced as a result, and new resources are being brought to bear in order to minimize the administrative problems involved in such a large, decentralized system.

SUBSTITUTION CONTROL

Two key provisions of the current law are designed to prevent substitution of Federal CETA funds for local revenues to maintain services and pay regular employees. One prohibits local governments from using CETA funds for regular services that would be provided customarily by local governments in the absence of CETA; the other prohibits the hiring of CETA employees to displace regular civil service employees or to fill job openings created by layoffs or termination of regular workers. CETA employees are to provide services that would not otherwise be provided, and their place on the public payroll is to supplement, not to supplant, regular public employee positions.

Most of the abuses of the program cited in previous studies occurred under the original version of PSE enacted in 1975. The level of substitution decreased measurably after the 1976 amendments which required that jobs be of 1-year duration in projects of demonstrable public benefit, and that participants be long-term, low-income unemployed or welfare recipients.

Assistant Secretary of Labor Ernest Green stated before the committee that the Department's experience with the project approach has substantially reduced the incidence of substitution. The new criteria were of greater consequence, tighter eligibility requirements reduced the number of public employees who might qualify, and the projects provided services outside the scope of regular public services.

The committee amendments in S. 2570 assure further control over the drain of substitution. Low-income persons at or below 70 percent of the lower-living-standard budget become the target group. New limitations on the length of participation and the level of wages received by participants will encourage a transition into unsubsidized employment.

WELFARE PREVENTION

In addition to the committee bill's general new focus on efforts to assist the poor and disadvantaged, title III authorizes the Secretary to conduct demonstration and experimental programs to test and analyze a variety of employment and training alternatives to public assistance and other forms of income assistance for employable persons.

The committee bill, in addition, would expand program eligibility to new groups receiving or eligible for public assistance. The bill includes specific new definitions of "economically disadvantaged," "under-employed persons," "unemployed persons," and the "low-income level" which expand services to welfare recipients, foster children, families with income below the poverty level, and institutionalized persons in sheltered workshops, prisons and hospitals.

The committee bill refocuses CETA resources on training and employability development for the hard-core unemployed. It would be the framework of public policy for introducing individuals into a structured work environment who would otherwise be passed over by the private sector and provides an opportunity—and for many the only opportunity—from which welfare-prone individuals could subsequently advance to steady unsubsidized jobs.

A new section was added to the committee bill—section 205—that requires an assessment of each participant's employment and training needs upon entry into CETA, and the development of a personalized employability plan. The primary responsibility of the prime sponsor would be to develop the participant's employability, rather than merely to employ.

Under title II, comprehensive employment and training services for the disadvantaged, the committee bill adds a new section—section 214—to explicate services for youth. Combined with the new programs authorized under the Youth Employment and Demonstration Projects Act of 1977 (YEDPA), CETA services to youth would provide a broad range of alternatives to a future cycle of welfare dependence.

PRIVATE SECTOR INITIATIVES

Another important addition in the committee bill is a new title VII to es-

tablish demonstration programs for increasing private sector involvement in employment and training programs for the economically disadvantaged. It would develop greater opportunities for a direct transition into private sector employment with a chance for advancement.

In its recent study, the Committee for Economic Development (CED), said that a clear consensus has emerged that the private sector must step up efforts to train and employ the disadvantaged because "unemployment and underemployment are costly both to society and to the economy." They welcomed recent increased emphasis by both Congress and the administration on direct measures to deal with the unemployment problems of hard-hit groups, particularly disadvantaged youths.

The CED report also stated to its members that the principal stress of public policy should be on developing productive jobs rather than on paying people for not working They noted that the chronically jobless usually receive transfer payments such as unemployment insurance, welfare payments, and food stamps and concluded that putting them into productive work in the private sector could lessen some inflationary Government expenditures.

The White House has already received the commitment of business and industry leaders to participate in title VII activities.

Mr. President, we cannot allow ourselves to lose sight of the purposes of this act. We cannot close our eyes to the human faces of unemployment and discouragement that daily stand in line at the unemployment office or wait to buy food stamps. We should not forget to count the ones whose unemployment benefits—meager amounts in State after State—are about to run out. Their worry and despair continues to grow as joblessness lingers on.

This is not an imaginary picture of the future. This is the way things are now for millions upon millions of American families who are lost in the monthly statistics, computer projections, and economic analyses.

For the 6.2 million American workers now unemployed, the situation is too critical to wait for future improvement in the economy. For them, what counts is a chance for a job or the chance to acquire skills that will land a job.

Today's economy, troubled as it is, cannot be compared fully to the rickety structure that fell apart in 1929 to create the Great Depression. We have unemployment insurance, social security, protection for savings accounts, and public assistance programs that were not there in the 1930's.

But the important point is that there are nearly as many individuals out of work today, and we are doing less to help them get a job.

Our commitment to the unemployed must be reaffirmed. The Federal Government has a duty to stimulate economic expansions, but it also has a responsibility to directly create new job and training opportunities for those who can find no other productive work. I see no alternative for taking up the slack while the Government experiments with new and unfamiliar economic remedies.

Any threat to cut our commitment to jobless Americans runs the risk of destroying the progress already made in putting America back to work. Secretary Marshall warned on July 25 that to base a change in CETA policy on the popular notion that unemployment has declined so much that we no longer need a large-scale public service jobs program "is a very dangerous misconception." He added that unemployment cannot be kept under 6 percent next year without a full-scale PSE program. Marshall declared that—

To begin to dismantle the CETA program now is like disbanding your army in the middle of a war just because you have won an important battle.

I am confident that we are not prepared to backtrack on that commitment. We must hold to our conviction that our Nation must provide for those in need or be prepared to suffer not only future economic stagnation, but stagnation of the spirit as well.

Mr. NELSON. Mr. President, I realize we only have until 4 p.m. and then this legislation is to be set aside. Senator DOMENICI has some amendments which we have explored with him and which we are prepared to accept.

I understand, first, the distinguished Senator from Maine wishes 30 seconds.

Mr. HATHAWAY. I thank the Senator.

I am waiting for Senator WALLOP to come to the Chamber.

Mr. NELSON. All right.

I yield the floor to the Senator from New Mexico.

Mr. DOMENICI. Mr. President, first, I thank not only Senator NELSON and Senator JAVITS, but also the majority and minority leaders for accommodating me this afternoon. I have had a genuine interest in this bill. If we had not proceeded in this manner, I might not have been able to participate. I am most appreciative.

UP AMENDMENT NO. 1707

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

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New Mexico (Mr. DOMENICI) proposes unprinted amendment numbered 1707.

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

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

The amendment is as follows:

On page 254, line 14, strike lines 14–17 and insert the following:

"(1)(A) To coordinate programs under this Act with existing vocational education programs.

"(B) To provide needed vocational education services.

"(2) To coordinate the utilization of funds under this Act and the Vocational Education Act of 1963 to enhance economic growth and development in the State.

"(3) To develop linkages between vocational education, education, and training programs under this Act and private sector employers.

"(4) To provide technical assistance to vocational education institutions and local education agencies to aid them in making cooperative arrangements with appropriate prime sponsors.

"(5) To provide information, curriculum materials, and technical assistance in curriculum development and staff developments to prime sponsors.

Mr. DOMENICI. Mr. President, this amendment will more specifically define the role of the State boards of vocational education in using funds under section 204 of CETA.

As we all know, our present CETA and vocational education programs have served our Nation very well for the most part. However, expansion of employment opportunities under these two programs can be improved if we can achieve better coordination between CETA prime sponsors and vocational education program administrators. Better coordination will go a long way toward minimizing duplication of effort and insuring that these two valuable programs no longer work at cross purposes.

Better technical assistance must be provided to vocational and local educational agencies so that they can make more efficient use of CETA funds. Furthermore, adequate information on curriculum materials, technical assistance in curriculum development, and staffing—must be provided to prime sponsors. My amendment, if implemented, will achieve both goals.

This amendment addresses the need to coordinate the use of funds under the Comprehensive Employment and Training Act and the Vocational Education Act of 1963. Improved coordination will enhance economic growth and development throughout the Nation. Furthermore, my amendment envisions the establishment of definite links between CETA, vocational education, and private sector employers.

Duplication of effort by CETA and vocational education program sponsors is a waste of precious resources and simply must be eliminated. My amendment will not only provide coordination between these two programs but it will also harness the creative potential of the private sector in our efforts to provide meaningful training and employment opportunities for Americans who need them.

Mr. President, I hope the managers of the bill will see the wisdom of my amendment and accept it and work for its retention in conference.

It is my understanding that this amendment is acceptable to the managers of the bill.

Mr. NELSON. Yes. We have looked at the amendment and it clarifies the issue as to the role of vocational education. It properly states our intended objective in the bill.

I have no objection to it.

Mr. JAVITS. Mr. President, I have no objection to the amendment. We too have considered it and we think it is helpful with respect to the bill and its fundamental purpose.

The PRESIDING OFFICER. Do Senators yield back their time?

Mr. DOMENICI. I yield back my time.

Mr. JAVITS. I yield back my time.

The PRESIDING OFFICER. Does the Senator from Wisconsin yield back the remainder of his time?

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

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

The amendment was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. DOMENICI. Mr. President, I am not going to offer an amendment on the eligibility criteria. Most of those goals are covered by CETA. However, I wish to briefly discuss a concern.

Mr. President, my research and study of the present CETA eligibility criteria convinces me that the present standards mitigate against broad scale participation in the CETA program, by single individuals particularly, women and elderly persons. During the past few weeks, my staff and I have looked at eligibility criteria contained in various Federal employment programs, but were unable, due to time constraints and the complexity of the subject, to come up with a well-thought-out and equitable set of eligibility standards which could be applied to women and the elderly.

I am very pleased, therefore, that the Human Resources Committee has, at my suggestion, included language in S. 2570 authorizing the National Commission on Employment Policy to conduct a study of present CETA eligibility requirements and their impact upon women and older persons. Although our present eligibility criteria have proved adequate for most segments of our population, which are tied to 70 percent of the Bureau of Labor statistics lower living standard budget, they must be reviewed and revised with a view toward facilitating increased participation in the CETA program by women and the elderly. Arriving at an equitable formula will be a difficult task which will warrant all the time, expertise, and attention that the National Commission on Employment Policy can render. Again, I am most pleased that language authorizing this study is being incorporated into S. 2570 and I look forward to the positive recommendations I know the Commission will produce.

Mr. President, the distinguished Senator from Florida (Mr. CHILES), and I presented many ideas, including our own bill, as a format to the Human Resources Committee. I am most appreciative for the consideration they gave to many of our ideas.

Although the Human Resources Committee agreed to include extensive report language in this bill outlining the voucher demonstration project authorized under CETA, this language was inadvertently omitted from the committee report.

I am pleased that the committee agreed to include detailed descriptions of the voucher plan in the opening statements the managers have presented here to the Senate.

The provisions authorize the Secretary to demonstrate the efficacy of providing vouchers to unemployed or underemployed persons who are economically disadvantaged. These are important provisions, and I thank the floor managers for including language in their statements which will clarify this matter for the Secretary. I hope, we will be able to get some tax language passed in the new tax reform bill that will make these tax deductions work so that the package can be put together.

Mr. President, although the Senate Human Resources Committee agreed to include extensive report language on S. 2570 outlining the voucher demonstration project authorized under CETA, this language was inadvertently omitted from the committee report. I am pleased that the committee agreed to include a detailed description of the voucher plan in the opening statement of the floor managers on the CETA reauthorization bill now under consideration.

This provision authorizes the Secretary to demonstrate the efficiency of providing vouchers to unemployed or underemployed persons who are economically disadvantaged. The vouchers will serve to subsidize, temporarily, a CETA trainee's first experiences in the private job market. Two years after enactment of the 1978 CETA amendments, the Secretary shall report on the effectiveness of the voucher demonstration project and make appropriate legislative recommendations to Congress.

Mr. President, S. 2805, the Comprehensive Education and Training Act amendments which I introduced with Senator CHILES contained a voucher program similar to the one in S. 2570. I am pleased that the Human Resources Committee has decided to test the voucher system as one tool to increasing employment opportunities among economically disadvantaged persons. As a strong proponent of increased private sector involvement in the CETA program, I am anxious to see this demonstration project implemented. This approach appears to me to be an excellent way to encourage private sector employers to hire CETA-trained personnel whose previous employment record might not qualify them for entrance into the labor market at the prevailing minimum wage.

The voucher demonstration language which is now included in the floor managers' statement will serve to strengthen linkage, cooperation, and coordination between CETA and the private sector. I look forward to the role these provisions will play in strengthening Federal efforts to reduce hard core structural unemployment.

I understand the distinguished senior Senator from Florida (Mr. CHILES) is here. I very much appreciate the leadership he has taken with reference to this CETA bill. In particular, I appreciate Senator CHILES' work on the older workers provisions in the bill.

Mr. President, recent hearings on retirement, work, and lifelong learning, conducted by the Senate Special Committee on Aging, focused extensively on the employment needs of older Americans. In increasing numbers, today's healthier and more energetic senior citizens desire to remain productive for longer and longer periods of time. The Congress must begin to accommodate these seniors by making Federal employment programs more responsive to their needs to remain in or reenter the work force.

In his testimony during these hearings, Secretary Marshall indicated that Labor Department efforts to provide increased work opportunities to older Americans are already underway. However, Labor's CETA program has potential for older workers that has not yet been realized. According to the Civil Service Commission, there is conclusive evidence of age discrimination in CETA. This is a severe underutilization of potentially a productive segment of our society.

I am very pleased that the Human Resources Committee has incorporated into the Comprehensive Employment and Training Act amendments to the older workers program Senator CHILES and I have proposed. It is hoped that this section of the bill will accomplish the following goals:

First. Assist older workers to develop employment skills which will enable them to remain in or reenter the work force;

Second. Ease the transition of older workers from one occupation to another within the labor force, and from nonparticipation to participation in the labor force;

Third. Provide outreach, orientation, counseling, and placement assistance to potential older workers;

Fourth. Provide assistance to employers as they implement flextime, work sharing, and other innovative work arrangements;

Fifth. Help to overcome sex stereotyping in employment practices. This provision will especially benefit the displaced homemaker;

Sixth. Coordinate services for older workers with services provided by senior centers, area agencies on aging, and State agencies on aging; and

Seventh. Enable CETA prime sponsors to contract with State and area agencies on aging and other public and private nonprofit organizations for services to older workers.

One of the most persistent criticism of the CETA program has been its failure to provide additional job opportunities to older workers. By providing an older workers program which is geared to the needs of this large and growing segment of the population, we seek to address what is becoming a major economic problem in this country. It is critical that we provide suitable work modes for an aging work force.

In closing, Mr. President, let me say that over the past 5 years the CETA program has become a viable partnership among all levels of government—Federal, State, and local. We have learned a great deal from the experiences of the last 5 years. Senator CHILES and I have sought to build upon this foundation with our older workers program and

we believe our efforts will significantly expand the effectiveness of this vital program.

Mr. President, I would like to ask the floor managers of the bill a few questions with regard to the older workers provisions.

Do the managers believe that the age discrimination in employment amendments, which will become effective January 1, 1979, will eliminate the discrimination found in CETA by the Civil Rights Commission?

Mr. NELSON. Mr. Arthur Flemming of the Civil Rights Commission, testified on that point, and he testified that they had found discrimination in CETA and other Federal programs based on age and sex. We are satisfied that if the law is complied with as now drafted that that discrimination that was found by them will be eliminated.

Mr. DOMENICI. I thank the distinguished Senator.

The Senator from Florida had some questions on this same subject.

Mr. CHILES. Mr. President, if I might ask the distinguished chairman, frequently, older women, who have become displaced homemakers, have limited or no employment skills. How can we insure that the special employment needs of displaced older homemakers are met in the regular CETA program under titles II and VI, as well as in the new title III categorical section?

Mr. NELSON. Under section 122(c)(3)(A) we provide that special emphasis will be given to displaced homemakers for public service employment jobs in titles II and VI, as well as in the new title III categorical sections.

Mr. CHILES. I thank the distinguished Senator for that answer.

Many older workers are not desirous of full-time employment. Their needs are for part-time work, work sharing, and flexitime arrangements. How can the CETA program help fill the older workers' needs for innovative work modes?

Mr. NELSON. Titles II and VI provide for alternative work schedules to be provided to meet the need that the Senator raises.

Incidentally, we also, as you know, reported or will be reporting shortly from the Human Resources Committee the flexitime bill that would provide a number of alternative working arrangements to workers in the Federal Government. These alternative working arrangements are intended to assist a number of worker groups including older Americans.

Mr. CHILES. Would it be advisable to recruit qualified seniors into the actual administration of CETA programs throughout the country? Could recruitment of older personnel into the CETA program itself insure a heightened sensitivity to the employment needs of the older worker?

Mr. NELSON. Well, I have no doubt that there are a good many senior citizens who are well qualified to assist in the actual administration of CETA programs. But that is a managerial question for the prime sponsor, I think, to decide and not for us to try to mandate in the management or running of a local program by a prime sponsor.

Mr. CHILES. But the Senator's opinion would be that that could be beneficial to the program?

Mr. NELSON. I think it could be, and I think there are programs that are using qualified senior citizens now in the management side of these programs.

Mr. CHILES. I thank the distinguished chairman.

Mr. President, now that the age discrimination in employment amendments have been enacted, we must begin to focus on ways to make our Federal employment programs more responsive to the needs of senior citizens. The CETA program, which has a tremendous capability to fill the employment needs of older Americans, is an appropriate place to begin to remove the barriers seniors face as they attempt to enter or reenter the work force.

The older workers provisions which Senator DOMENICI and I have incorporated into the CETA reauthorization bill stress not only the importance of assistance in the development of employment skills, but also outreach, orientation, counseling, and placement services to potential older workers. Furthermore, by enabling CETA prime sponsors to contract with State area agencies on aging and other public and private nonprofit organizations, our provisions will dramatically increase older worker participation in the CETA program.

With regard to senior citizen employment, the need, for the most part, is not full-time jobs. Older Americans are more interested in innovative work modes, like work-sharing and flextime arrangements. Our older workers provisions provide assistance to employers as they implement the kinds of alternative work styles for which seniors are best suited.

The following are other important components of the CETA older workers program:

First. Career training to facilitate the transition of older workers from one occupation to another;

Second. Elimination of barriers to employment presently facing older women who have become displaced homemakers; and

Third. Job placement assistance to overcome age stereotyping and age discrimination.

I believe that our older workers program represents a comprehensive attempt to facilitate the entrance or reentrance of senior citizens into the labor force. These provisions, if vigorously enforced, will insure increased utilization of the as yet often untapped resources of our older Americans.

I yield to the distinguished Senator from New Mexico.

Mr. DOMENICI. I thank the Senator from Florida.

UP AMENDMENT NO. 1708

Mr. President, I have an unprinted amendment which I send to the desk in behalf of Senators CHILES, BELLMON, MCCLURE, BROOKE, and BARTLETT, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Mexico (Mr. DOMENICI), for himself and others, proposes an amendment numbered 1708.

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

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

The amendment is as follows:

On page 190, line 5, insert the following: delete "and" and add the following new subsections:

Page 190 1.7, insert the following:

(11) Include a detailed description of record keeping procedures which will allow the Secretary to audit and monitor the prime sponsor's program, concerning eligibility of participants and propriety of participant selection procedures and practice;

(12) Include a detailed description of procedures for the monitoring and auditing of any subgrantees or subcontractors; and page 190, line 6, redesignate (11) as (13)

Page 244, after line 17, insert the following:

"(f) In the annual report required under subsection (a), the Secretary shall report on the monitoring and auditing activities of the Department, on administrative changes made or proposed to improve such activities, and on actions taken under section 106, and shall make any necessary proposals for legislative action."

Page 383, line 3, at the beginning of the line, insert:

"knowingly hires an ineligible individual or individuals,"

Page 197, line 11, insert the following new section:

"Section 106 (a) There is hereby established in the office of the Secretary a division for monitoring and compliance. This office shall monitor and audit program recipients with regard to eligibility of participants, abuses in participant selection, and any other violations or improprieties."

Page 197, line 11, redesignate section (a (1) as (b).

Mr. DOMENICI. Mr. President, this amendment addresses the issue of fraud in the CETA program. Instances of fraud and abuse within the CETA program have received widespread coverage in the press in recent months.

When this program was first enacted, I remember telling the senior Senator from New York (Mr. JAVITS) that we had experimented with a pooling of the old job-training programs in the city of Albuquerque when I was its mayor. I expressed the hope that we would pool all of the job-training programs. The focal point of CETA was to let it be run by State governments and local prime sponsors.

What has happened now is that there are those around the country who are beginning to say, "You see, we told you the States could not run these programs." That is simply not true. They run them as well as the Federal Government. But they must be more careful. They must vigorously follow the rules set down in this bill with reference to favoritism, nepotism, and political opportunism. The contractors and subcontractors that are used in the field by the prime sponsors are not adequately monitored. If these sponsors do not perform the work expected of them, if they create sham corporations, if they are guilty of abusing the tax dollars and the confidence of the American people then we

have failed to administer this vital program in a prudent and appropriate manner.

We need a national system to monitor prime sponsors, subcontractors, and contractors. In this manner, the fraud and abuse we have found can be eliminated. Although I do not think the abuse is as rampant as the initial stories indicate, I still feel we must put in the bill language with some real teeth for a system of national and local monitoring and auditing. Ultimately we must strengthen the sanctions against nepotism and favoritism in this bill.

Basically, my amendment sets up a monitoring system, and extends the criminal penalties that are already in the bill to the contractors and subcontractors. Mr. President, I remain committed to the concept that local governments and local prime sponsors can manage this program better than the Federal Government. I would hope that the State and local sponsors would get behind my amendment and help to fully implement as promptly as possible.

Mr. President, instances of fraud and abuse within the CETA program have received widespread coverage by the press in recent months. It is extremely unfortunate that a program like this, with its great potential for combating structural unemployment, has been subject to fraud and mismanagement. However, there are many fine and effective programs being administered under CETA. Not all of the taxpayers' dollars are being misused or spent for frivolous purposes.

However, the problem of abuse in some States is very real—and definite steps must be taken to eliminate fraud and management of CETA funds. I am proposing an amendment to the CETA reauthorization bill designed to eliminate misuse of CETA dollars. My proposal allows the Secretary of Labor to audit and monitor prime sponsor programs. Emphasis is placed upon the importance of thorough auditing and monitoring of subgrantees and subcontractors. My amendment further requires the Secretary to report on the monitoring and auditing procedures undertaken by his department, to note any noncompliance actions taken under section 106, and to propose legislative remedies to the Congress, if necessary. In addition, this amendment provides for the establishment of a monitoring and compliance division within the Office of the Secretary of Labor to report on any abuses in participant selection, and other violations or improprieties.

I believe my fraud and abuse amendment represents a comprehensive attempt to ferret out fraud and abuse within the CETA program. These provisions, if vigorously enforced, will eliminate many imperfections in the CETA program and eradicate the misuse of Federal dollars. At the same time we can insure that CETA's positive role in reducing hardcore unemployment is retained.

This amendment to control fraud focuses on strict monitoring of the participant selection process making it a criminal offense to knowingly hire an ineligible participant. In addition, this auditing of prime sponsors and subcontractors will focus on the provisions already included by the committee in section 123(h) to control and eliminate nepotism, conflict of interest, kickbacks, political patronage, and other fraudulent behavior.

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

Mr. DOMENICI. I yield to the Senator from Florida.

Mr. CHILES. I just wish to associate myself with the Senator's remarks and say I am delighted to be a cosponsor of the amendment to monitor fraud and abuse in the CETA program. I think it adds a lot to the bill. Many of us know that CETA has done some good and important work and there is much to be done, especially with structural unemployment, with the problems of disadvantaged workers who need training and trying to deal with some of the problems like older Americans who cannot get work. I am particularly pleased that the thrust of this bill as reported by the committee is to redirect the program to the problems of the hardest persons to employ. One reason that the program has lost public credibility is that we have pushed local governments to hire more people than they can absorb. We have the feeling on the part of people that CETA is the biggest ripoff program that ever came down the pike. We have all seen the horror stories, and certainly there have been too many of them. There have been all the problems that the Senator from New Mexico has raised.

Unless we can assure the people that those things can be stopped, that it is not going to be used by someone as the favorite tool to put his relatives on the payroll or for political patronage or for out-and-out stealing, unless we can assure people of that, there will not be a CETA program. And there should not be, unless it can be run on a better basis and eliminate many of the problems that have come up in the past.

I think setting in motion this kind of effort to investigate fraud and abuse is exactly what we need to do. We have given the Secretary a very broad requirement, not just to investigate strict violations of the law, but to investigate any improprieties in the selections of participants, even if they technically fit the eligibility requirements. That will let us get at problems like the hiring of relatives. I have gone a step further and asked the chairman of the Appropriations Committee to send its new investigations unit into some of these areas and tell us just how the fraud and abuse is occurring, so that we can take corrective action from the Appropriations side. I think the amendment would be helpful to the bill, and I urge my colleagues to support it.

Mr. DOMENICI. I thank the Senator.

Mr. NELSON. Mr. President, I am agreeable, as manager of the bill, to this amendment. I understand that if we can agree to yield back the time and vote by a quarter to four, we can vote today. Is there anyone who needs time on the amendment?

Mr. BROOKE. I do. I have an amendment to the amendment, but I will be very brief.

Mr. NELSON. Mr. President, I yield to the Senator from Washington for a unanimous-consent request.

Mr. JACKSON. Mr. President, I ask unanimous consent that Mike Harvey of my staff be given the privilege of the floor for today.

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

Mr. JAVITS. Mr. President, I thoroughly approve of this amendment. I shall vote for it, and believe the sooner we get to a vote, the better.

I shall enlarge my remarks similarly, on the assurances respecting the advantages, many of which are written into the bill. I approve the work, thoroughly endorse it, and will support it.

The PRESIDING OFFICER. The Senator from Massachusetts.

UP AMENDMENT NO. 1709

(Purpose: To provide for an Office of Management Assistance)

Mr. BROOKE. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment is not in order until time on the principal amendment is either consumed or yielded back.

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

Mr. NELSON. The amendment, since it is a perfecting amendment, is acceptable. I yield back the remainder of my time.

Mr. BROOKE. Mr. President, I rise in support of the amendment offered by my distinguished colleague, Senator DOMENICI. For I believe this amendment would contribute to the diminishment of inconsistencies which may be found in the CETA program.

However, I do wish to state at the outset that it is my opinion that CETA has served as a positive step toward meeting the needs of the unemployed, the underemployed, and the economically disadvantaged. And, I believe that on the whole, CETA has functioned well and must be considered as an integral part of any program to reach the goal of full employment.

Yet, there are some serious flaws within the existing CETA program. And, I believe that the amendment now being considered, in conjunction with the perfecting amendment which I intend to introduce, will help to insure the delivery of effective and efficient employment and training services.

Indeed, the need for this legislation and these amendments have arisen, in part, from the tremendous burden which has been placed on the CETA program by the creation of three-quarters of a million public service jobs. The rapid expansion of these jobs programs has resulted in inadequate resources being devoted to the supervising, auditing, and monitoring of prime sponsor CETA programs. And, this inadequacy has contributed to the widespread suspicion of fraud and abuse.

Therefore, the division for monitoring and compliance, as set forth in the

Domenici amendment, is designed to assist in the Federal oversight of instances where fraud and abuse may be found. This amendment, coupled with the existing provisions in the bill, will aid in promoting economy and efficiency in program operations.

My perfecting amendment would establish an Office of Management Assistance to enable the Department of Labor to offer complete management and technical advice to prime sponsors where needed, and particularly when recommended by the Division for monitoring and compliance. This office would also be responsible for providing technical assistance to prime sponsors, when requested. Certainly, this will have a salutory effect on the CETA program in general.

Mr. President, I submit that these amendments and this bill will serve to provide substantive and substantial improvement in the CETA programs, while helping to curb and eliminate instances of fraud and abuse. I am hopeful that a majority of my colleagues will join me in adopting these sorely needed amendments.

I have discussed this with the proponent of the amendment and the floor manager (Mr. NELSON) and I understand it is acceptable. Is that correct?

Mr. NELSON. Mr. President, does the Senator from New Mexico wish the yeas and nays?

The PRESIDING OFFICER. The amendment will be reported.

The assistant legislative clerk read as follows:

The Senator from Massachusetts (Mr. BROOKE)—

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

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

The amendment is as follows:

At the end of the amendment add the following:

On page 249, between lines 6 and 7, insert the following new section:

"OFFICE OF MANAGEMENT ASSISTANCE

"SEC. 135. The Secretary shall establish, in the office of the Secretary, an Office of Management Assistance and shall assign to such office such especially qualified accountants, management specialists, and other professionals as may be necessary and available to provide management assistance to any prime sponsor—

"(1) seeking the service of such office on its own initiative to assist it in overcoming problems in the management, operation, or supervision of any program or project under this Act; and

"(2) identified, pursuant to a complaint investigation, internal audit, or audit or investigation conducted by the Division of Monitoring and Compliance, as not being in compliance with any important requirement of this Act of regulations issued thereunder, or of the comprehensive employment and training plant. Service under this section may be provided on a reimbursable or nonreimbursable basis, as determined by the Secretary, and shall be allocated in a manner to assure equitable but effective distribution of such services. The Secretary shall periodically publish any proposals for corrective action made by the Office which may be useful to other prime sponsors.

On page 249, line 8, strike out "SEC. 135." and insert in lieu thereof "SEC. 136.".

On page 178, in the Table of Contents, redesignate "SEC. 135." as "SEC. 136." and insert after "SEC. 134." the following:

"SEC. 135. Office of Management Assistance.".

Mr. JAVITS. Mr. President, we have not seen the amendment until this moment, but I understand what it does is provide for an office to do what the basic amendment proposes.

Mr. BROOKE. That is absolutely correct.

Mr. JAVITS. I am thoroughly for it.

Mr. NELSON. We have looked at the amendment, and are satisfied with it.

Mr. BROOKE. Will the Senator from New Mexico accept the amendment?

Mr. DOMENICI. I accept the amendment. I have looked at it. I think it is a welcome addition.

The PRESIDING OFFICER. Do Senators yield back the remainder of their time?

Mr. DOMENICI. I ask for the yeas and nays on my amendment, as amended.

The PRESIDING OFFICER. First we have to act on the Brooke amendment.

Mr. DOMENICI. I thought we had.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The question is on agreeing to the amendment of the Senator from New Mexico, as amended. The yeas and nays have been requested. 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 amendment (UP No. 1708), as modified. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Mississippi (Mr. EASTLAND), the Senator from Montana (Mr. HATFIELD), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Louisiana (Mr. LONG), the Senator from Rhode Island (Mr. PELL), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

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

The result was announced—yeas 91, nays 0, as follows:

[Rollcall Vote No. 346 Leg.]

YEAS—91

Abourezk	Curtis	Hollings
Allen	Danforth	Humphrey
Anderson	DeConcini	Inouye
Baker	Dole	Jackson
Bartlett	Domenici	Javits
Bayh	Durkin	Kennedy
Bellmon	Eagleton	Laxalt
Bentsen	Ford	Leahy
Biden	Garn	Lugar
Brooke	Glenn	Magnuson
Bumpers	Gravel	Mathias
Burdick	Griffin	Matsunaga
Byrd, Harry F., Jr.	Hansen	McClure
	Hart	McGovern
Byrd, Robert C.	Haskell	McIntyre
Cannon	Hatch	Melcher
Case	Hatfield, Mark O.	Metzenbaum
Chafee		Morgan
Chiles	Hathaway	Moynihan
Church	Hayakawa	Muskie
Clark	Heinz	Nelson
Cranston	Helms	Nunn
Culver	Hodges	Packwood
Pearson	Sasser	Stone
Percy	Schmitt	Thurmond
Proxmire	Schweiker	Tower
Randolph	Sparkman	Wallop
Ribicoff	Stafford	Weicker
Riegle	Stennis	Williams
Roth	Stevens	Young
Sarbanes	Stevenson	Zorinsky

NAYS—0

NOT VOTING—9

Eastland	Huddleston	Scott
Goldwater	Johnston	Talmadge
Hatfield, Paul G.	Long	
	Pell	

So the amendment (UP No. 1708), as amended, was agreed to.

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

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senate will be in order.

REPRESENTATION OF THE DISTRICT OF COLUMBIA IN CONGRESS

The PRESIDING OFFICER. The Senate will now resume consideration of House Joint Resolution 554.

The Senate continued with the consideration of the joint resolution.

The PRESIDING OFFICER. Who yields time?

Mr. HATHAWAY. Will the Senator from Massachusetts yield to me?

Mr. KENNEDY. Mr. President, what is the time situation?

The PRESIDING OFFICER. The Senator from Massachusetts has 47 minutes; the Senator from Virginia has 47 minutes. The Senator from Montana has 16 minutes.

Mr. KENNEDY. I yield to the Senator from Maine.

INTELLIGENCE AND INTELLIGENCE-RELATED ACTIVITIES AUTHORIZATION ACT, 1979—CONFERENCE REPORT

Mr. HATHAWAY. Mr. President, I submit a report of the committee of conference on H.R. 12240 and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. HARRY F. BYRD, JR.). The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 12240) to authorize appropriations for fiscal year 1979 for intelligence and intelligence-related activities of the United States Government, the Intelligence Community Staff, the Central Intelligence Agency Retirement and Disability System, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of August 2, 1978.)

The PRESIDING OFFICER. The

question is on agreeing to the conference report.

Mr. BAYH. Mr. President, will the Senator from Massachusetts yield 1 minute to me?

Mr. KENNEDY. I yield 1 minute.

The PRESIDING OFFICER. The question is on agreeing to the conference report. Does the Senator wish to speak on the conference report?

Mr. BAYH. Yes.

Mr. President, I wish to alert the Senate to the fact that this is a critical measure involving the resolution of differences that exist between the House and the Senate on the intelligence and intelligence-related activities authorization bill. The Intelligence Committee is indebted to the Senator from Maine for the leadership he provided as chairman of the subcommittee that went through the entire hearing process on the authorization. If the oversight of the Senate is to mean anything, it is the oversight capacity we bring to the expenditure of moneys in this area. I wish it were possible, but because of security, it is not, to have seen the Senator from Maine ask the probing questions and help us guide our judgments as we arrived at our final decisions. I salute him for his effort and hope the Senate will support this measure.

Mr. HATHAWAY. Mr. President, I thank the distinguished chairman of the committee for his very kind remarks and wish to return the compliment and praise him for the leadership he has afforded me and the committee.

I would like also to take this opportunity to thank our distinguished vice chairman, Senator GOLDWATER, the other members of the committee, and the many staff members, all of whom devoted a great deal of time and dedication to this very important task.

Mr. BAKER. Mr. President, I am sorry, but I was not on the floor at the time the conference report was called up and made the pending business. I should like just a moment, if I may, so, for the moment, I suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time?

Mr. BAKER. Whose time do we have, Mr. President? Who is in charge on this measure?

The PRESIDING OFFICER. The Senator from Massachusetts, the Senator from Virginia, and the Senator from Montana.

Mr. BAKER. Mr. President, I am advised it has been cleared on this side. I withdraw my request for the quorum.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

REPRESENTATION OF THE DISTRICT OF COLUMBIA IN CONGRESS

The Senate continued with the consideration of House Joint Resolution 554.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Mr. President, we are prepared to move to a vote, unless there is a——

Mr. SCOTT. Mr. President, we have a number of speakers and I am sure the distinguished Senator from Massachusetts has some speakers, also.

If the Senator from Mississippi is prepared, Mr. President, at this time I would be glad to yield 10 minutes to him.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. STENNIS. Mr. President, I say to the Members of the Senate that I have had a chance heretofore to speak to give my views and my analysis of this situation. But there are some who are here now and I will take just a few minutes of the Senator's time to go into this matter.

Mr. President, it is always a serious matter to amend the Constitution of the United States. It is very clear that the entire Congress has a positive, affirmative duty here to pass on these matters.

A two-thirds vote is required and three-fourths of the States. So it certainly brings it down to the people, involving virtually all of their representatives in legislative bodies.

But on this amendment, Mr. President, even though it is designed in good faith to meet a situation here, whereby the inhabitants of this District do have less than full privileges of voting, they are certainly not without considerable privilege of voting. They stay here in the District of their own choice, and there is a special reason.

Beginning way back, the wisdom of the Founding Fathers has proven sound for almost these 200 years now when they decided that the Central Government's primary operation would not be located in any State—not any State. They tried to see which State and agreed it not be in a State, but would be in a separate area, conclave, I do not think the District name came in until later.

But, anyway, it was agreed it be a separate piece of ground, so to speak, in which those who chose to live there would have a different status in relation to the Government.

As I understand, there is nothing written on it, but George Washington was delegated to select the site. He did. It was here and it is here.

What attribute in human nature has proven sounder and what principle of human nature has changed less in these 200 years than the one here with reference to an atmosphere and an independence for the central operation of the Federal Government?

The larger it has grown, the more that attribute and that privilege to the Government is needed.

Now, just to meet a situation here, the District already has a mayor, and so forth, and we will not repeat all that now, but just to meet a situation of these people that have a little different situation, but they do not have to stay, to meet that we are going to open the doors of the Senate and let men be sworn here as Members. No one has ever approached that rostrum—no one ever has, and I hope they never do—except as they are representatives of some State in this Union.

We are lowering the guard. We are taking down the gates. We are lessening the requirements. We are increasing the privileges, really, by lessening the requirements to get in here, in the first place, and become Members of this body that legislate for the entire Nation.

Two Senators, not one. Not one. These people help elect the President and the Vice President, have a mayor, and so forth, now. They are going to send in, under this, two Senators.

As I say, who thought up the idea of giving them two? One. One is a whole lot more than nearly all other 700,000 people in the Union have. But this particular group is going to have two Senators.

That is enough to dominate here over and over again in many close votes. Consumer against producer, agricultural, or raw material as against consumer. Many close votes.

I just think it is fundamentally unfair to the rest of the States, to the people in the other States, to the State governments. There are no State governments involved here in the District now under this amendment. No responsibilities. No obligations. Nothing to carry out or live up to. Not a thing in the world.

Here comes a gift on the morning breeze, because it is popular. Two Senators to be sworn in at the bar, and for the first time they ever have been except representing the State.

So we are turning this thing around. I believe that people will sense it. They will sense it at many levels of our State government.

I do not believe any man can go home and say, "I did something for you today"—talking to his own constituents—"I diluted your votes in the Senate. I made it less likely—less likely—that your vote would count for more, it will count for less."

I do not believe that the agricultural people, for instance, as an illustration, with all of their problems—and they have to come here for special programs—I just do not believe that they are going to think this is fair to them. It upsets the equilibrium. It takes away their chances to get Senators who understand their problem. There is no manufacturing here, as someone has said already; no appreciable industry. It is slight. Most of them make their living working for the Government or are in the services or are in an establishment such as a store. They are elsewhere, but they are not here.

I believe that we not only are tearing down the groundwork of our system which has worked so well with all these problems, but also, we open the door to a multiude of new problems and new demands and all kinds of possibilities, with all kinds of problems. We had better stay within the boundaries and stick here to the groundwork as laid out and has been proved sound over and over, and work at these problems some other way. There must not be a surrender.

We have no power, no right to give away, under these conditions. the power of our States, the prerogatives of our people. We should be as generous as we can to these people in the District, and we have the same duty to our own constituents.

I hope that in every State legislature this debate will be pursued with vigor by the State legislators, considering the ideas that have been advanced here, pro

and con, but particularly those that relate to their problems at home.

I thank the Senator from Virginia for yielding me time.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Mr. President, I yield 4 minutes to the Senator from Vermont.

Mr. LEAHY. Mr. President, I have been told that the first person who went to the guillotine said that if it were not for the honor, he would have been happy to have passed up the occasion. Following the distinguished Senator from Mississippi, especially when I am on the other side of the issue, I feel that way.

There is no Member of the U.S. Senate whom I hold in greater esteem or greater fondness than my distinguished friend from Mississippi. I think every Senator will agree that no other Member of the Senate holds a higher regard for the Senate as an institution than does the Senator from Mississippi.

Mr. President, I come from a rural State, and a great deal has been said here today about the feelings of rural States. No State is more rural than the State of Vermont. Vermont was the 14th State to join the Union. Perhaps, typical of Vermont nature, we stood there a while and made sure the other 13 were going to make it, and then we joined on.

My family has been in Vermont for well over a century. I was born there. It is my home. It is the place I live. It is a way of life. It is a way of life that I would never trade with anyone else, anywhere. I cherish that way of life. I cherish what we have done in Vermont.

Mr. President, when I came down here, I had the honor—some have described it other ways—of being apponted chairman of the Subcommittee on Appropriations for the District of Columbia. I became far more involved with the city than I ever might have otherwise; and perhaps I might have thought otherwise about the way I am going to vote tonight, had I been faced with it the day I arrived in the District of Columbia.

There is no question in my mind, having served in that capacity for 2 years now, that I will vote for this constitutional amendment; because I do not see it as a case of rural versus urban. We have had too much of that. We have seen too many Federal programs that come out with a bias, because we look at them as rural versus urban.

I am absolutely certain that is not a situation that will occur, because of what we will see here. The population of the District is half again as large as that of Vermont. In rural areas as well as urban areas, we recognize simple justice.

Quite frankly, when I look at this city—this beautiful city, the seat of our Government, the city that my eldest son was born in—I feel as a Vermonter. What we can do here is show simple justice, overdue justice. Because of that, this Senator, who comes from a rural State, will vote without any hesitancy for this constitutional amendment.

Mr. KENNEDY. Mr. President, I understand that the Senator from Oklahoma has an amendment, and I would be glad to yield 4 minutes to him.

Mr. BARTLETT. I thank the Senator.

UP AMENDMENT NO. 1710

(Purpose: To prohibit the establishment by Congress of any committee or subcommittee with jurisdiction over legislative matters applicable to the District of Columbia)

Mr. BARTLETT. Mr. President, I send and unprinted amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Oklahoma (Mr. BARTLETT) proposes an unprinted amendment numbered 1710:

On page 2, after line 16, add the following section:

SEC. 2. Upon ratification by the requisite number of states of the Amendment to the Constitution as set forth in section 1, neither the Senate nor the House of Representatives shall permit, under its rules, the operation of any committee, subcommittee, or other committee which shall have as its continuing deliniated purpose the primary or secondary jurisdiction for the consideration of legislative matters applicable solely to the District of Columbia.

Mr. BARTLETT. Mr. President, the proponents of the resolution argue that the residents of the District do not receive adequate representation and say that in order to have adequate representation, they need two Senators and the appropriate number of Representatives to represent them.

When the Founding Fathers established the Constitution and submitted it to the Colonies, they established the States as all being equal and the District as being separate and unique. What is proposed would create a hybrid State or a hybrid city, however one looks at it—sort of a super city or a super State—which would have the prerequisites of the District as it now has them and also would have the voting representation that a State has, without having the responsibilities of a State.

One of the perquisites that the District has is to have representation by the entire Senate and House of Representatives. In order for that representation to be able to zero in on the problems of the District, there are created in both bodies special committees and subcommittees on authorization and appropriation, and Senators and House Members who are particularly interested in the District generally serve on those committees. I had the pleasure of serving on the District Committee for 2 years, and I enjoyed it very much.

I feel that the present arrangement provides adequate representation for the District. But with this resolution possibly passing and being submitted to the States and possibly being ratified, I think it is important to decide whether or not the District should have the representation it now has with the present committees and subcommittees and two Senators ard two Representatives.

So the purpose of this proposal is to add to the resolution, not to the constitutional amendment, to the resolution a section which would say:

Upon ratification by the requisite number of states of the Amendment to the Constitution as set forth in Section 1, neither the Senate nor the House of Representatives shall permit, under its rules, the operation of any committee, subcommittee, or other committee which shall have as its continuing delineated purpose the primary or secondary jurisdiction for the consideration of legislative matters applicable solely to the District of Columbia.

The PRESIDING OFFICER. The Senator's 4 minutes have expired.

Mr. KENNEDY. I yield a minute to the Senator from Indiana.

Mr. BAYH. Mr. President, the Senator from Oklahoma and the Senator from Indiana discussed this issue yesterday, and I understand his feeling on this. But I must say with all respect I think he overlooks what we are trying to accomplish with this resolution.

We are not trying to make the District of Columbia a State. We are trying to give the people who live here the right to be heard when national issues are decided in this body.

We had committees in the House of Representatives and the Senate to deal with District problems as those problems are part of our Capital City to suggest that the District is represented by a handful of Senators and Congressmen who do not live here is to ignore the fact that more often than not—perhaps that is an extreme case—but let me say on many instances the majority of the people of those District of Columbia committees do not vote the way the people of the District would vote if they were given the opportunity to.

So let me suggest, with all respect, the District committees are needed to provide that important framework to deal with the Federal City question. This amendment which we address ourselves to is to give the people of the District the right to be heard on issues of national importance that affect their everyday lives.

Mr. SCOTT. Mr. President, I am glad to yield not in excess of 5 minutes to the distinguished Senator from Alaska.

Mr. STEVENS. Mr. President, I had a prepared statement but in view of the statement just made by my good friend from Indiana, the State of my birth, I am constrained to make other remarks.

The Federal City has no land. It faces no resource problems. It does not have the diversity in population that exists in other States. On what basis should the people of the District of Columbia be given the voting rights of a State without actually becoming a State?

Mr. BAYH addressed the Chair.

Mr. STEVENS. If the Senator has his own time I will be glad to yield to him, otherwise I must use all of mine.

The residents of the District of Columbia are American citizens, and we have offered a way for them to vote just as we offered a way for those people who were in the original portion of the District when that portion was ceded to the State of Virginia, the State represented by the distinguished occupant of the chair (Mr. HARRY F. BYRD, JR.).

Why should those of us from the West be continually plagued, and I certainly am plagued now, by people who do not understand what it means to represent geography as well as people. After all, the Senate as an institution was designed to represent States. The House of Representatives was to represent population.

If it is a question of District residents voting, then they should vote in Maryland. If it is a question of the District becoming a State, then let us put that question before the Senate and before the people of the United States fairly. The Senator wants to call the District of Columbia something different than a State. He wants to give them voting representation here in the Senate as though they were a State.

I say that would be the first step, Mr. President, toward the decline of the American system.

Mr. MATHIAS. Mr. President, will the Senator yield for a question?

Mr. STEVENS. I do not know if the distinguished Senator has any time. I have 5 minutes and I intend to use it all.

Mr. KENNEDY. I yield 2 minutes to the Senator from Maryland to have whatever colloquy that he engages in.

Mr. MATHIAS. I shall pose a question to the distinguished Senator from Alaska. The Constitution of the United States says in article I that the Congress is:

> To exercise exclusive legislation in all cases whatsoever over such district (not exceeding ten miles square) as may, by cession of particular states and the acceptance of Congress, become the seat of the Government.

How can we discharge that constitutional mandate in the light of the amendment that is proposed by the Senator from Oklahoma? That is my question to the Senator from Alaska.

Mr. STEVENS. Let me answer my good friend from Maryland in this way: I am preparing an amendment to once again raise the question of moving the capital out toward the center of the country where those people would welcome it and might be more willing to vote in the adjacent States, without seeking to become a State as the people of the District of Columbia are seeking. This is the seat of the Government. And Senators say that they represent States who have just as much interest in the public land in Alaska as we do. We from Alaska have just as much interest in the seat of Government, the District of Columbia, as do the residents of the District of Columbia.

They are not entitled to any greater consideration as citizens of the United States and are citizens of Alaska. And the citizens of Alaska fought for statehood; they fought for equal rights in this body. They did not come into the Union to see their rights diluted by giving two Senators to a city that is the seat of Government.

If this area is tired of being the seat of Government, if it does not wish to vote in Maryland and not have the seat of Government moved, I would be happy to suggest the Capitol be moved. We went through it once in the forties. I would be more than happy to go through it again. And I shall propose it next year. Let us move the Capitol. Let us build a Federal City in which nobody lives, in which there are just buildings and the seat of Government. Let us make Washington, D.C., a historical monument, another part of the Park Service, if you will. So many people are interested in making much of my State a national park. I will be delighted to assist in making this a national park so everybody in the world will come and see how we ran the Government of the United States for the first 200 years.

But this is nonsense. It is absolute nonsense to say that because they are residents of the Federal City they should have greater rights, greater rights, not equal rights, greater rights than the people of a State. I oppose this because I think it is a step toward the downfall of our Government as we saw the downfall of the Grecian Government for those who are familiar with history. I shall oppose this every time it comes up, Mr. President.

Mr. BAYH. Mr. President, will the Senator yield me 30 seconds?

Mr. KENNEDY. I yield 30 seconds.

Mr. BAYH. Mr. President, as a member of the Appropriations Committee that tried whenever possible to help the Senator from Alaska to get resources for his railroad and other things, I understand a little bit about the financial problems they have in Alaska. But I think we also need to understand that there are many financial problems imposed upon the District of Columbia because the National city is here, the fire, the police protection, all of the regalia that goes with the pomp and circumstance of a National city that is imposed on this Capital City and the District residents and why we need those two separate committees.

Mr. BARTLETT. Mr. President, it is my understanding that the Senator from Maryland has 1 minute. May I ask him to yield to me 30 seconds?

Mr. MATHIAS. I will yield 30 seconds to the Senator from Oklahoma.

Mr. BARTLETT. I will say this in response to his remarks earlier and his question that the matter can be handled very well by the standing committees, in other words, if it is a building project in the District, they can go to Public Works or if it is a matter of appropriations it will go to the general Appropriations Committee but there will not be a subcommittee specially for these particular issues, thoughts, and interests of the District.

Mr. MATHIAS. I have great respect for the view of the Senator from Oklahoma. But let me say that it is a tough job now to integrate all of the thinking, all of the planning, all of the action that deals with the city of Washington and with the elected officials of the city of Washington and to try to make the city move forward and to keep the budget under control and to appropriate the necessary amount of money, and I think to spread that through 16 committees would create utter chaos.

Mr. BARTLETT. You are going to have two full-time Senators for the District.

Mr. KENNEDY. Mr. President, I move to table the amendment of the Senator from Oklahoma and I ask for the yeas and nays.

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

The yeas and nays were ordered.

Mr. KENNEDY. Furthermore, I ask unanimous consent that the time for the vote be charged equally to the Senator from Virginia and the Senator from Massachusetts.

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

The question is on agreeing to the motion of the Senator from Massachusetts to lay on the table the amendment of the Senator from Oklahoma. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Mississippi (Mr. EASTLAND), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Montana (Mr. HATFIELD), and the Senator from Kentucky (Mr. HUDDLESTON) are necessarily abent.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER) and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

The result was announced—yeas 63, nays 31, as follows:

[Rollcall Vote No. 347 Leg.]

YEAS—63

Abourezk	Hart	Muskie
Anderson	Haskell	Nelson
Bayh	Hatfield, Mark O.	Pearson
Bentsen	Hathaway	Pell
Biden	Heinz	Percy
Brooke	Hollings	Proxmire
Bumpers	Humphrey	Randolph
Burdick	Inouye	Ribicoff
Byrd, Robert C.	Jackson	Riegle
Case	Javits	Roth
Chiles	Kennedy	Sarbanes
Church	Leahy	Sasser
Clark	Long	Sparkman
Cranston	Magnuson	Stafford
Culver	Mathias	Stevenson
Danforth	Matsunaga	Stone
Durkin	McGovern	Talmadge
Eagleton	McIntyre	Thurmond
Ford	Melcher	Williams
Glenn	Metzenbaum	Zorinsky
Gravel	Moynihan	
Griffin		

NAYS—31

Allen	Domenici	Nunn
Baker	Garn	Packwood
Bartlett	Hansen	Schmitt
Bellmon	Hatch	Schweiker
Byrd, Harry F., Jr.	Hayakawa	Scott
Cannon	Helms	Stennis
Chafee	Hodges	Stevens
Curtis	Laxalt	Tower
DeConcini	Lugar	Wallop
Dole	McClure	Weicker
	Morgan	

NOT VOTING—6

Eastland	Huddleston
Goldwater	Johnston
Hatfield, Paul G.	Young

So the motion to lay on the table UP amendment No. 1710 was agreed to.

Mr. KENNEDY. Mr. President, I move to reconsider the vote by which the motion was agreed to.

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

The motion to lay on the table was agreed to.

Several Senators addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. SCOTT. Mr. President, I yield 5 minutes to the Senator from Utah (Mr. HATCH) to make a point of order.

Mr. KENNEDY. Before the Senator does that, I yield 10 seconds for a unanimous-consent request.

Mr. CHILES. Mr. President, I ask unanimous consent that Russell King of

Senator TALMADGE's staff be accorded the privilege of the floor.

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

Mr. CANNON. I make the same request in behalf of Frankie Sue Del Pappa.

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

Mr. KENNEDY. And for Janet Harrell of Senator HASKELL'S staff.

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

The Senator from Utah is recognized for 5 minutes.

Mr. HATCH. I yield for a unanimous-consent request to the Senator from Maryland.

Mr. MATHIAS. Mr. President, I ask unanimous consent that Riley Temple of my staff have the privilege of the floor during the remainder of the day.

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

Mr. CHAFEE. The same request for Miss Nancy Barrow of my staff.

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

Mr. HOLLINGS. I ask unanimous consent that Mike Copps of my staff be accorded the privilege of the floor.

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

Mr. HATCH. Mr. President, I rise to make the point of order that House Joint Resolution 554, the pending joint resolution, is not in order in that it violates article V of the Constitution by specifying a method for adoption by the States without providing, in accordance with the last proviso of article V, that each of the 50 States must consent to the proposed amendment because the proposed amendment would affect the equal suffrage of each State in the U.S. Senate.

In other words, by bringing in a non-State and giving it two Senators, the express language of article V is violated.

We passed out a sheet to everybody expressing exactly what this point of order says. It is underlined in red at the bottom of article V. That proviso says:

No State, without its Consent, shall be deprived of its equal Suffrage in the Senate.

I have been making the point that the problem with this resolution is that it is constitutionally defective, because what it is trying to do is create a quasi-State out of a city, out of a District, or a political subdivision contrary to the Constitution. In order to do that under article V you have to have the consent of the States, not only 38 States ratifying but the consent to dilute their suffrage, their equal suffrage, State equal suffrage, if you will, from all 50.

(Mr. ANDERSON assumed the chair.)

Mr. HATCH. In other words, this joint resolution would allow a city or a political subdivision not a State to have a new class of suffrage which, by necessity, deprives the 50 States of the "equal suffrage" granted by the express language of article V above. Under the precedents, I might say that the constitutional points of order must be submitted to the Senate, and they are debatable.

The point I am making is that here we have a quasi-State being created, and before you can dilute Maryland or New York or California or Alaska or Utah or Georgia or any other State—before you dilute their equal rights of suffrage—you are going to have to have the consent of all 50 States. That is what the Founding Fathers set this up for, that States have Senators because of diversity of politics, diversity of geography, diversity of the cities, towns and counties, diversity of beliefs, and, of course, diversity of manufacturing, agriculture, mining, and so forth.

This is no small matter. It is one of the most important and momentous constitutional decisions any of us can make. If we deny the express language of the Constitution here today, I think we will find that the Supreme Court of the United States will call this unconstitutional anyway.

I do not see how any sitting U.S. Senator can ignore the express language in article V when it says, "no State, without its Consent, shall be deprived of its equal Suffrage in the Senate."

Mr. President, I reserve the remainder of my time.

Mr. President——

The PRESIDING OFFICER. The Senator's point of order will not lie until the time on the joint resolution has expired at 6 p.m.

The Senator from Massachusetts.

Mr. HATCH. If the Senator from Massachusetts will yield, I want to ask for the yeas and nays on my point of order.

The PRESIDING OFFICER. The point of order does not lie until the end of the time. It would take unanimous consent to order the yeas and nays.

Mr. KENNEDY. I reserve the right to object and also hope the Senator will include in his unanimous-consent request, unanimous consent to permit the yeas and nays for a tabling motion and that it be in order at the present time.

Mr. HATCH. I ask unanimous consent to ask for the yeas and nays and unanimous consent that the Senator from Massachusetts can move to table my point of order, which is a constitutional point of order under the rules.

Mr. SCOTT. Mr. President, reserving the right to object, if the vote could come after 6 o'clock, I have no objection, but I am constrained to object unless that is included in the unanimous-consent request.

Mr. HATCH. I do not care when the vote comes as long as it comes before the final vote on the joint resolution.

The PRESIDING OFFICER. The point of order will not lie until 6 p.m. and the vote will not occur until such time.

Several Senators addreseed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I yield myself 1 minute.

The point the Senator from Utah makes is basically a conflict in logic. What he is saying is that the amendment is unconstitutional, when actually what we are considering is a constitutional amendment. It fails in terms of the logic. How can a constitutional amendment be unconstitutional?

But in any event, the amendment does not violate article V. The Senator's point of order has been raised occasionally, but it has been rejected by virtually all constitutional lawyers. For example, Prof. Charles Alan Wright, from the State of Texas, testified explicitly at the hearings that article V is not violated by this amendment. If you follow the logic of the Senator's argument, going back to the Thirteen Original States with 26 Senators, every time we added an additional State to the Union, we diluted the suffrage of the older States and violated that particular provision. Clearly we have not.

We have expanded the Senate to 100 Members from the 50 States. If this objection did not lie for the expansion of the Senate since the time of the original 13 States, it must fail at the present time.

Article V means only that States are to be treated on equal terms in the Senate. It was a result of the big State-small State compromise at the Constitutional Convention in 1787. The House of Representatives was to be based on population, and the Senate was to represent the States. Article V was included to prevent the Senate from being shifted to a population basis of representation.

Now, Mr. President, I move to table the Senator's point of order and ask for the yeas and nays.

The PRESIDING OFFICER. The point of order is not in order until 6 o'clock and, therefore, the motion to table is not in order until the point of order is made.

Mr. HATCH. A parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. HATCH. Has the Chair ruled that the yeas and nays have been ordered on the point of order and the motion to table by the distinguished Senator from Massachusetts?

The PRESIDING OFFICER. No.

Mr. HATCH. I ask unanimous consent that it be in order to order the yeas and nays on my point of order and on the motion to table.

The PRESIDING OFFICER. Is there objection?

SEVERAL SENATORS. Objection.

The PRESIDING OFFICER. Who yields time?

Mr. HATCH. A parliamentary inquiry.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. I yield 15 seconds.

Mr. HATCH. When can I request the yeas and nays? At 6 o'clock?

The PRESIDING OFFICER. When the point of order is submitted.

Mr. HATCH. How will the point of order be submitted?

The PRESIDING OFFICER. By the Presiding Officer.

Mr. HATCH. Have I not submitted the point of order at this time?

The PRESIDING OFFICER. The point of order cannot be made until 6 o'clock.

Mr. HATCH. In other words, I can order the yeas and nays at 6 o'clock?

The PRESIDING OFFICER. That is correct.

SEVERAL SENATORS. A parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. Who yields time?

Mr. HATCH. I yield time to myself.

Mr. METZENBAUM. I ask if the Senator from Massachusetts will yield to me.

Mr. KENNEDY. I yield 15 seconds.

Mr. METZENBAUM. I ask whether or not we can have a rollcall vote on a parliamentary inquiry until such time as the Chair has ruled.

The PRESIDING OFFICER. The rollcall vote will be on the point of order submitted to the Senate. Who yields time?

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

The PRESIDING OFFICER. May we have order in the Chamber?

Mr. McGOVERN. Mr. President, I want to just take a couple of minutes to express my personal appreciation to Senator KENNEDY, Congressman FAUNTROY, and all the others who have led this fight for full representation for the people of the District of Columbia.

Second, as one who has been privileged to live in this city, the site of our National Capital, during most of the last 22 years, I want to express my appreciation to the people of the District of Columbia.

There have been some unflattering comments during the debate here on the Senate floor.

Mr. KENNEDY. Mr. President, may we have order?

The PRESIDING OFFICER. May we have order in the Chamber?

Mr. McGOVERN. One of the Senators has referred several times to a Washington columnist who described the District of Columbia as an enclave surrounded on four sides by reality. But I know that the columnist, who takes pride in his own, continues to live in Washington and to enjoy its cultural, political, and economic assets.

I think it is the most inspiring and one of the most diverse, if not the most beautiful, of all of our major cities.

I might just add on a personal note, Mr. President, its people exercised unusually good political judgment, even in the dark days of the 1972 Presidential contest when most of the rest of the Nation was confused. The District of Columbia and the Commonwealth of Massachusetts stood out as two shining pillars of wisdom and foresight, which has been fully vindicated by history. [Laughter.]

On that basis alone, the voters of the District of Columbia are entitled to full representation in this body. [Laughter.]

Mr. President, may I have one additional moment to make a more serious point?

Mr. KENNEDY. I yield 30 seconds.

The PRESIDING OFFICER. May we have order?

Mr. McGOVERN. The transcendent issue, to me, in this entire debate, Mr. President, is whether or not we are going to be faithful to the rallying cry with which this country began, "No taxation without representation." We know that the people of the District of Columbia pay taxes, they have offered their sons in time of war, they have supported the Nation. They are entitled to full representation in the Congress of the United States.

I thank the Senator from Massachusetts for yielding time.

The PRESIDING OFFICER. Who yields time?

Mr. SCOTT. Mr. President, I yield 3 minutes to the distinguished Senator from North Carolina (Mr. MORGAN).

Mr. MORGAN. Mr. President, I agree fully that the residents of the District of Columbia are entitled to representation, but I do no agree that the residents of a district that is composed entirely of one medium-sized city are entitled to two representatives in the U.S. Senate.

I cosponsored with Senator McCLURE this morning an amendment which would have given the District full representation in the House of Representatives and allowed its residents to vote in the Maryland election for the Senate, as they did during the first decade of the District's existence—as I think they really have the legal right to do today, because when a State cedes property to the Federal Government, it cedes police power but does not cede other political power. Residents have that right.

I am for that kind of representation, but I do not believe that two Senators who would represent no farmers, no rural citizens, no manufacturing, no heavy industry, no mining, should be in the Senate. I think it will destroy or do damage to our Federal system.

Mr. President, this is not a new question. Shortly after the right to vote was taken away from the District, in about 1800, a similar amendment to the one that may be adopted today came up in 1801. It was raised again in 1803. It was raised in the 1880's. It is not a new question.

The PRESIDING OFFICER. May we have order?

The Senator from North Carolina may proceed.

Mr. MORGAN. Mr. President, I say that I think the distinguished Senator from Massachusetts, when he said in his opening statement that some of us would oppose this amendment because the Senators would be either too liberal or too black, did an injustice to those of us who are opposing it. For 175 years, this amendment was not adopted and the District was not predominantly black until the 1960's and it will not be predominantly black in 10 years. I think this amendment does harm to our constitutional system.

The PRESIDING OFFICER. The Senator's 3 minutes have expired.

Who yields time?

UP AMENDMENT NO. 1711

(Purpose: To Elect House Members from the District and for Senators, the District residents shall vote as if residents of Maryland)

Mr. MELCHER. Mr. President, I yield such time as I may consume. I have an amendment at the desk, Mr. President, I 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) for himself and Mr. MORGAN, proposes unprinted amendment No. 1711.

Mr. MELCHER. 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:

Strike all after the resolving clause and insert the following:

That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within nine years from the date of its submission by the Congress:

"ARTICLE —

"SECTION 1. For purposes of representation in the House of Representatives, the District constituting the seat of government of the United States shall be treated as though it were a State. For purposes of representation in the Senate, the District constituting the seat of the government of the United States shall be treated as though it were part of the State of Maryland. For the purposes of ratification and initiation of constitutional amendments, the District constituting the seat of the government of the United States shall be treated as though it were a State.

"SEC. 2. The exercise of the rights and powers conferred under this article shall be by the people of the District constituting the seat of government, and as shall be provided by the Congress.

"SEC. 3. The twenty-third article of amendment to the Constitution of the United States is amended by striking out ', but in no event more than the least populous State'.

"SEC. 4. The Congress shall have power to enforce this article by appropriate legislation.

"SEC. 5. The Governor of the State of Maryland shall consult with the District government prior to either implementing changes in the law governing the election of Senators, or making a temporary appointment to fill a vacancy in Maryland's representation in the Senate.

"SEC. 6. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within nine years from the date of its submission.".

Mr. MELCHER. Mr. President, this is a very similar amendment to the amendment I offered on Thursday. It follows the same basic rules that I espoused then, which has long been my feeling toward the residents of the District of Columbia.

I have always supported voting rights for the District and I voted for a constitutional amendment, while a Member of the House in the last Congress, very similar to this one.

There is no question in my mind that it is very easy to allow the District to have two House Members. It fits in, fits in with everything we conceive in our bicameral government. It is right. It is absolutely right. I view the Constitution in this regard to have been flawed, to have been in error during all of these years. So I would preserve—not preserve, I would give back to the District what is theirs, what should always have been theirs—the right to vote.

But when we come to the question of the Senate——

Mr. STENNIS. Mr. President, may we have order so we may hear?

The PRESIDING OFFICER. Let us have order.

Mr. MELCHER. But when we come to the Senate, Mr. President and my colleagues, it is a different situation to say that the District of Columbia is the same as a State. It flies in the face of Jefferson's words when he said a State has both expansiveness and diversity. Those very words are the background of what we have heard so often in the past few days on how a State is interested in various industries—whether it is mining or agriculture or timber products or what-have-you. That is the diversity of a State. The Senate is different in representation because of that diversity, to give the opportunity to have a balance. No words here in the Senate, no words here in Washington, are going to change the fact that the District is not, in any sense of the word, comparable to a State in diversity.

I have sympathy with the argument that the District has been wronged. I have sympathy with the argument that the District has provided more than their share of lives lost in Vietnam. But our job here is to be fair to the District and to the States.

I note that the editorial in the Washington Post is highly in favor of the resolution and immediate adoption by two-thirds vote of the Senate of this constitutional amendment. It does not see the issue in the proper light, it only discusses the issue in terms of people having a right to vote. On that point, I agree and I have long agreed. My amendment, similar to the amendment that I had on Thursday, would give to the District that right, the right to elect their own House Members—two, just as many as in my State and the right to vote in Maryland as if they were residents of Maryland, for their Senators.

The Senators from Maryland, speaking for their constituents, say, "Hold on; we don't know about that. That is a different thing."

But it was not a different thing for the residents of the District on this side of the Potomac prior to the year 1800, when they did vote in Maryland. And if the constitutional error had not been made, if that wrong had not been done in the Constitution, it is exactly the way the residents of the District would be today. I cannot see anything wrong with that concept, but I do understand it is something less than having two Senators from the District. In my view, to correct a wrong does not mean you have to add two Senators for a small area, contrary to all of the rest of the 50 States, which are States.

I would preserve, Mr. President, that part that Jefferson spoke so well. I do not believe this is necessarily a political argument. I do not see this resolution, if two-thirds of the Senate approve it tonight, when it is faced by each State legislature, that they will view it as a Republican issue or Democratic issue; I do not see that.

I think they will look at it in respect to their State and what it does to them.

If the argument is made that those two Senators may cancel out the two Senate votes we have in the Senate from our State, it is a rather compelling argument to say "no."

I say to the Senate tonight, having long wanted to right this wrong in the Constitution, I encourage Senators, not only on the merits of my amendment, but for the sake of the District people themselves, to support it. Under the terms of the resolution, if it is not approved by the necessary 38 States within 7 years, it is done. It is over with. And if it is not approved, the District is still without representation, in the House or in the Senate.

On the other hand, if my amendment is accepted, it will easily pass the two-thirds vote and, in my judgment, would rapidly be ratified by almost every State. So the District then would have their proper representation.

Mr. President, I withdraw my amendment.

I do so because I do not want to take up any time for voting now. But I inform the Members of the Senate I will call for a vote at the proper time, at 6 o'clock.

Mr. McCLURE. Will the Senator yield?

The PRESIDING OFFICER. Who yields time?

Mr. MELCHER. I yield 30 seconds.

Mr. McCLURE. I thank the Senator for yielding.

Mr. President, I rise in strong support of the amendment which the Senator from Montana has offered. I think it would accomplish the objectives which I have at various times tried to reach on this matter on this floor. I hope other Members will give it serious consideration. I hope it will pass.

The PRESIDING OFFICER. Who yields time?

May we have order?

Mr. GRAVEL. Will the Senator yield?

Mr. KENNEDY. I yield 4 minutes to the Senator from Alaska.

Mr. GRAVEL. Mr. President, many years ago I came out very clearly in support of——

Mr. KENNEDY. Mr. President, the Senate is still not in order.

The PRESIDING OFFICER. May we have order?

The Senator from Alaska.

Mr. GRAVEL. Mr. President, I had come out very much in support of voting rights for the District of Columbia population.

In the last few weeks, starting last week, I had some serious second thoughts about that subject, and I still do. For that reason, I have asked for some time so that I might express those second thoughts and the reasons behind them.

I want to really put one thing aside. There is no question in my mind that the most important thing of all is representation for the Americans who live in the District. Representation equal to anybody else in the United States.

When I say that, I put aside the argument which affects my State, that it is likely the individuals that would be elected to the Senate would be voting against the Alaskan position on d-2 land, would be voting against strong views I hold with respect to oil and energy, with respect to minerals and land.

I also think of a secondary consideration which is the bias that these two people will have toward the implementation of more government rather than more implementation through the private sector.

I think both of those arguments are very strong ones and very persuasive arguments, and in some degree, may operate against my own State's interest.

But let me say very clearly that the most important thing under our system is the equal right of representation. That is what our system is all about. So, if that is not preeminent, then there exist some serious flaws.

So, where did my doubts come in? I question the method of arriving at this kind of representation. I think the way to do it is not the way we are doing it. I think the way to do it is through retrocession.

I think what is going to happen by passing this is that we are going to see very serious destabilization take place throughout the Nation, because in the next 7 years people are going to have to go from State to State and fight this issue, and, unfortunately, it may not be handled as sophisticatedly as it has been handled here by the leadership on both sides of this issue in the Senate.

So I think this will have somewhat of an unfortunate, negative effect in the Nation.

I have a fear this may sap the strength of the civil rights movement because I do not think this is the most important thing the civil rights movement can do in this country.

I think the most important thing they can do is raise the economic stakes for their minorities because the numbers are there, rather than the numbers here in the District.

The PRESIDING OFFICER. The time has expired.

Mr. GRAVEL. Would the Senator yield me an additional 2 minutes, please?

Mr. KENNEDY. Two minutes.

The PRESIDING OFFICER. The Senator from Alaska is recognized for 2 minutes.

Mr GRAVEL. The problem is, how do we get to retrocession?

If this amendment was defeated, we could turn around and put in a bill. Bills do not pass this body unless they have constituencies, and the tragedy with respect to retrocession is that there is no constituency for it today, but there is tactical convenience. But no constituency.

Maryland does not want it and the District does not want it. The leadership of the District is bent upon possible membership in this body.

Certainly, I would not fault them, they express the same emotion I have expressed time and time again.

So, without a constituency, if this amendment were to fail, there is no way we can get to retrocession in a reasonable fashion except to go through the period of 7 years, or how long it takes until the people of the District were

to succeed under this particular vehicle or fail and retreat back to what would be a more normal approach, because, quite obviously, being a part of Maryland where they could vote for State senators, vote for State representatives, vote for Governor, vote for Senators, vote for Congressmen, is a lot more normal than the abnormality that will be created in this regard.

But I think the case that these people are entitled to the same rights as any other human beings in the United States, and that is representation, which is the touchstone of our society, is overshadowing in all this.

For that reason, and the thoughts I have had, the difficulty I had wrestling with the issue, I come down with what I consider an imperfect decision, but a decision nevertheless, to vote for D.C. representation.

Mr. BIDEN. Will the Senator from Massachusetts yield me 60 seconds?

Mr. KENNEDY. How much time remains, Mr. President?

The PRESIDING OFFICER. May we have order?

The Senator from Massachusetts has 9 minutes. The Senator from Virginia has 14.

The Senator from Delaware.

Mr. BIDEN. Mr. President, I agree with the bottom line of the Senator from Alaska. I think his logic is very valid. I do not understand the logic of some who have spoken here today. I understand the political logic of the Senator from Montana, but I do not understand the constitutional logic.

We are all saying, "Taxation without representation is not warranted."

Well, it seems to me the way to say that is, "Taxation without full representation."

It seems to me there is only one of two ways we can go. We can either say the District has no representation in either House, because unless they have it in both Houses they do not have full representation. We either say they have it in neither House or they have it in both Houses.

I do not quite understand those who stand up and offer amendments and say they want them represented in the House but not in the Senate, so they can be represented in the Congress, because there is no logic in that.

Mr. President, I yield the rest of any time I have.

The PRESIDING OFFICER. Who yields time?

Mr. RANDOLPH. Will the Senator yield?

Mr. KENNEDY. I yield 30 seconds to the Senator from West Virginia.

Mr. RANDOLPH. I will need 1 minute.

Mr. KENNEDY. One minute for Fayette County and Logan County.

Mr. RANDOLPH. And Randolph County, too.

Mr. KENNEDY. And for Randolph County.

Mr. RANDOLPH. Mr. President, I will vote for the resolution to submit to the States the opportunity of approving or disapproving full congressional representation for the citizens of the District of Columbia.

This is a procedure which gives to the States, through their elected representatives, the responsibility to decide constitutional changes. It is a procedure in the best tradition of our democratic system.

I authored constitutional amendment No. 26 for 18-year-old voting. It was passed by Congress. It was ratified by the States more quickly than any other constitutional amendment—only 90 days.

District of Columbia representation, in my judgment, is a very similar issue. We are attempting to provide a body of citizens with the right of franchise.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. I yield to my colleague from Massachusetts 1½ minutes.

Mr. BROOKE. Mr. President, my enthusiastic endorsement of House Joint Resolution 554 is based primarily on fundamental concepts of liberty and justice, but my support and interest are also intensely personal, for my roots are in Washington, D.C.

I was born and raised here. I attended and graduated from Shaw Junior High School, Dunbar High School, and Howard University. For as long as I can remember, I have fought, along with family and friends and colleagues, to attain the goal of providing for the citizens of the District of Columbia the same rights and privileges that older citizens throughout the Nation have enjoyed.

Mr. President, there is no self-government in the power to tax one, to imprison one, and to send one to war is not in one's self, but in those to whom one has voluntarily confided as one's representative.

Those statements were made back in 1916, and here we are in 1978 still trying to give this basic right of representation to the people of the District of Columbia.

I hope and pray that my colleagues will go along with this and pass this measure by an overwhelming vote and give the citizens of the District of Columbia a right they have so long been denied.

Mr. SCOTT. I yield myself 5 minutes.

Mr. President, I will sum up my opposition to the resolution.

Ours is a Federal Government, a union of States, one of dual sovereignty. The Senate is composed of two Senators from each of the 50 States. The District of Columbia was constituted the Federal city, neutral territory, a place where Congress could legislate in the national interest, free of pressure, free of local intrigue or local politics.

Washington is a city, not a State. Its principal business is government. It has no farming; it has no mining; it has little, if any, manufacturing. It has few of the diversified interests that the States have.

If the city of Washington is given two Senators, the local media will work in tandem with those two Senators to further the interests of government, the only major industry in the city.

The city of Washington is unique, being an area ceded by sovereign States as a Federal city.

We are not a national Government, although each year we appear to be reducing the rights of the States and becoming more centralized. This is merely another step in that direction.

The measure before us has not been considered by the Senate Judiciary Committee. We have a House resolution before us. Hearings were held by a subcommittee, but action by the committee was short-circuited by bringing up the House bill during the absence from the country of the chairman of the Senate Judiciary Committee.

All amendments we have offered to the proposal, those which would have provided voting rights for the people of the District through retrocession, even technical perfecting amendments, have been tabled.

Providing Senate representation to a city, to any political entity other than a State, sets a bad precedent. Puerto Rico has more than 3 million people; the District of Columbia has less than 700,000. Will Puerto Rico be the next area under consideration for two Members of the Senate? Will Guam be next? Will the Virgin Islands be next?

Mr. President, I feel very strongly that we should reflect upon the effect that this will have upon our own States, upon our representation of those States. We should consider whether or not it is in the national interest as well as in the interests of the people of the District of Columbia.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. GRIFFIN. Mr. President, will the Senator from Massachusetts yield?

Mr. KENNEDY. How much time remains, Mr. President?

The PRESIDING OFFICER. The Senator from Montana has 9 minutes, and the Senator from Virginia has 11 minutes. The Senator from Massachusetts has 5 minutes.

Mr. KENNEDY. I yield 30 seconds.

Mr. GRIFFIN. Mr. President, taxation with representation is bad enough. But taxation without representation is a disgrace—particularly in the Nation's Capital.

For nearly 180 years, the District of Columbia has been a Federal enclave. It never was meant to be—and should cease to be—a Federal fiefdom.

This once-tiny settlement in the Potomac swamps has grown as the Founding Fathers never could have imagined. By 1970, the population of the District of Columbia was three-quarters of a million people—greater than that of 10 States. Among them, those States are represented in Congress by a total of 34 Senators and Representatives; the District of Columbia has none, even though some 150 proposals to change that have been introduced in Congress during the last 90 years.

Numerous press accounts in recent months have recited that the issue of full D.C. representation in Congress was never put to a vote in either House until 1976. That is not quite true.

On March 10, 1971, during Senate consideration of the constitutional proposal to lower the voting age to 18, Sen-

ator KENNEDY offered an amendment that would have extended full voting representation to the District of Columbia.

That proposal was tabled on a vote of 68 to 23. I was one of those in the minority that day.

Only since 1961 have D.C. residents been able to vote for President; only since 1971 have they had a nonvoting delegate to the House of Representatives; only since 1975 (after a hiatus of more than a century) have they been able to elect their mayor and city council.

In only one other country in the world—Brazil—are residents of the capital city denied representation in their national legislature.

Even though residents of Washington are denied the privileges of citizenship, it is noteworthy that they are more than meeting the obligations of citizenship.

District of Columbia residents pay more than $1 billion a year in Federal taxes—which is more than paid by 11 States; last year, per capita taxation in Washington was $491 more than the national average—which is a heavier individual tax burden than all but one State, Alaska.

During the unpopular Vietnam war, 237 D.C. residents gave their lives in the service of their country—a grim total that was higher than casualty figures for 10 States and was fourth-highest per capita of any jurisdiction in the Nation.

I submit, Mr. President, that it is a dark shadow on the citadel of democracy for the United States to tax any of its citizens, or send any of its sons off to war, without giving them a voice in shaping the policies that affect them.

As I listened to the eloquent remarks of our esteemed colleague from Massachusetts (Mr. BROOKE), I was struck by the poignant irony of his presence among us.

Senator BROOKE was born and raised in Washington, D.C.; he attended Howard University, not far from this Capitol. Yet, had he continued to make his home in the District of Columbia, he could not have been a U.S. Senator—and this Nation would have been deprived of his distinguished, dedicated service during the past 12 years.

It was one of Senator BROOKE's predecessors from Massachusetts—the great Daniel Webster—who summed up the mission of America in a speech more than 150 years ago: "One country, one constitution, one destiny."

Mr. President, if we are to fulfill that mission as a united people, we can no longer keep the residents of the District of Columbia in subjugation as second-class citizens. It is time they joined the rest of us as full citizens of the United States and as full partners in the pursuit of our common destiny.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Mr. President, I yield 2 minutes to the Senator from South Carolina.

Mr. THURMOND. Mr. President, I support the amendment. In the first place, I think it is a fair thing to do. We are advocating one-man, one-vote. We are advocating democratic processes in this country.

We have more than 700,000 people in the District of Columbia who do not have voting representation. I think it is nothing but right that we allow these people that representation.

We are advocating democratic processes all over the world. We are holding ourselves up as the exemplary Nation that others may emulate in ideas of democracy. How can we do that when three-quarters of a million people are not allowed to have voting representation in the capital city of this Nation?

If we propose this amendment, and that is what we are doing, it still has to be ratified by the States. If the people in the States do not like the amendment, they will not ratify it. If they do like the amendment, they will ratify it. If they do ratify it, then that is what the people want. So we will leave it to the States, after we act here. The States will have the power to make the final decision.

I hope the amendment is passed.

The PRESIDING OFFICER. Who yields time?

Mr. SCOTT. Mr. President, I yield 3 minutes to the distinguished Senator from Mississippi (Mr. STENNIS).

The PRESIDING OFFICER. The Senate will be in order.

Mr. STENNIS. Mr. President, I want to call the attention of the Senate to the matter raised here by Senator HATCH, which I think may come up in the way of a point of order, and refer to article V of our Constitution.

We have heard talk here about representation and equal representation and the right to representation. Those things are fundamental and very good, but the question is, how, under our present Constitution?

It is clear from the framework of the entire Constitution that representation in this body comes by being a State and comes by that method alone. Nothing else is contemplated. Nothing else, so far as I know, ever has been proposed. It takes a State to be the vehicle to bring two Senators in here.

That is the whole plan, and that matter is clearly nailed down here in article V of the original Constitution. When this whole matter held up the Constitutional Convention for days and weeks and the Constitutional Convention was almost a collapse this method was worked out that States would have representation in this body. States, nothing else. Nothing else is mentioned or contemplated, and that representation would be two to each State and it would never be changed without the consent of that State.

It is true we have admitted other States here in our decades, and they came in with representation. This time you are not admitting a State. You are not proposing a State. There is no State. All there is in this resolution is nonState, or a Not-State, n-o-t. There is no actual State in it.

How in the world, even by this proposal, could you create here an imaginary something and give it two Senators and bring them in here with a membership that dilutes and changes voting strength as well as the nature of this constitutional body, the U.S. Senate? And I hope that point of order will be sustained.

I thank the Senator from Virginia.

The PRESIDING OFFICER. Who yields time?

The Senator from Montana.

Mr. MELCHER. Mr. President, we have long established, I hope, that the overwhelming majority of this Senate believes in representative government and believes that it belongs to the District. I do not think that is the question that is being argued. As I understand the debate, and it is positively my side of the argument, the question is, does the District get two Senators? No other city in the United States has been granted that. But is the situation here so unique that this is the only resolution of the problem? I do not believe so.

If we remember that the residents who lived here on this side of the Potomac before 1800 voted in Maryland, and if Senators agree with me and I hope a vast majority of them will agree with me, the Constitution was wrong in prohibiting voting rights for residents of the District. If Senators believe with me on that, then I ask them to pay attention to my amendment, because it will correct it. It will correct it just as other cities and other States get their representation through their Senators elected in that State. It will not turn back the property. Maybe retrocession should be accomplished sometime. I do not know. But it is not here now. I am talking about retrocession of the land. I am talking about having the privilege of voting for Senators in the State of Maryland just as the residents who were here prior to 1800 had that same opportunity of senatorial representation then.

Mr. President, this is a symbolic vote as I take it it is being interpreted. Let it be dealt with on the basis of the merits and on the basis of complete fairness for this institution, this Senate, and all the 50 States, including the people in the District of Columbia.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. SCOTT. Mr. President, I yield 2 minutes to the Senator from Idaho (Mr. MCCLURE).

The PRESIDING OFFICER. May we have order?

The Senator from Idaho.

Mr. MCCLURE. Mr. President, I thank the Senator for yielding his time to me and I am grateful for the opportunity to present at least a portion of the case to more Members than have attended at most of the debate during the course of the debate on this issue.

Mr. President, the Senator from Montana is exactly right. There is no justice in creating in the District a status that is inferior to all of the other States. The citizens of the District under this proposal will not have their full civil rights. They will have a part of it. At the same time they will be given two Senators without being a State, which is a different right than the citizens of any other city in the United States enjoy.

Mr. President, it was not the Constitution of the United States that deprived the people of the District of Columbia the right to vote in the State of Maryland. That was done by statute. For sev-

eral years, after the District was formed and ceded by the State of Maryland to this Federal Government, the residents of the District both in Virginia and in Maryland continued to vote in their respective States.

That right to vote was taken away as a matter of a statutory enactment.

The only reason that it is not possible to give them that right by statutory enactment that they exercised until the early 1900's is because the people of Maryland do not want them to have the right to vote in Maryland. They do not want them to have the right to vote for Senators in Maryland. They do not want them to have the right to vote for a Governor in Maryland. We can right that historic injustice without creating another injustice by adopting the amendment of the Senator from Montana, which I hope we will do.

The PRESIDING OFFICER. Who yields time?

Mr. SCOTT. Mr. President, I yield 2 minutes to the distinguished Senator from Utah (Mr. HATCH).

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, as I said earlier in the debate, I intend to raise a point of order at the expiration of the time, and I expect to be recognized and ask for the yeas and nays thereon.

The point of order is that article V of the Constitution says that no State without its consent shall be deprived of its equal suffrage in the Senate. In other words, the Founding Fathers and those who formed this Government literally when they started did not want the States to be diluted by larger States.

As a matter of fact, what we are saying here is that although we can add States which themselves will have two Senators and do it properly and constitutionally, that does not dilute or diminish or deprive equal suffrage in the Senate.

But if, as here we have a quasi-State, a city, if you will, a political entity, that is not a State and clearly not a State, and we give them two Senators, that does dilute, that does diminish, that does deprive the States of equal suffrage in the Senate in violation of the Constitution.

There are no precedents on this. The only precedent there is the Constitution and the language is explicit. I do not see how we can ignore the language.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. HATCH. I thank the Senator from Virginia.

The PRESIDING OFFICER. Who yields time?

Mr. SCOTT. Mr. President, if we look at article I of the Constitution we find that the Senate of the United States shall be composed of two Senators from each State chosen by the legislatures thereof.

Then we turn to the 17th amendment, and we find the same language except "elected by the people thereof for 6 years, and each Senator shall have one vote."

But if we look at article II, section 8, we find that—

> Congress shall have power to exercise exclusive legislation in all cases whatsoever over such district not exceeding ten miles square as may by cession of particular States and acceptance by Congress become the seat of government of the United States.

That is the purpose of the District of Columbia, the seat of Government of the United States. We are a Federal Union, with the seat of Government in Washington, D.C. That is the way, in my judgment, the Founding Fathers wanted it. That was what Madison said in No. 3 of the Federalist Papers. That is the way, in my judgment, which has proven wise over the years, and should not be changed today.

The PRESIDING OFFICER. Who yields time?

Mr. MELCHER. I yield 3 minutes to the Senator from Massachusetts.

Mr. KENNEDY. I yield a minute to the Senator from Kansas.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. Mr. President, in one minute I can tell you this issue was addressed in Kansas City, Mo., in 1976 in the Republican platform. It is right there. It says:

> We support giving the District of Columbia voting representation in the U.S. Senate and House of Representatives.

That is the Republican platform. We fought over it, we traveled across the country saying, "Look at our platform." Our leaders said, "Look at the platform," and pointed to it with pride as an excellent expression of Republican ideals and principles.

The time has come for action, and if this platform means anything it means the Republican Party supports this resolution.

Mr. President, on Saturday I announced my support for House Joint Resolution 554 at a meeting with D.C. Republican leaders who support voting representation for the District. There are convincing reasons to support this measure which compel me to vote "yes." The absence of voting representation for the District in Congress is an anomaly which the Senate can no longer sanction. It is an unjustifiable gap in our scheme of representative government—a gap which we can fill this afternoon by passing this resolution.

Many of my distinguished colleagues have raised important issues regarding the nature of our Federal Republic and the representation of States in the U.S. Senate. I appreciate having the benefit of their discussion. However, it is my view that we can recognize the District as a State for purposes of representation without damaging the fabric or structure of our democracy. In fact, granting effective representation to three-quarter million people will strengthen our system of democracy by extending the benefits of representation and by giving residents of the District a stake in our system of legislative participation.

It seems clear that the framers of the Constitution did not intend to disenfranchise a significant number of Americans by establishing a Federal District. I believe that the framers would have found the current situation offensive to their notions of fairness and participatory government.

REPUBLICAN PLATFORM—1976

Two years ago the Republican Party took a clear and unequivocal stand in favor of D.C. voting representation. The 1976 platform states:

> We support giving the District of Columbia voting representation in the U.S. Senate and House of Representatives. . . .

As delegate, platform committee member, and temporary chairman of the convention, I helped write that platform. As Vice Presidential nominee, I helped carry its message to the American people.

I consider its principles and policies to be representative of the thinking of Republicans on most issues. Its D.C. plank represented a clear commitment to voters in the District of Columbia—a commitment which I will not lightly cast aside.

Republicans rallied to that platform in great numbers. Our most distinguished leaders enthusiastically adopted it as an excellent expression of Republican principles and ideals. By all accounts, it was a platform that conservatives could be proud of.

I am particularly proud of my party for adopting this plank because the conventional wisdom is that, for the near future, Democrats would be favored to win these new seats.

The Republican Party supported D.C. voting representation because it was just, and in justice we could do nothing else. We supported full rights of citizenship because from the first—from Lincoln forward—we have supported the full rights of citizenship for all Americans.

THE HEALTH OF OUR DEMOCRACY

The health of any democracy depends on a general willingness to put aside narrow partisan concerns in favor of improving the system and extending its benefits to others. Whether we are amending the constitution, regulating elections, or judging Senate election contests, we must place fairness ahead of party. I would hope that Members from both sides of the aisle will do this in the future on other fundamental issues with partisan ramifications.

In addition to narrow partisan concerns, there are other considerations which we must put aside in the face of more important considerations.

Throughout our Nation's history more and more Americans have been enfranchised by the system. As we sought to eliminate economic discrimination, race discrimination, and sex discrimination, we extended the right to vote—to meaningfully participate in congressional elections—to an increasingly larger number of people. First, nonlandowners were given the right to vote during the first half of the last century. Later came former slaves, women, and 18-year-olds.

Today we are being asked to end our discrimination against people who happen to live in the District of Columbia. I realize that some are concerned about diluting the power of their States as a result. But in every instance where more Americans were brought into the electoral system in the past, the segment of our population that had 100 percent of

the voting power was asked to give up some of that power to someone else in the interest of improving our system of democracy. This is no time to reverse that trend—this is no reason to oppose this bill.

THE BURDENS AND BENEFITS OF CITIZENSHIP

The reasons for granting voting representation in Congress are compelling. District residents pay taxes, fight wars, and cope with Federal regulation just as other American. The burdens of citizenship are borne by them just as much as they are by our constituents.

Generally, they also participate in the advantages of citizenship, including the protections of the bill of rights. However, there is something missing, and we are being called upon to rectify that today. In a democracy, nothing is so fundamental as the right to vote and the right to representation, and I see no good reason why that basic principle should not apply to the District as well as to our respective States.

The District of Columbia is not just a plot of land full of big white buildings and people who have come here temporarily to work for the Federal Government. Rather, it is home to almost three-quarters of a million people, who should be granted congressional representation just as the citizens in all of our States are.

I thank the distinguished Senator from Massachusetts.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. I yield a minute to the Senator from Indiana.

Mr. BAYH. Mr. President, it seems to me that the question here is not trees or cows or factories; the question is representation. The question is one of full representation. It gets right down to whether you should have representation in the U.S. Senate or not. And if we believe in full representation we have to understand the unique contribution that the Senate makes in the governmental process.

The PRESIDING OFFICER. May we have order?

Mr. BAYH. The citizens of the District are entitled to be represented when we decide on treaties to determine war and peace; they are entitled to be represented when we fight the great battles, like we did over qualifications of a Supreme Court justice; they are entitled to representation when you try a President for impeachment.

The only way you are going to get that full representation is by giving the District citizens two U.S. Senators. That is why I think we ought to support this measure, because that is the only way you are going to give them full representation. If we are going to do the job, let us go all the way. Let us not go halfway.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Mr. President, I yield myself 1 minute.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, many in this body are sensitive about the pride and traditions of the Senate and its long historical record as an institution in which only States are represented.

I understand that tradition. I have served here for 16 years now, and I yield to no one in my respect for this great body and my pride in its work.

Some of the greatest debates in this Chamber have involved the admission of new Members to this body. There was the Missouri Compromise of 1820, and the Compromise of 1850, which almost succeeded in saving the Union from civil war.

The growing pains of the Nation were clearly reflected in the growing pains of the Senate.

A few steps from here we can see the small restored Chamber in which the early Senate met.

We grew from a body of 26 Senators at the beginning to 100 Senators today.

In a sense, the wheel has come full circle. For decades in the 19th century, the admission of Mountain and Western States to the Union was delayed, because Eastern Senators feared the impact of new voices from the West with a different philosophy. But the Senate was enriched, and our Nation was enriched by the admission of those States.

And now, similar arguments of opposition are heard against the acceptance of the District in the Senate.

But the District has waited longer than any State ever had to wait—100 years since the first such amendment was introduced by Senator Henry Blair of New Hampshire.

We have been an institution with a tradition of representation of States. But that tradition is in obvious conflict with what I think is a higher tradition of our Nation, the right of self-government, the right of representation in our democracy.

Over the years, we have also established another tradition—the tradition of amending the Constitution to enlarge our democracy and broaden the participation of the people in their Government. Six of the last twelve amendments have broadened this right of participation.

The 15th amendment outlawed racial restrictions on the right to vote. The 17th amendment provided for direct popular election of Senators. The 19th amendment was the womens suffrage amendment. The 23d amendment gave the District the right to vote for President. The 24th amendment outlawed the poll tax.

In recent days, we have gone over the case in detail for representation in the House and Senate for the people of the District of Columbia:

They have more people than seven States. They pay more Federal taxes than 11 States. They lost more sons in Vietnam than 10 States. Almost every other foreign democracy gives representation to its capital city in the legislature.

In 1961, we went part way; we gave the District the right to vote for President. Now it is time to do the rest of the job, by giving the people of the District a voice in the Congress.

This issue has come a long way. And it has been a long wait—almost 100 years since the first constitutional amendment was proposed.

At a time when our Nation is speaking out eloquently on human rights around the world, we must also recognize that civil rights and human rights begin at home.

Victor Hugo wrote in 1852:

> Greater than the tread of mighty armies is an idea whose time has come.

Mr. President, representation in Congress for the District of Columbia is an idea whose time has come, and the Senate should welcome the representatives of the District into our Chamber.

Mr. SCOTT. Mr. President, how much time remains?

The PRESIDING OFFICER. One minute.

Mr. SCOTT. I yield 1 minute to the distinguished Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas.

Mr. TOWER. Mr. President, I have listened with great interest to the debate on House Joint Resolution 554, and I have had a number of conversations with individauls, both here and in Texas, who have strong feelings on this issue. In fact, I have been the subject of a good deal of lobbying on this bill, and while I share the genuine concern of those who seek to assure full voting particpation to citizens of the District of Columbia, I am not convinced that the pending resolution is a justifiable means of accomplishing that purpose.

In terms of voting representation, House Joint Resolution 554 confers upon the District a unique sort of "quasi-State" status. In my view, this presents complex challenges to the Constitution, and directly contravenes the intent of the Founding Fathers in this regard.

A reading of article I of the Constitution, under clause 17, section 8, clearly demonstrates the purpose of the framers in seeking to preserve as a separate Federal enclave that territory housing the seat of our Nation's Government. In this section, the Constitution provides for the establishment of a Federal district over which "Congress shall have power * * * to exercise exclusive legislation in all cases whatsoever."

By refusing to create a separate and sovereign State in this instance, the framers emphasized the need to provide insulation for the Federal Government against the potential conflicts arising out of local needs and interests. In Federalist No. 43, James Madison discusses "the indispensable necessity of complete authority at the seat of government" and points out that—

> This consideration has the more weight as the gradual accumulation of public improvements at the stationary residence of the government would be both too great a public pledge to be left in the hands of a single state. . . .

The interests of the District of Columbia are well represented in the Congress by a full committee in the House and a subcommittee here in the Senate. In addition, the citizens of the District elect a nonvoting delegate to the House, and he has become a very effective proponent of District needs and interests in House committee proceedings and floor debate.

No other city and, in fact, no other State in the Union, is entitled to such special attention here in Congress, and it is difficult for me to accept proponents'

arguments that the District is a stepchild when it comes to Federal legislation. In addition, I think it is well to bear in mind that the District is heavily supported by Federal tax dollars. In fiscal year 1977, for example, the District received a total of $749,740,600 in Federal funds—and this is exclusive of the payments for Metro. I understand that the fiscal year 1979 appropriations for the District of Columbia are well over a billion dollars.

I hardly think that these figures indicate a lack of Federal concern for the District. Only New York City, with its 8 million inhabitants, receives more financial assistance from the Federal Government. Considering the fact that three Texas cities—Houston, Dallas, and San Antonio—are larger than the District, maybe we are the ones getting shortchanged in this deal.

Another problem I have with the pending resolution concerns the position of District residents vis-a-vis citizens of other States in terms of the manner in which they exercise their voting rights. For example, section 1 of the resolution would treat three different voting procedures—that of electing Members of Congress, electing a President and Vice President, and ratifying constitutional amendments—as though they were identical processes. In fact, they are not.

Only Senators and Members of the House are elected by the people directly in the various States. In the case of constitutional amendments, it is the State legislatures who decide whether or not to ratify, but the District, of course, does not have a State legislature, since it is not a State. Therefore, we could have a situation where District citizens could vote directly on ratification—a privilege which no other voter in any of the States would have. On the other hand, you could have the decision made right here in Congress, which is the ultimate "government" for the District. In that case, Congress would have two votes on each proposed amendment; one vote to send the measure to the States, and one for the District.

Just yesterday, my colleague from Idaho, Senator McCLURE, attempted to amend this resolution to eliminate some of the confusion on this very point. Unfortunately, the amendment was tabled, which simply underscores, in my view, the proponents' unwillingness to accommodate logic and equity in dealing with this issue.

Finally, Mr. President, I must take issue with the idea of giving full representation to a constituency which reflects no other State in terms of diversity of interests, either geographical or economic. There is very little manufacturing here, certainly no great agricultural interests, no vast wilderness to protect and no production of energy resources. What we are talking about here is a one-industry town, and that industry is the Federal Government itself. Nearly 60 percent of the District's population is employed in some Government-related occupation, and I daresay there are a great many others whose livelihoods depend on the Federal community.

It seems to me that what we are doing here is giving the Federal bureaucracy itself voting representation in the Congress. At a time when most Americans decry the size and scope of the Federal Government and its activities, we are seeking to enfranchise those whose interests may be best served by the continued growth of Government.

Mr. President, we will soon be voting on House Joint Resolution 554, and I do not intend to consume a great deal of the Senate's time here. I hope that my colleagues will consider carefully the serious flaws in the pending resolution, and that it will be defeated.

Mr. President, I think the question here is a very fundamental question. It was the intent of the framers of the Constitution that the Senate should be represented by each State equally, because it was the concept that the Senate would represent each State as a corporate entity.

If we adopt this resolution and submit this amendment, and if it is subsequently ratified, it will mean that we have fundamentally altered the nature of the American federation, and we will open the door, in my view, to other types of amendments that will change not only the original intent of the founders but to change the entire character of the Federal Republic.

For that reason, and for that reason if no other, this proposed amendment should be rejected.

The PRESIDING OFFICER. Who yields time?

Mr. MELCHER. Mr. President, I yield myself such time as I may consume, and I will be very brief.

I only take this time now to remind the Members of the Senate that at the appropriate time, following 6 o'clock, I will ask that my amendment, which I have withdrawn, be called up, and that a vote occur immediately, and asking for the yeas and nays at that time.

The arguments of all of the proponents for the constitutional amendment as it is presented to us are compelling and they touch my heart.

But the responsibility of the Senate in a bicameral form of government, the form of government that we have, is to allow a difference in representation for the diversity that we find in a State.

The amendment I offer will provide the opportunity for the residents of the District to vote for their Senators. I would say that no one should interpret the remarks made here as indicating that the Senators from Maryland are incapable of wise, prudent, forceful, and good representation for all of the people in this area, just as they represent Prince Georges County, where I live, and the vast area that surrounds us on this side of the Potomac.

They do a fine job. The area of the District fits within those confines and I hope my amendment will prevail.

● Mr. SCHMITT. Mr. President, I cannot support the constitutional amendment to grant the District of Columbia full voting representation in Congress. Representation in the Congress of the United States is a unique privilege; however, it was clearly the intent of the Founding Fathers, an intent fully supported by history up to this time, that with the privilege of representation must come the responsibilities of statehood.

Article I, section 3 of the Constitution, under which all present States have labored together, reads in part as follows:

> The Senate of the United States shall be composed of two Senators from each *State* (emphasis added).

It does not provide for any exceptions. Specifically, there is no exception for the representation of groups of people except as they are organized into States. The special interests of groups of people are clearly provided by Representatives in the House of Representatives but, again, in a manner dependent on organization as a State. This is provided for in article I, section 2 which reads in part as follows:

> The House of Representatives shall be composed of Members chosen every second Year by the People of the several *States* (emphasis added).

The holding of elections for both Senators and Representatives is the duty and the right of the States. Article I, section 4, clause 1 states:

> The Times, Places and Manner of holding Elections for Senators and Representatives shall be prescribed in each State by the Legislature thereof.

Amendment X states that—

> The powers delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

It is clear that the framers of the Constitution understood rights and duties in terms of States, not individuals.

What we have before us today is clearly contrary to both the intent and the word of the Constitution. It is in no American's long term interest to exaggerate the special privileges of our city any more than is absolutely necessary. Such an action will only create resentments and other pressures from other areas for special treatment.

The issue should be statehood for the District of Columbia or, better yet, the rejoining of the District with Maryland for political representation within the bounds provided by the Constitution. I have supported both such proposals for presentation to the 50 States for ratification. I am truly sorry these proposals have been defeated.

Finally, Mr. President, those of us from the West understand from our own struggles for statehood the yearnings of the residents of the District of Columbia. However, those yearnings must be directed toward obtaining the responsibilities as well as the privileges of being part of a State. I do not believe the 50 States will accept anything less.

By passing an amendment that has no chance of ratification by the necessary number of States, we will delay indefinitely the development of an acceptable method for the political representation of the people of the District. This is just as unfair to the District as the proposed amendment is unfair to the 50 States.●

● Mrs. HUMPHREY. Mr. President, today we are debating an historic issue which is at the very heart of our demo-

cratic system—representative government. The resolution before the Senate is designed to give the District of Columbia full voting representation in the Congress. Clearly, the issue merits the very thoughtful consideration it is receiving. But, the time has come for the Senate to work its will in a final vote on this resolution proposing a constitutional amendment.

One fundamental question is involved in this vote: Shall we continue to deny over 700,000 residents of the District of Columbia the basic privilege enjoyed by all other American citizens to elect the women and men who control their Government?

Taxation without representation was one of the principal reasons our forefathers revolted against England. Residents of the District of Columbia see this same issue at stake in the debate over this resolution today.

Residents of the District pay over $1 billion annually in Federal taxes. But who represents them in the Senate? Who looks out for their interests and votes on issues of importance to them? There are some who would answer that we all do. But we must honestly admit that on any issue where the interests of residents of the District of Columbia and of our respective States are in conflict, we generally will give priority consideration to the views of our own constituents.

The alternate proposal for retroceding non-Federal land within the District to the State of Maryland would not have solved the problem, and the Senate's action yesterday to table this amendment recognized, in part, that additional problems would have been created. I need only mention such matters as District representation in the Maryland Legislature, District representation in the electoral college as provided for in the 23d amendment, and Federal jurisdiction over District activities as deemed necessary by the special nature of our Federal city.

Beyond all this, however, is a more important issue—people. Not land, not legislative control, but people. The issue is what is required to guarantee to all American citizens the right to have a meaningful and effective voice in the workings of their Government?

Mr. President, 29 years ago, Hubert Humphrey was a freshman Member of the Senate. At that time, he advocated home rule for the District on this very floor. The issue of home rule, granted by the Congress to the District with reservations in 1974, is not so far removed from congressional representation that his statement in advocacy of that bill would not be appropriate now. At that time, he said:

> I believe the first thing which should be done by the Congress is to give as much power as possible to the people of the District of Columbia. I submit that when we are dealing with (700,000 people), they should not be dealt with lightly. . ."

When Hubert reiterated his position in 1973, he went on to say:

> That this greatest of all democracies withholds from the citizens of its Capital City the right to elect their government leaders is hypocrisy of the first order and a source of increasing embarrassment to our Nation.

I urge my colleagues to reaffirm their support for our system of government by voting in favor of House Joint Resolution 554.●

● Mr. HOLLINGS. Mr. President, I rise today in support of bringing government of the people, by the people, and for the people to the nearly 700,000 residents of the District of Columbia. Thomas Jefferson said,

> It is an axiom in my mind that our liberty can never be safe but in the hands of the people themselves.

The constitutional amendment we propound today is the logical, and necessary, culmination of those great principles of liberty and democracy for which Jefferson and his generation fought. And for which the sons and daughters of America, including many from this Nation's capital, have fought so many times since.

The principle of democracy is not secure when the vote of any citizens is denied. Yet today, more than 200 years since the founding of an independent America, there exists right outside the wall of this building a denial of democracy so great as to be a denial of ourselves. And because it exists just outside these walls, it exists inside, too—right here in the U.S. Senate where you will look in vain for any Senator representing the needs and convictions of 700,000 people.

The issue we confront today is not one of comparing the size of Washington with the size of other cities. Nor can the issue be avoided by irrelevant arguments that perhaps New York, Chicago, or Los Angeles will also deserve their own Senators and Congressmen if Washington is so treated. Those other cities have representation. Who is going to argue that our distinguished colleagues Mr. JAVITS and Mr. MOYNIHAN do not directly represent the cities of their State? Who would argue that the voice of Chicago or Los Angeles or any other city cannot be heard within this Chamber? Surely any such contention merits nothing but ridicule.

Mr. President, all the facts and statistics have been cited in behalf of our approving sending this amendment to the States.

We know the District contributes more taxes to the Federal Government than do 19 of our States.

We know that the overwhelming majority of other nations which have elected legislatures do not discriminate against residents of their capital cities concerning representation in their respective national legislatures.

These points, and many more, have been made again and again, and they are points which cannot be gainsaid.

But far more than any of these, we confront foursquare an issue that goes to the heart and soul of America. The citizen who pays his taxes, supports his government, and marches off to die in his Nation's wars has a right—an inalienable right—to full representation. "Taxation without representation is tyranny," said the great patriot, James Otis. So also, would come the refrain from a thousand battlefields around the world, is death.

The right to representation is fundamental. It is basic. Without it, the promise of America is mocked. We must not discuss this in any careless or callous fashion. This is no perfecting amendment nor private relief bill. It is relief from a denial that has kept hundreds of thousands—and over the years, millions—from enjoying their most basic rights as citizens of America. The sad fact is that these people, these residents, of Wahington, D.C., are not citizens. They cannot be citizens until they possess democracy's greatest prize—representative government. This is an absolute right that must be absolutely granted, and until it is, we are blighted and blemished. We have fought around the globe to make the world safe for democracy. Now we must bring democracy home.●

● Mr. BAKER. Mr. President, as I have previously indicated, I will support the constitutional amendment before the Senate today providing for full voting representation in the Congress for the District of Columbia.

By now the arguments for and against this amendment are familiar to all of us, and as usual, there is merit in both sides of the debate.

But I have concluded that we simply cannot continue to deny 700,000 American citizens their right to equal representation in the national Government, that this basic right is a bedrock of our Republic that cannot be overturned.

The District of Columbia is not a State. It was conceived as a special Federal enclave over which no State government would have control. But the District is more than a city: the fact that the District casts three electoral votes in Presidential elections, as no city in America does, is proof enough of this.

It does not matter that residents of the District pay more Federal taxes per capita than residents of 49 States in the Union—although they do. It does not matter that the District's residents have fought in every American war since its creation, or that the District's casualty level in the Vietnam war was greater than that of 10 States—although it was. It does not matter that the population of the District exceeds that of seven States—although it does.

What matters is that the people of the District of Columbia are American citizens who have a right to be heard in the Congress of the United States, a right not only to a voice but a vote.

The 1976 platforms of both major political parties endorsed D.C. representation. The basic principles on which the Nation was founded insist on it, and I urge my colleagues to join me in voting for passage of this amendment.●

● Mr. WEICKER. Mr. President, I voted in favor of House Joint Resolution 554, a constitutional amendment that would provide voting representation for the District of Columbia. Indeed, I have long advocated that the citizens of the District should have full voting representation in the Congress.

However, I would like to make it very clear that I think that the Congress is

avoiding the central issue in the debate over representation. The issue is whether the District of Columbia should be a State—with all the attendant privileges, as well as, I might add, all the headaches which statehood entails.

Article I, section 8, clause 17 of the U.S. Constitution empowers Congress "to exercise exclusive legislation in all cases whatsoever over such district (not exceeding 10 miles square) as may by cession of particular States, and the acceptance of the Congress become the seat of the Government of the United States." The question of the representation of District residents received little express attention during the course of the drafting of this clause, as the District's small size and the proximity of its residents to Congress made the problem of representation less than pressing for our forefathers. Indeed, James Madison, writing in The Federalist No. 43 in 1788, assumed that District residents would receive adequate informal representation by Senators and Congressmen residing in the District.

Times have changed since 1787. The District of Columbia is no longer a hamlet with a population under 14,000. The latest census places the District's population in excess of 700,000, which is larger than the population of seven States. Clearly, it is time to provide the citizens of the District with representation in the Congress. To do so, the Constitution must be amended. Indeed, that is the beauty of our Constitution—it is a flexible, growing document that has thrived for nearly 200 years.

But it would not continue to be a viable document if it is amended in knee-jerk fashion. And believe me, what we are doing here today is amending the Constitution in a knee-jerk fashion. We are responding to pressures which make our actions in providing for a constitutional amendment politically attractive. Sure, we can go home and say to our constituents that we believe in the tenets of the Constitution and make sure that all Americans are represented in Congress by voting for this amendment. We made sure that there was no taxation without representation.

However, we just are not telling the truth. What we have done is the politically expedient thing—not the right thing. We have changed the Constitution to embrace a few people. We have not amended the Constitution to further the rights of all Americans.

If my colleagues will look to the 26 present amendments to the Constitution and to the proposed 27th amendment, they will see that only one amendment does not deal with the rights of all Americans. That is the 23d amendment, which provides for Presidential electors for the District of Columbia. Each of the other amendments applies to all Americans—not just to those confined in a finite geographical region.

What we have done today is to take the first step to carving out another exception to the Constitution. I do not argue that as far as the District of Columbia is concerned we are going to have to deal with the Constitution—as the Constitution itself makes explicit provision for the District. What I object to is altering the Constitution each time something has to be done concerning the District. Who knows for what the next "politically expedient" carving out will be? But mark my words, there will be one unless we face up to the issue before us.

What we must do is amend the Constitution to provide for statehood for the District. Until we do that, the District of Columbia will not truly enjoy full rights.

Mr. President, I will shortly introduce an amendment to the Constitution which will provide for full statehood for the District of Columbia. This amendment would entitle the District to the representation it needs and deserves. It would also make it stand on its own two feet.

Mr. President, the States have 7 years to act on the amendment to provide voting representation for the District of Columbia. That gives Congress time to address the underlying issue head on. That issue is the one of statehood for the District. If we Senators fail to perform our duties and avoid the underlying issue by thrusting the decision of the status of the District upon the people of the country, then I reserve the right to campaign actively in Connecticut against the ratification of the amendment to provide voting representation for the District.●

● Mr. STONE. I support full representation for the District of Columbia in the U.S. Congress. I have considered this issue very carefully, taking into account constitutional arguments and fundamental fairness.

The nature of the District of Columbia as a political entity today is quite different from what it was when it first became our Nation's capital in the 19th century. Today it has more residents than seven States and an active, independent political life. No constitutional purpose is served by exclusion of the District of Columbia from full representation, and I do not believe that is the intent of the Constitution.

The District of Columbia is not a State, but it is treated like a State already for other purposes. For example, its residents share the burden of Federal taxes; enjoy the right to trial by jury; and Congress regulates commerce between the District and the States as it does for interstate commerce.

The concept of representation for members of a nation's capital district is not new. In fact, in most other countries, West Germany, the capital's residents have full representation in the national legislature.

Fundamental fairness demands that the District have full representation in Congress. Its residents paid more in 1975 in Federal income taxes than the residents of 14 other States. Its population exceeded that of 10 States in the last census. And, in 1976 its per capita Federal income tax payment was $77 higher than the national average. The residents of only seven States paid more per capita in Federal income taxes. What's more, District of Columbia residents have served fathfully and in disproportionately high numbers in our major wars, demonstrating a commitment and loyalty to the United States not reciprocated with a full voice in the Senate and House.

I believe that a denial of full representation in the national legislature to residents of the District of Columbia is a denial of their share of the birthright that belongs to all U.S. citizens—that of electing Members of Congress to express their views and to represent them in national debate on issues that have a major impact on their lives and welfare.●

Mr. MELCHER. I yield the additional minute I have remaining to the majority leader.

Mr. ROBERT C. BYRD. Mr. President, the Constitutional framers in 1787 provided that States have Senators to represent them in this body. But the framers also foresaw that that Constitution would be a living document which could respond to change, and they provided for that change by the first few words of article V which says, in part:

> The Congress, whenever two-thirds of both Houses shall deem it necessary, shall propose Amendments to this Constitution . . .

Not to just portions of this Constitution, not just articles of this Constitution, not just article II of this Constitution, but "to this Constitution."

The objection is going to be made here by the distinguished Senator from Utah that House Joint Resolution 554 is proposing something that is unconstitutional because it would give to an entity that is not a State representation in this Senate and would thereby dilute the representation of the 50 States that are represented in this Senate.

To state the obvious, however, what House Joint Resolution 554 proposes is a constitutional amendment, and since by definition a constitutional amendment cannot be unconstitutional, the suggestion that House Joint Resolution 554 is unconstitutional is a contradiction in terms and a fatal flaw in the logic of those who make this very curious objection.

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

Mr. ROBERT C. BYRD. In any event, it is too late in history to argue that granting representation in Congress to the District of Columbia would deprive any State of its equal suffrage in the Senate. Since the ratification of the Constitution by the original 13 States, 37 additional States have come into the Union. As a result, the suffrage of the original 13 States has been diluted nearly fourfold, and yet no one seriously argues that any of the older States has been deprived of its equal suffrage in the Senate by the admission of new States.

I hope that the point of order will not be sustained, and that the Senate, if the constitutional point of order is submitted to it, will vote down the point of order.

The VICE PRESIDENT. The Senator from Massachusetts has 2 minutes remaining. The Senator from Massachusetts.

Mr. ROBERT C. BYRD. The Senator from Massachusetts yielded me his time. That is why I kept going.

Mr. KENNEDY. I yielded the time for the Senator.

The VICE PRESIDENT. There are 2

minutes remaining for the Senator from Massachusetts.

Mr. HATCH. Mr. President, will the distinguished majority leader yield for a question?

Mr. ROBERT C. BYRD. Yes.

Mr. HATCH. Will the Senator yield for a question?

Mr. ROBERT C. BYRD. Yes.

Mr. HATCH. On the Senator's point that this is a constitutional amendment and, thereby, stand in and of itself, you have article V which says that "no State without its consent, shall be deprived of its equal suffrage in the Senate."

Mr. ROBERT C. BYRD. Yes, but I have the floor, and let me answer the Senator.

Mr. HATCH. Let me ask the question.

Mr. ROBERT C. BYRD. No, the Senator has asked his question.

Mr. HATCH. I would like to ask a question.

Mr. ROBERT C. BYRD. The Senator from West Virginia does not yield. The Senator from West Virginia has already answered that question. The constitutional authors provided by article V the very vehicle by which the people themselves would amend the Constitution. I say let us give it to the people to make their decisions.

I have already answered the question about dilution of equal suffrage in the Senate, and the Senator begs the question when he wants me to go over that again.

Mr. HATCH. Would the Senator yield for another question?

Mr. ROBERT C. BYRD. Yes.

Mr. HATCH. Is it not true that when it says "no State without its consent," includes all 50 States and not just 38?

Mr. ROBERT C. BYRD. Well, but the Senator seeks to evade the point here.

Mr. HATCH. No, I do not.

Mr. ROBERT C. BYRD. No State is being deprived of its equal suffrage in the Senate. Once this amendment is submitted to the people according to article V, and three-fourths of the States ratify that amendment, no State is denied its equal suffrage.

To argue that is to argue that the 13 original States were denied their equal suffrage when 37 additional States were admitted to the Union.

Mr. HATCH. Not at all. Will the Senator yield again for one more question? If the 12 States did not——

SEVERAL SENATORS. Regular order! Regular order!

The VICE PRESIDENT. The time has expired.

Mr. HATCH. Mr. President, if the time has expired, may I make my point of order?

The VICE PRESIDENT. The Senator will state his point of order.

Mr. HATCH. I make the point of order that House Joint Resolution 554, the pending joint resolution, is not in order in that it violates Article V of the Constitution by specifying a method for adoption by the States without providing, in accordance with the last proviso of Article V of the Constitution that each of the 50 States must consent to the proposed amendment, because the proposed amendment would affect the equal suffrage of each State in the U.S. Senate. In other words, by bringing in a non-State and giving it two Senators, the express language of Article V, which reads:

No State, without its Consent—

The VICE PRESIDENT. The Senator will state his point of view.

Mr. HATCH. I am stating it:

shall be deprived of its equal Suffrage in the Senate.

Therefore, I submit that a point of order should lie that this joint resolution is not in order, because of that reservation.

The VICE PRESIDENT. Under the uniform practices of the Senate, whenever a question of constitutionality is raised, it is submitted to the Senate.

Mr. ROBERT C. BYRD. Mr. President, I move to table the point of order, and I ask for the yeas and nays.

The VICE PRESIDENT. Is there a sufficient second?

Mr. HATCH. Mr. President, a parliamentary inquiry.

The VICE PRESIDENT. The Senator will state his inquiry.

Mr. HATCH. On a point of order made on a constitutional amendment, is it proper, since there is absolutely no precedent, and since the rules state that that point or order must be submitted to the Senate, to move to table?

The VICE PRESIDENT. It is within the rules.

Mr. HATCH. Then I ask for the yeas and nays.

Mr. ROBERT C. BYRD. It has been ordered.

The VICE PRESIDENT. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The VICE PRESIDENT. The question is on agreeing to the motion to lay on the table the point of order raised by the Senator from Utah. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Mississippi (Mr. EASTLAND) and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

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

The result was announced—yeas 65, nays 32, as follows:

[Rollcall Vote No. 348 Leg.]

YEAS—65

Abourezk	Glenn	Metzenbaum
Anderson	Gravel	Moynihan
Baker	Griffin	Muskie
Bayh	Hart	Nelson
Bentsen	Haskell	Nunn
Biden	Hatfield, Mark O.	Packwood
Brooke	Hathaway	Pearson
Bumpers	Heinz	Pell
Byrd, Robert C.	Hollings	Percy
Case	Huddleston	Proxmire
Chafee	Humphrey	Randolph
Chiles	Inouye	Ribicoff
Church	Jackson	Riegle
Clark	Javits	Sarbanes
Cranston	Kennedy	Sasser
Culver	Leahy	Sparkman
Danforth	Magnuson	Stafford
DeConcini	Mathias	Stevenson
Dole	Matsunaga	Stone
Durkin	McGovern	Thurmond
Eagleton	McIntyre	Weicker
Ford	Metcalf	Williams

NAYS—32

Allen	Hatfield, Paul G.	Roth
Bartlett	Hayakawa	Schmitt
Bellmon	Helms	Schweiker
Burdick	Hodges	Scott
Byrd, Harry F., Jr.	Johnston	Stennis
Cannon	Laxalt	Stevens
Curtis	Long	Tower
Domenici	Lugar	Wallop
Garn	McClure	Young
Hansen	Melcher	Zorinsky
Hatch	Morgan	

NOT VOTING—3

Eastland	Goldwater	Talmadge

So the motion to lay on the table the point of order was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the motion to lay on the table was agreed to.

Mr. KENNEDY. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1711

(Purpose: To elect House Members from the District and for Senators the District residents shall vote as if residents of Maryland)

Mr. MELCHER. Mr. President, I have an amendment at the desk and I ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Montana (Mr. MELCHER) for himself and Mr. MORGAN, proposes an unprinted amendment numbered 1711.

Strike all after the resolving clause and insert the following:

That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within nine years from the date of its submission by the Congress:

"ARTICLE —

"SECTION 1. For purposes of representation in the House of Representatives, the District constituting the seat of government of the United States shall be treated as though it were a State. For purposes of representation in the Senate, the District constituting the seat of the government of the United States shall be treated as though it were part of the State of Maryland. For the purposes of ratification and initiation of constitutional amendments, the District constituting the seat of the government of the United States shall be treated as though it were a State.

"SEC. 2. The exercise of the rights and powers conferred under this article shall be by the people of the District constituting the seat of government, and as shall be provided by the Congress.

"SEC. 3. The twenty-third article of amendment to the Constitution of the United States is amended by striking out '*, but in no event more than the least populous State*'.

"SEC. 4. The Congress shall have power to enforce this article by appropriate legislation.

SEC. 5. The Governor of the State of Maryland shall consult with the District government prior to either implementing changes in the law governing the election of senators, or making a temporary appointment to fill a vacancy in Maryland's representation in the Senate.

"SEC. 6. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the leg-

islatures of three-fourths of the several States within nine years from the date of its submission.".

Mr. KENNEDY. Mr. President, the effect of adoption of this amendment would be to defeat it.

The VICE PRESIDENT. The Senator is advised that the amendment is not debatable.

Mr. KENNEDY. I move to lay the amendment on the table and I ask for the yeas and nays.

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

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay the amendment on the table. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Mississippi (Mr. EASTLAND) and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

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

The result was announced—yeas 60, nays 37, as follows:

[Rollcall Vote No. 349 Leg.]

YEAS—60

Abourezk	Griffin	Metzenbaum
Anderson	Hart	Moynihan
Baker	Haskell	Muskie
Bayh	Hatfield,	Nelson
Bentsen	Mark O.	Packwood
Biden	Hathaway	Pearson
Brooke	Heinz	Percy
Bumpers	Hollings	Randolph
Byrd, Robert C.	Huddleston	Ribicoff
Case	Humphrey	Riegle
Chafee	Inouye	Sarbanes
Church	Jackson	Sasser
Clark	Javits	Sparkman
Cranston	Kennedy	Stafford
Culver	Leahy	Stevenson
Danforth	Lugar	Stone
Dole	Magnuson	Thurmond
Durkin	Mathias	Weicker
Eagleton	Matsunaga	Williams
Ford	McGovern	
Glenn	McIntyre	

NAYS—37

Allen	Hansen	Nunn
Bartlett	Hatch	Pell
Bellmon	Hatfield,	Proxmire
Burdick	Paul G.	Roth
Byrd,	Hayakawa	Schmitt
Harry F., Jr.	Helms	Schweiker
Cannon	Hodges	Scott
Chiles	Johnston	Stennis
Curtis	Laxalt	Stevens
DeConcini	Long	Tower
Domenici	McClure	Wallop
Garn	Melcher	Young
Gravel	Morgan	Zorinsky

NOT VOTING—3

Eastland	Goldwater	Talmadge

So the motion to lay UP amendment No. 1711 on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the motion to table was agreed to.

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

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, after the disposition of House Joint Resolution 554, there will be a rollcall vote on the Outer Continental Shelf conference report. There is a time agreement on that matter of 40 minutes, which will not be taken.

Mr. President, I ask for the yeas and nays on the adoption of the joint resolution.

The VICE PRESIDENT. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask that the clerk repeat each name as the Senator responds.

SEVERAL SENATORS. Regular order.

The VICE PRESIDENT. If there be no further amendment to be offered, the question is on the third reading of the joint resolution.

The joint resolution (H.J. Res. 554) was ordered to a third reading and was read the third time.

The VICE PRESIDENT. The joint resolution having been read the third time, the question is, shall the joint resolution pass?

The yeas and nays have been ordered and the clerk will call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask that there be order after the vote is announced.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Mississippi (Mr. EASTLAND) is necessarily absent.

The yeas and nays resulted—yeas 67, nays 32, as follows:

[Rollcall Vote No. 350 Leg.]

YEAS—67

Abourezk	Gravel	Moynihan
Anderson	Griffin	Muskie
Baker	Hart	Nelson
Bayh	Haskell	Nunn
Bentsen	Hatfield,	Packwood
Biden	Mark O.	Pearson
Brooke	Hathaway	Pell
Bumpers	Heinz	Percy
Byrd, Robert C.	Hollings	Proxmire
Case	Huddleston	Randolph
Chafee	Humphrey	Ribicoff
Church	Inouye	Riegle
Clark	Jackson	Sarbanes
Cranston	Javits	Sasser
Culver	Kennedy	Sparkman
Danforth	Leahy	Stafford
DeConcini	Lugar	Stevenson
Dole	Magnuson	Stone
Durkin	Mathias	Talmadge
Eagleton	Matsunaga	Thurmond
Ford	McGovern	Weicker
Glenn	McIntyre	Williams
Goldwater	Metzenbaum	

NAYS—32

Allen	Hatch	Roth
Bartlett	Hatfield,	Schmitt
Bellmon	Paul G.	Schweiker
Burdick	Hayakawa	Scott
Byrd,	Helms	Stennis
Harry F., Jr.	Hodges	Stevens
Cannon	Johnston	Tower
Chiles	Laxalt	Wallop
Curtis	Long	Young
Domenici	McClure	Zorinsky
Garn	Melcher	
Hansen	Morgan	

NOT VOTING—1

Eastland

The VICE PRESIDENT. On this vote there are 67 yeas and 32 nays. Two-thirds of the Senators present and voting having voted in the affirmative, the resolution is passed.

Mr. KENNEDY. Mr. President, I move to reconsider the vote by which the resolution was passed.

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

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask that there be order in the Senate. May we have order in the galleries and in the aisles of the Senate? May we have order in the Senate? There is still work to be done.

The PRESIDING OFFICER (Mr. MATSUNAGA). The Senate will be in order. Visitors in the galleries will keep silence. Senators will cease conversation. Authorized staff will please retire to the seats designated in the rear of the Chamber. Visitors in the gallery will please keep silence as they move out.

Mr. ROBERT C. BYRD. Mr. President, I yield to the distinguished Senator from Washington so that he may call up a conference report.

Mr. JACKSON. Mr. President, I yield to the Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I want to praise the enormous contribution that Members of this body and outside groups have made in achieving this historic moment.

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

The PRESIDING OFFICER. The Senator will cease until there is order in the Senate. Senators will retire to the cloakroom if they wish to carry on conversations.

Mr. KENNEDY. Mr. President, this success would not have been achieved but for the extraordinary efforts of the majority leader of the United States Senate and his great skill not only in parliamentary tactics but also in persuasion, in the eloquence of his voice, and in the very hard and dedicated work that he performed in explaining this issue to many of the Members.

Senator CRANSTON, who is also our whip, made a very important contribution and was of enormous help to all of us who supported this proposal.

Senator BAYH, who is the chairman of the Subcommittee on the Constitution which held the hearings, has been one of the clearest and most forceful advocates of this constitutional amendment. All of us in this body know the very great achievements that he has made in the area of constitutional rights.

Senator LEAHY, who is the chairman of the District of Columbia Appropriations Subcommittee, and Senator EAGLETON, the chairman of the District of Columbia Subcommittee in the Governmental Affairs Committee brought to this debate long experience in dealing with the District of Columbia affairs, and their help and support was invaluable.

Senator HOLLINGS, of South Carolina, was a very early supporter of this proposal and was of great value.

On the other side of the aisle, Mr. President, I express my appreciation to the leader of the Republican Party, Senator BAKER; my colleague in the U.S. Senate, Senator BROOKE, who has been a long-time supporter and spoke so eloquently this afternoon; Senator MATHIAS, a member of the Judiciary Committee and a strong supporter. Senator THURMOND, who is a member of the Judiciary Committee, took great interest in

the consideration of this measure. Senator DOLE spoke strongly in favor of it and his support was very much appreciated in recent days. Senator GOLDWATER spoke in favor of it at a very early time, and was most helpful in launching it on the right foot when it reached the Senate last March.

Mr. President, I also praise the strong statement that President Carter made in support of this proposal. All of us know that, as the Chief Executive of this country, his support for this issue, and for human rights everywhere, has raised the consciousness of the Nation and the world on these issues. Vice President MONDALE was also tireless in his support for this proposal; as a former Member of this body, he was thoroughly familiar with the issue and provided effective help in recent months. Their assistants, Dan Tate, Bob Thompson, Jim Dyke, and Bob Malson, were of enormous help.

I also praise WALTER FAUNTROY whose name leads all the rest, Mr. President, in working so effectively for this amendment. I also commend his able staff, Johnny Barnes and Eldridge Spearman, who were of such great help.

Another key group was the Self-Determination for District of Columbia Coalition, led by Sterling Tucker, Dick Clark, Elena Hess, and Melanie Woolfton. I also commend the Leadership Conference on Civil Rights, especially Clarence Mitchell and Joe Rauh, as well as Walter Washington, the Mayor of this city. Voters also did outstanding work, and I commend both Cathy Dealy and the National League, and Meg Aylward, and the D.C. League.

But most of all, I commend the 700,000 people of the District of Columbia, who have waited so long for this action.

Finally I express my respect for those who were in opposition, the leader of the opposition, the Senator from Virginia, Senator SCOTT, and also Senator HATCH, Senator MCCLURE, Senator BARTLETT, Senator MELCHER, and all who took great interest in this issue and offered their amendments. Their efforts were thoughtful and constructive, and helped to bring to the Members of the Senate the important questions raised by the amendment. The record made during these days will be of great value, hopefully, to the States that will make the ultimate decision as to whether this amendment becomes part of the Constitution.

The Senate now sends this measure to the several States. It will be the people's representatives in those States who will make the ultimate and final determination.

I am very hopeful that their decision will be made in behalf of human rights and on behalf of the civil rights of the people of this District. I am indeed grateful to all the Members who saw the merits of this measure and supported it with their votes.

I thank the Senator.

The PRESIDING OFFICER. The Senator from Washington has the floor.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield the floor?

The PRESIDING OFFICER. The Senator from Washington has the floor.

Mr. JACKSON. Mr. President, I ask unanimous consent that this time not come out of my time. We have 40 minutes on the conference report.

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

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield to me?

Mr. KENNEDY. Yes.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator for his kind remarks. He has mentioned everyone but himself and he, in my judgment, is entitled to more credit than any other single individual for the success of the effort that has been made, and I pay him much plaudits and salute him for his diligence, untiring efforts, and able leadership in this historic event.

I also express my compliments to those who opposed the amendment. They conducted a very substantive debate. It was of a very high degree and it was an honorable, dedicated, and sincere effort on their part, and they are entitled to plaudits as well.

Mr. BAKER. Mr. President, will the Senator yield to me briefly?

Mr. KENNEDY. Yes, if I may just take 10 seconds, Mr. President, to mention the two members of my staff, Carey Parker and Peter Parham, and Fred Williams of Senator BAYH's staff, whose assistance was valuable to me and to those who supported this. I also praise the efforts of Natasha Pearl, a high school student who graduated from Woodrow Wilson High School in the District this year, who worked hard for this amendment with youth groups which bodes well for the concern of our leaders of tomorrow on these basic issues of democracy. I yield to the Senator from Tennessee.

Mr. BAKER. Mr. President, I will not take long. I rise to express my congratulations to those who prevailed and my compliments to those who fought valiantly——

Mr. STENNIS. Let us hear the leader.

Mr. BAKER (continuing). In opposing this.

The PRESIDING OFFICER. The point of order is well taken. The Senate will be in order.

The Senator from Tennessee.

Mr. BAKER. Mr. President, especially I express my appreciation to the distinguished senior Senator from Massachusetts for his leadership in this role; of course, to the majority leader; but especially also to those Members of the Senate on this side of the aisle who expressed their view in support of the resolution early and effectively; and I am thinking particularly of the distinguished Senator from South Carolina, who was probably more instrumental than anyone else in this Chamber excepting only the managers of the bill, in seeing that this measure reached this point of development; the distinguished Senator from Arizona, Senator GOLDWATER, who added impetus to the effort; the distinguished Senator from Kansas (Mr. DOLE) without whose assistance I very much doubt that this measure could have prevailed; and the many others on this side.

It is an issue that sharply divided this side of the aisle. I note that the votes on the Republican side were divided evenly, 19 and 19, which is some measure of the conflict within the Senate surrounding this historic issue.

But most especially, Mr. President, I express my appreciation to the distinguished Senator from Virginia (Mr. SCOTT) for agreeing to manage this resolution on behalf of the opposition. As the second ranking member of the Judiciary Committee, he expressed the point of view of those in opposition effectively, cogently, and consistently over a long period of time. I offer him my congratulations for a job well done as I do all of those who participated in this debate.

I thank the Senator from Massachusetts.

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

The PRESIDING OFFICER. The Chair will advise the Senator that the Senator from Washington has the floor. The Senator from Washington (Mr. JACKSON) has the floor.

Mr. JACKSON. Mr. President, I ask unanimous consent that all of the preceding comments not come out of my time. Our 40 minutes will soon be gone.

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

Does the Senator from Washington still yield to the Senator from Massachusetts?

Mr. JACKSON. Yes, I yield as long as it does not come out of my time now or previously.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. I ask unanimous consent to be able to proceed for 30 more seconds.

The PRESIDING OFFICER. Without objection.

Mr. KENNEDY. Mr. President, finally, I give strong praise to the chairman of the Republican National Committee, Bill Brock, who was of great help and value, and also to John White, chairman of the Democratic National Committee, who worked effectively to achieve this victory.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. SCOTT. Mr. President, I congratulate the distinguished Senator from Massachusetts and all those who worked with him.

I would like to commend every Senator here whom he did not mention. I think he mentioned the vast majority of the Senate.

The Senate has worked its will as far as proposing a constitutional amendment is concerned. Now it is up to the States to make the decision as to whether or not they will ratify the proposal presented by the Senate.

Naturally, I am disappointed in the result. But this is the type of government that we have in which we conduct our business in an orderly way.

I thank all of those who worked on this side of the aisle in order to enable us to obtain 32 votes, two short of the necessary number by which the resolution would have been rejected.

The PRESIDING OFFICER (Mr. HODGES). The Senator from Washington.

OUTER CONTINENTAL SHELF LANDS ACT AMENDMENTS OF 1978—CONFERENCE REPORT

Mr. JACKSON. Mr. President, I submit a report of the committee of conference on S. 9 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 9) to establish a policy for the management of oil and natural gas in the Outer Continental Shelf; to protect the marine and coastal environment; to amend the Outer Continental Shelf Lands Act; and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their repective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of August 10, 1978.)

Mr. JACKSON. Mr. President, Senate approval of the conference report before us today on S. 9, the Outer Continental Shelf Land Act Amendments of 1978 will culminate 5 years of effort by the Congress to establish a modern national policy for the development of OCS oil and gas resources.

During those 5 years, OCS reform legislation has passed the Senate three times by substantial margins, twice in the face of strong opposition by previous administrations. Fortunately, S. 9 enjoys strong support by the Carter administration. Last summer this bill passed the Senate by a vote of 60 to 18. The conference report was approved by seven of the eight Senate conferees and has already been adopted by the House of Representatives by a vote of 338 to 18.

S. 9 strikes a balance between oil and gas development and potentially adverse economic, social and environmental impacts that accompany it. It goes a long way toward alleviating the public's fears that were spawned by the disastrous Santa Barbara Channel blowout 9 years ago and by other environmentally destructive oil spills, primarily from tankers, which followed. Offshore oil and gas exploration and development can now proceed on schedule in an atmosphere of business certainty and environmental security toward the goal of providing increased domestic energy supplies under these new policies.

Mr. President, the major provisions of the conference report provide for:

The establishment of national policy guidelines for OCS development;

Separation of the decision process between exploration and development;

Revision of the leasing process with the addition of new bidding alternatives that must be utilized;

Increasing the role of coastal States in Federal OCS decisions;

Establishment of absolute liability of oil spill damage with payment for a liability fund;

Improvement of safety standards; and

Establishment of a fund to pay for damage to commercial fishing vessels and gear resulting from OCS development activities.

S. 9 represents good, sound policy for the management of the public's resources.

Mr. President, the Outer Continental Shelf is America's best hope for finding additional oil and gas resources and reducing our dependence on foreign oil. The Federal Government is charged with the responsibility of managing this resource for the best interests of all the public. There is no question but that this significant reform legislation, S. 9, will aid in the attainment of our vital national energy and environmental goals.

I urge my colleagues to adopt the conference report, and thus clear the legislation for Presidential approval.

The PRESIDING OFFICER. Who yields time?

Mr. JACKSON. I yield to the Senator from Wyoming.

Mr. HANSEN. Mr. President, as ranking minority member of the Committee on Energy and Natural Resources I rise in support of the conference report and the bill. I want to make it clear that even though I voted against the Senate bill, I have decided to support the conference report since it represents what I consider to be an acceptable compromise and an important policy decision by the Congress.

Mr. President, for some years now OCS leasing has been delayed because of concern that political pressure from States which are adjacent to new leasing areas would force the congress to dictate new directions in OCS leasing policy. The department has been asking the Congress for several years to address these issues. Thus the bill that is before us now represents the definitive congressional statement on what new directions, if any, the Congress has decided to take.

The conference report that is before the Senate today, Mr. President, can best be characterized as steady as you go. It sets only a slight change in course in a policy sense. I think that is good. Since our OCS development efforts in the Gulf of Mexico have been so successful, we should build on that record. We may have made some mistakes early in the program but they have been corrected. In my view we should build on that record. To a large degree this bill does just that.

I would hope as well, Mr. President, that the resolution of these issues by the Congress will remove the uncertainty which has plagued the OCS leasing program for years and lead the way to an aggressive and expedited OCS leasing and development program.

It seems to me, Mr. President, that the most important portions of this conference report are the decisions that have been made by the conferees on the major policy issues.

On Federal exploration, the conferees removed specific authority contained in the Senate bill for the Federal Government to undertake exploratory activities. The bill instead retains the neutral language of the 1953 act. Any exploratory work the Secretary of the Interior wishes to begin will have to be approved in advance by the Congress through the usual authorization and appropriation process.

The dual leasing authority in the Senate bill was similarly dropped from the conference report as was the mandate for on-structure drilling programs contained in the House bill.

The use of new or alternative bidding systems by the Secretary has been restricted to a level which will permit a reasonable test of these systems, hopefully without disrupting the necessary investment flow into the offshore area.

The conferees worked a long time on the clean air provisions of the House bill. They agreed that offshore operations should not prevent the attainment of onshore ambient air quality standards. The conferees instructed the Secretary of the Interior to promulgate regulations which will control those emissions to the degree specified in the conference report.

The conferees also made a wise choice on the very complicated issue of manning and crewing of offshore facilities by Americans. Under the conference report, manning and crewing requirements on foreign vessels and platforms will track exactly the manning and crewing requirements that U.S. operators have to live with in foreign waters.

The conferees also resolved a major dispute over pipeline competition by requiring that the development of pipeline systems in the newly developed areas be completed using sound competitive principles and assuring that all potential shippers are treated fairly.

Because of the very important role of existing lines in the Gulf of Mexico, the conferees were firm that this area be exempted from these requirements. There was no suggestion in the conference or in the conference report that the Federal Energy Regulatory Commission reexamine exemptions for gathering lines or apply these new conditions to existing pipelines in the Gulf of Mexico. Of course, for all new lines established in new producing areas, all of these new requirements would apply.

This conference took a long time, Mr. President, to work through these issues. They are important and far-reaching issues and these are very significant decisions this conference has reached. I am pleased that it is possible for me to concur in nearly all of them.

As in any bill, however, Mr. President, there is a down side. Let me elaborate briefly.

Over the past 3½ years, while this bill has been pending before the Senate and House, I have on numerous occasions indicated strong disagreement with the regulatory climate that has been developing regarding the production of oil and gas on the Outer Continental Shelf. It was my feeling then, and it is my feeling now, that the regulatory procedures which currently govern OCS operations are excessive. They slow down and in-

hibit efforts to develop oil and gas to meet our energy needs and ultimately cost the consumer far more than the benefits realized from those regulations.

It should be clear to all concerned, Mr. President, that the regulatory tangle we are currently facing is not a product of the bill we are considering today. It is a regulatory approach which has grown like a cancer within the bureaucracy in recent years. This growth in regulatory requirements has been fed by concerns expressed by people living near new leasing areas which might be oil and gas producing areas if discoveries are made. As bureaucrats usually do, they tried to address these concerns by making more paperwork.

Because of the high level of safety already practiced in OCS operation, I must point out to my colleagues that these new regulations have made only a very marginal, if any, improvement in the safety of offshore operations. The experience in the Gulf of Mexico is convincing evidence that the regulatory approach of the past is more than adequate to prevent despoliation of beaches, of near-shore habitat, of tidelands, or other coastal environmental areas. Twenty thousand wells or more have been drilled in the Gulf of Mexico and the coastline is still producing the traditional seafood of the area at record rates. More regulations will not mean safer operations, they only lead to delay, litigation, and higher costs.

To find out what the Secretary absolutely needed to carry out a safe and efficient leasing and development program on the OCS, I wrote to the Secretary of Interior just before the Conference started asking him what provisions in either the House amendment or the Senate bill represented new authority, other than that contained in the 1953 OCS Act, which he needed to handle offshore operations problems. The response I received from the Secretary indicated that only three provisions were necessary. One was the authority for the Secretary to cancel a lease and to provide compensation to the lessee subsequent to cancellation. Second, the Secretary felt he needed authority to apply sanctions against any State employee who released privileged information that was provided by a Federal agency. Third, the Secretary felt he needed statutory authority to establish funds to compensate fishermen who had fishing gear damaged as a result of offshore operations and to pay for cleaning up oil spills resulting from OCS operations. It should be pointed out that all three of these are provided for in the conference report. I think they are good ideas and I have supported each of them from the outset of this conference.

But I feel constrained, Mr. President, to point out to my colleagues that this bill also represents a ratification of the regulatory system that has developed over the years within the Department of the Interior. We have literally written into this statute all of the regulatory authority now being exercised by the Secretary of Interior. This aspect of the bill gives me great concern since, as I mentioned previously, the current regulatory approach is far too burdensome both on the producing industries and on the oil and gas consumer.

Therefore, I would hope that the President and Secretary would draw the line on further regulations. I would hope that they would take the current system and say that this is as far as we will go. From now on we will make these regulations work; we will make them work faster; we will make them work more efficiently; we will reduce the burden on the producing industries and on the public.

The fastest way to develop new oil and gas resources is to remove regulatory and market paraphernalia which stymie the abilities of the private sector to provide for the energy needs of Americans. The free market has worked in the past and there is no reason it cannot work now. But since the Congress does not seem to be in such a frame of mind of late, the second best way to discover oil and gas in this country is to streamline the regulatory approach and to expedite the process of identifying areas for leasing, issuing the leases and granting permits so that whatever oil and gas we find will be brought to shore as soon as possible. I would hope that the Secretary would see this as an absolute mandate from the Congress. I urge support for the conference report.

I yield to the Senator from Oklahoma.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. BARTLETT. Mr. President, although there is no doubt in my mind that the conference report on the Outer Continental Shelf Lands Act Amendments of 1978 will shortly be adopted by this body and signed into law by the President, I would like to state for the record why I did not sign the conference report and why I do not intend to vote for it.

The House and Senate OCS conferees are to be congratulated for their successful efforts in greatly improving on a bad piece of legislation. The conference report represents a dramatic improvement over the Senate-passed OCS bill. However, that is not sufficient justification to sign the conference report or to vote for the bill.

The bill is not needed. Past and present Interior Department Secretaries under the broad grant of authority delegated to them under the original 1953 act have promulgated hundreds of pages of OCS regulations which are, for the most part, merely replicated in this bill.

But, more importantly, the most serious cause of delays in the OCS program to date has been the series of vexatious environmental suits which have delayed a number of OCS lease sales. I am referring to the NEPA lawsuit filed on November 1, 1971, attempting to block a Gulf of Mexico lease sale; the suit filed on December 14, 1973, to block the MAFLA OCS lease sale; the suit filed in August 1974 to prevent the southern California lease sale; the 1974 suit to halt the Gulf of Alaska lease sale; the March 9, 1976, suit against the already delayed Gulf of Alaska lease sale; the suit filed on February 11, 1976, that halted the Middle Atlantic OCS lease sale; the suit filed on February 1, 1977, to block the Lower Inlet OCS lease sale; and most recently the suit of January 17, 1978, which halted the proposed Georges Bank lease sale. This list does not include the countless number of suits that have been filed in various State courts.

The Secretary of the Interior and many of the major sponsors of the bill in both the Senate and House have argued that with the enactment of this legislation the environmentalists will be so appeased and pleased that there will be no more lawsuits the purpose of which is to slow down or stop OCS development. I believe such statements could not be farther from the truth.

All suits to date have challenged the adequacy of the environmental impact statements prepared in anticipation of OCS lease sales. This bill allows such suits to continue.

Additionally, it allows even more NEPA suits by mandating a second EIS statement at least once in each frontier area between the completion of the exploration phase and commencement of the development and production phase. I predict we will see a rash of new lawsuits challenging environmental impact statements filed before the development and production phase.

On top of that, Mr. President, section 23 of the bill opens the door to a plethora of other citizen suits challenging not only environmental impact statements but any other action the Secretary or lessees take to which the litigants are opposed. Thus, instead of cutting back on OCS lawsuits, this bill will foster a growth of delay-causing lawsuits that has never been experienced before in the history of the administration of the OCS Lands Act since 1953.

In title I of the bill mention is made, with some qualification, of the need to expedite OCS development. I, of course, agree that we as a Nation do need to expedite OCS development. However, I believe that in fact this will slow down OCS development by:

First, instigating a mass of delay-causing lawsuits;

Second, expanding the regulatory burden on the offshore industry;

Third, increasing the number of bureaucrats in numerous agencies which manage the OCS program;

Fourth, increasing to a point of no return the extent of local and State government agency involvement in what used to be a purely Federal program; and

Fifth, as a result of the compounding effect of these four major obstacles to progress, the cost of developing offshore oil and gas will skyrocket with attendant inflationary effects—all of which will have to be borne by American consumers at the same time they are forced to pay through the nose for increasing amounts of imported oil.

For these reasons, Mr. President, I intend to vote against the bill.

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

The PRESIDING OFFICER. The Senator has 8 minutes remaining.

Mr. BARTLETT. Mr. President, I yield back my 8 minutes.

● Mr. WEICKER. Mr. President, on

August 10, 1978, the Senate and House filed the conference report on S. 9 (H.R. 1614), the Outer Continental Shelf Lands Act Amendments of 1977.

I would like to commend my colleagues that served on the OCS conference for completing a most difficult task.

When the OCS amendments become law, this Nation will have taken an important step in the wise exploration and development of offshore oil and gas, and to assure that environmental safeguards are met.

This legislation provides a balance between economic and environmental concerns and will allow this country to pursue offshore energy production in a systematic way. I believe that we must get on with energy production, and the untapped offshore oil and gas reserves offer a great new promise for this country to meet increasing pressure to become energy self-sufficient. Increased production of offshore oil and gas is not going to achieve this self-sufficiency but will add significantly to our reserves.

Among my main concerns regarding this legislation is the conflict that will inevitably arise between offshore oil and gas development and the fishing industry.

Some of the most potential oil resources are in rich fishing grounds particularly George's Bank off New England.

George's Bank is one of the most productive fishing grounds in the world as well as spawning grounds for many commercially important species.

A survey of fishing vessels made in 1977 shows that 739 vessels fish George's Bank.

The New England fishing industry lands in excess of $150 million worth of fish annually.

A total of 15.6 million acres of George's Bank was made available for nomination to lease by the Bureau of Land Management in 1975. Estimates of undiscovered recoverable oil and natural gas for this area are conservatively 0.9 billion barrels and 4.4 trillion cubic feet respectively, and could be much more.

The great push for oil and gas development on George's Bank and other areas of the Continental Shelf, along with increasing activities of the fishing industry will cause problems particularly snagged and damaged fishing gear resulting from oil related debris.

The OCS amendments of 1977 include title IV, the fishermen's contingency fund which I introduced in committee and was subsequently introduced by Congressman STUDDS on the House side.

The fund is designed to help fishermen deal with damages to their gear and vessels caused by oil and gas development. Basically, title IV provides for payment to a fisherman to replace his damaged goods when he shows reasonable proof that it was caused by debris or some other reason as a result of OCS activities.

The conferees have made a fair compromise between the Senate and House versions of the fund, and I believe the fishing industry as well as the oil companies will benefit from their work.

The OCS amendments also include language that would mandate the Secretary of Commerce in cooperation with the Coast Guard and the National Institute of Occupational Safety to conduct studies related to diving safety.

These studies are intended to address those areas that are not considered by present studies.

Many of the largest U.S. diving companies have the most sophisticated experimental diving systems in the world and are capable of developing their own tables and physiological safeguards.

I believe these companies are presently doing an excellent job of researching and developing diving safety techniques on their own. The intention of the studies as set forth in the OCS amendments is not to duplicate their efforts but to fill gaps in existing research. It is the Government's job, I believe to study such things as the cause and effects of bone necrosis which is presently plaguing the industry with high insurance rates. There is very little known about the prevention of bone necrosis and over a long period of time it can be debilitating to its victims. Other studies involving shallow water air saturation diving and excursions are also necessary.

I believe that these studies will be useful to the commercial industry and to diving in general.

Mr. President, it is my firm belief that the oceans will provide us with numerous more resources in the future. The Outer Continental Shelf Lands Act Amendments of 1978 will set a precedent in how we handle the development, utilization, and environmental protection aspects of other resources from the sea. We should, therefore, watch the results of this legislation carefully.●

● Mr. JOHNSTON. Mr. President, may I ask my good friend and chairman of the Energy and Natural Resources Committee, Senator JACKSON from Washington, a question I have concerning the conference report on S. 9, the Outer Continental Shelf Lands Act Amendments of 1978?

It is my understanding that when the conferees acted on the issue of the grandfathering of certain exploration activities from the new requirements to be imposed by our amendments to section 11 of the OCS Lands Act, the intent was clear that delays in current, ongoing exploration activities were to be mitigated to the fullest extent possible.

That is, by specifically providing that those exploration activities conducted pursuant to existing leases on which drilling permits had been issued or for which exploration plans had been approved prior to 90 days after the date of enactment of these amendments shall be considered in compliance with the requirements of this act. The conference also intended that the Secretary of the Interior consider those plans submitted to him up to and through such 90-day period under existing regulations and not unduly delay such consideration while awaiting the development of new regulations. The reason for this is as much to encourage industry to submit exploration plans as they are prepared in the normal course of business without the need for delay while awaiting the promulgation of new regulations. We do not want the Secretary "dragging his feet" on plans which have undergone detailed analysis and costly preparation based upon existing valid regulations or arbitrarily to return to exploration plans he received prior to promulgation of any new regulations when the exploration plans conform to existing regulations. Is it not your understanding that the conferees intended to avoid such delays whenever possible?

Mr. JACKSON. I believe that my colleague from Louisiana has correctly stated the intent of the conferees on this point. The conferees were vitally interested in making sure that undue delays in all phases of OCS resource development be kept to an absolute minimum. At the same time, however, the conferees did recognize that the Secretary could require additional information from lessees or could require a revised exploration plan, although our intent to prevent undue delays was clear.●

● Mr. McCLURE. Mr. President, I am pleased that the conference committee in consideration of the Outer Continental Shelf Lands Act Amendments of 1978, agreed on language of documentation, registration, and manning requirements in section 30 of the new sections of this act.

This section protects the opportunity for Americans to obtain and keep jobs for the purpose of finding and producing energy resources on the Outer Continental Shelf. Minimum standards for vessels, rigs, platforms, other rigs and structures, should make a positive contribution toward safe and environmentally sound operations on OCS areas. There is enough flexibility in this provision, while protecting job opportunities, to serve notice on foreign nations that the United States intends to take a balanced approach toward manning requirements consistent with actions of other nations under similar circumstances where American workers are involved.●

● Mr. MUSKIE. Mr. President, great concern has been expressed about the potentially great impact that activities on the Outer Continental Shelf may have on the air quality of adjacent States. It is undisputed that OCS-related activities will increase onshore air pollution levels.

In response to anticipated exploration off of the southern California coast, EPA has issued a notice of determination that the Clean Air Act, and all regulations promulgated thereunder, apply to activities on the Outer Continental Shelf when such activities could affect the air quality of an adjacent State.

All requirements under the Clean Air Act are thus applicable to OCS activities. This includes attainment and maintenance of ambient air quality standards when the State affected has not yet achieved those standards. It includes prevention of significant deterioration requirements when the State affected has air quality better than the ambient

standards. It includes compliance with all new source performance standards promulgated by EPA which apply to an OCS facility. It includes compliance with all State air quality requirements authorized to be established by the Federal clean air law. It includes all permit requirements applicable prior to construction of a facility with a potential air quality impact on a State. It includes all enforcement authority required to be exercised by the Administrator of the Environmental Protection Agency.

In short, exploration, development, and production activities on the Outer Continental Shelf are no different than any other source of pollution; they are regulated to the extent they interfere with the efforts of a State to comply with the Federal mandate to clean up its air or to keep its air clean, and to the extent EPA has promulgated new source standards for OCS activities. As one of the principal authors of the Clean Air Act, I can say that without question the law is intended to regulate any OCS activity which may affect the onshore air quality of a State, and EPA's notice of determination implements this congressional intent.

Mr. President, the conference report on the Outer Continental Shelf Act contains language which in my opinion reinforces the Clean Air Act to activities on the Outer Continental Shelf.

The bill requires that the Secretary of the Interior promulgate regulations to insure that exploration, development and production activities comply with "national ambient air quality standards pursuant to the Clean Air Act, to the extent that activities authorized under this act significantly affect the air quality of any State."

The role of the Secretary is only to insure that exploration plans and development and production plans provide for compliance with all statutory requirements of the Clean Air Act, and regulations promulgated pursuant to it.

The regulations of the Secretary of the Interior are in addition to the requirements under the Clean Air Act. They supplement the Clean Air Act; they are not a substitute for the Clean Air Act.

Such provisions for compliance with the Clean Air Act are required in the plans whenever OCS activities may have a significant effect on an adjacent State's air quality, whether it is better or worse, than the ambient air quality standards. The determination of significant air quality effect will be made by the Environmental Protection Agency to fulfill its mandatory responsibility under the Clean Air Act. The Secretary will then carry out his duties under the Outer Continental Shelf Act based on EPA's air quality evaluation of proposed OCS activities.

The Secretary's role is primarily in the nature of a procedural safeguard, not one of promulgating substantive clean air regulations or one of enforcement of the Clean Air Act. The Administrator of EPA retains responsibility for implementing the clean air law. Even if the Secretary fails to exercise his responsibility under the Outer Continental Shelf Act, the applicability and enforceability of the Clean Air Act is not affected.

I would like to direct an inquiry to the distinguished chairman of the Energy Committee (Mr. JACKSON): Would the Senator describe the role of the Secretary as a supplemental one, to assure that provision is made for compliance with clean air requirements?

Mr. JACKSON. Yes, the language of the Outer Continental Shelf Act is not intended to affect the present applicability of the Clean Air Act to OCS activities, or the primary responsibility of the EPA Administrator to enforce such requirements. The Secretary is expected to consult closely with EPA and to rely on its technical expertise when incorporating clean air requirements into exploration plans and development and production plans and when analyzing the air pollution impact of OCS activities.●

● Mr. HOLLINGS. Mr. President, I would like to speak to the conference report on S. 9, the Outer Continental Shelf Lands Act Amendments.

Praise certainly is in order for the tremendous efforts of the Committee on Energy and Natural Resources, the House OCS Committee, and their respective chairmen, Senator JACKSON and Congressman MURPHY. The time and energy devoted to producing this compromise stretches over several years. The chairmen and their committees deserve recognition for coming out with this hard-fought compromise.

Today I would like to speak to one particular part of the conference report on S. 9, the amendments to the Coastal Zone Management Act of 1972, as amended; for here we have an unusual situation which bears complete explanation for the record.

This conference report contains amendments to the Coastal Zone Management Act of 1972. As such, it includes matters which are within the exclusive jurisdiction of the Senate Committee on Commerce, Science, and Transportation under rule XXV of the standing rules of the Senate. The Committee on Energy and Natural Resources has no claim whatsoever to that jurisdiction, and this is readily conceded by that committee.

The Energy Committee took up these amendments to the Coastal Zone Management Act within the context of the OCS amendments solely with the permission of, and on the basis of an agreement with, the Commerce Committee. The agreement, which is part of the record for July 14, 1977, is basically this. My colleague from Louisiana, Senator JOHNSTON, had an interest in amending the formula grant segment of the coastal energy impact fund. The amendments were ones in which the Commerce Committee could concur substantively. Therefore, in the interests of expediting the OCS amendments as well as the amendment of the Coastal Zone Management Act, the Commerce Committee agreed to permit the Energy and Natural Resources Committee to take up the amendments in this manner, rather than request referral. Furthermore, the agreement laid to rest any further disagreement between my colleague from Louisiana and myself over what the formula grants were or were not originally intended to do.

Everyone has proceeded with this understanding in good faith. The Senate version of the OCS Lands Act amendments passed the Senate with commensurate action on the House side; a conference was held and we now have before us the conference report.

Now that we are voting on the conference report, the agreement for handling the coastal zone amendments in this manner has reached its natural conclusion, and any consideration of the Coastal Zone Management Act of 1972, as amended, reverts exclusively to the Committee on Commerce, Science, and Transportation as laid out in the Senate Rules.

Relations between our two committees have been very fine for some years now, and I certainly want to see that continue. And while I may seem to be stressing this jurisdictional matter unnecessarily, I and my colleagues on the Commerce Committee would rather see this matter settled clearly so that there is no room for misunderstanding. Too many times we see in the Senate the confusion and bad feelings that can be caused over jurisdictional issues, and I for one do not want that to be the case between these two committees.

On the issue of the handling of the coastal zone amendments in the OCS bill, the chairman of the Energy and Natural Resources Committee, Senator JACKSON, worked in good faith with us and did what he could to try and keep the spending down in the amendments. I certainly have no complaints here. On the contrary, Senator JACKSON was in a difficult position and made a point of consulting with me frequently. I do not by this mean to say that I am in total agreement with all the changes that were ultimately made, but Senator JACKSON was a man of his word. He and his colleagues, balancing the need to complete this legislation after years of effort, made the compromises that they believed were necessary to get the job done. I want to recognize Senator JACKSON'S efforts in this regard, as well as those of Senator JOHNSTON.

I have with me a copy of the agreement reached here on the floor last year, and I ask that it be printed in the RECORD.

The agreement follows:

Mr. President, the amendment is the culmination of a lot of work in consultation with members of the Committee on Commerce, with members of the States that are affected by the offshore drilling and prospective offshore drilling.

I yield to my distinguished friend from Washington.

Mr. MAGNUSON. Of course, the Senator from Louisiana, I want the record to show, realizes that this is a matter which is in the clear jurisdiction of the Committee on Commerce.

Mr. JOHNSTON. Yes, Mr. President.

Mr. MAGNUSON. And I joined with him in the amendment because I do think that if it had been sent to the Commerce Commit-

tee, they would have approved the modified amendment and passed it right back.

Senator HOLLINGS, myself, and others, have agreed to it to save time. But I want the record to show that this is establishing absolutely no precedent at all on the jurisdiction of the Commerce Committee on coastal zone management matters. Under the reorganization of the Senate, we have clear jurisdiction and I am sure the Senator from Louisiana realizes that.

Mr. JOHNSTON. Mr. President, the Senator from Washington is correct. It has clear jurisdiction over that act. The Energy Committee makes no claim on that jurisdiction.

What this amendment represents is the culmination of about 3 years of negotiations on this particular amendment, which will now be culminated and consummated and we will make no further claim on the coastal zone management bill.

Mr. MAGNUSON. I want the record also to show, if the Senator will yield, that there was some suggestion made by the Senator from Louisiana to me and others that 2 years ago we made some kind of agreement on this type of amendment, as to jurisdiction.

I do not quite recall what we did. I recall the Senator from Louisiana was quite provoked at one time that we could not get an agreement.

But since that time, we have had a reorganization, regardless of this, and, clearly, we have had an awful fight to keep coastal zone management in the proper committee. We held hearings on it, worked on it for years. Now it is clearly there.

I am glad to join with the Senator in this matter to expedite what I think will be a good amendment.

I wish the Senator would yield also to my colleague from South Carolina.

Mr. JOHNSTON. Yes.

Mr. HOLLINGS. I thank the distinguished chairman, the Senator from Washington, and my colleague, the Senator from Louisiana.

Actually, the Senator from Louisiana and I sat in conference together when we were marking up that impact fund. I chaired that conference and I understood the misgiving that the Senator from Louisiana had because, in a sense, we had temporary agreement at one time—generally speaking, this same kind of approach that the Senator now submits in the form of his amendment. At no time was there any question about the jurisdiction.

I am glad we can accommodate our distinguished friend from Louisiana who has led the way, along with the Senator from Alaska and myself and the Senator from Washington, on the institution of the coastal energy impact fund.

Mr. President, I join the chairman of the Committee on Commerce, Science, and Transportation, Senator MAGNUSON, in cosponsoring the amendment offered by the distinguished junior Senator from Louisiana.

Although this amendment, by directly affecting the Coastal Zone Management Act of 1972, clearly falls within the jurisdiction of the Commerce Committee alone, the committee has agreed to make an exception in this one case, in order to address some of the problems being encountered in coastal States experiencing impacts from Outer Continental Shelf oil and gas activity. I am pleased to join in this agreement to enable the coastal zone management program to be more responsive to needs growing from OCS activity in our fragile and invaluable coastal areas. As I understand it, this amendment will enable coastal States, through the coastal zone management program, to deal with impacts from both frontier areas that will be leased and coming into production, as well as some of the problems already existing from current OCS activity. I feel that this is a sound compromise, and I fully endorse it.

Mr. JOHNSTON. Mr. President, I thank the Senator from Washington and the Senator from South Carolina, along with the distinguished chairman of my committee, for the many hours of work in helping us get this worked out so amicably and so helpfully.

Mr. MAGNUSON. Mr. President, the bill now before the Senate, S. 9—the Outer Continental Shelf Lands Act Amendments of 1977—contains matters which are within the exclusive jurisdiction of the Senate Committee on Commerce under the new jurisdictional rules recently adopted by the Senate. Section 506 of that bill contains an amendment to the Coastal Zone Management Act of 1972, as amended. That legislation is solely within the jurisdiction of the Committee on Commerce under rule XXV of the standing rules of the Senate, as recently amended. The Committee on Energy and Natural Resources has no claim whatsoever to that jurisdiction.

While members of the Energy Committee concede this jurisdiction, they desire this amendment without action in the Committee on Commerce. I consider this process highly unusual, particularly since it does not provide our committee with an ability to examine thoroughly this amendment or the substitute which Senator JOHNSTON now desires to offer.

But in the spirit of compromise I am willing to lay aside the jurisdiction issue if Senator JOHNSTON changes his amendment such that no coastal State is harmed in his attempt to aid his State of Louisiana. As shown to me, his original substitute amendment would have deprived certain west coast States of impact aid which they would receive under the present terms of the coastal energy impact program. This is the very reason I raised the jurisdictional issue. I have asked him to change his substitute amendment to insure that other States are not harmed.

Under his original proposal, the funding authorization for formula grants under the Coastal Energy Impact Program (CEIP) would be changed from an 8-year, $50 million per year level to a 4-year, $100 million per year level. This creates great uncertainty for those States which are on the far end of the Outer Continental Shelf leasing program, namely the west coast States. Under this proposal, my own State of Washington would lose in excess of $2 million.

I propose to continue the 8-year authorization, but to raise it to $75 million per year. This seems to be far more equitable to all States.

Coastal States will have to show actual need for these funds before they can qualify and appropriations for the CEIP must be approved by Congress. So this is not an unreasonable proposal.

The other parts of Senator JOHNSTON's amendment have, I understand, the blessing of the administration. Since the Commerce Committee has not had time to analyze the ramifications of the changes to section 308(b)(4), the committee reserves the right to reexamine these changes if we feel it is necessary.●

Mr. JACKSON. Mr. President, I am prepared to yield back the remainder of my time.

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

The PRESIDING OFFICER. The Senator from Alaska.

Mr. JACKSON. I yield such time as he may need to the Senator from Alaska.

Mr. STEVENS. I shall not delay the Senate, Mr. President, except to say that 70 percent of this land is off my State, and I find very interesting the distinctions that are made in terms of the treatment of this oil as compared to the oil that is produced on the North Slope of Alaska.

For instance, the fee to create a compensation fund that is established under this conference report is 3 cents a barrel. When the Alaska oil pipeline compensation fund was determined the fee per barrel for that compensation fund was 5 cents a barrel.

I also find the amendment that we placed in the bill at the time it passed the Senate which would have separated exploration and development so that we could have cited specific determinations of the effect of offshore development in the highly productive fishery zone off my State has been deleted.

For these reasons, therefore, I shall oppose the bill and join the Senator from Oklahoma in voting against it.

SEVERAL SENATORS. Vote! Vote!

Mr. JACKSON. Did the Senator want the yeas and nays?

Mr. BARTLETT. I ask for the yeas and nays.

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

The yeas and nays were ordered.

The PRESIDING OFFICER. Is all time yielded back? All time having been yielded back, the question is on agreeing to the conference report. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. Mr. President, this is the last rollcall vote today.

Mr. CRANSTON. I announce that the Senator from Mississippi (Mr. EASTLAND), the Senator from South Dakota (Mr. ABOUREZK), the Senator from Minnesota (Mr. ANDERSON), the Senator from Colorado (Mr. HART), the Senator from Louisiana (Mr. JOHNSTON), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Nebraska (Mr. CURTIS), the Senator from Arizona (Mr. GOLDWATER), the Senator from Nevada (Mr. LAXALT), the Senator from Kansas (Mr. PEARSON), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

The result was announced—yeas 82, nays 7, as follows:

[Rollcall Vote No. 351 Leg.]

YEAS—82

Allen	Griffin	Morgan
Baker	Hansen	Moynihan
Bayh	Haskell	Muskie
Bentsen	Hatfield, Mark O.	Nelson
Biden	Hatfield, Paul G.	Nunn
Brooke	Hathaway	Packwood
Bumpers	Hayakawa	Pell
Burdick	Heinz	Percy
Byrd, Harry F., Jr.	Helms	Proxmire
Byrd, Robert C.	Hodges	Randolph
Cannon	Hollings	Ribicoff
Case	Huddleston	Riegle
Chafee	Humphrey	Roth
Chiles	Inouye	Sarbanes
Church	Jackson	Sasser
Clark	Javits	Schweiker
Cranston	Kennedy	Scott
Culver	Leahy	Sparkman
Danforth	Lugar	Stafford
DeConcini	Magnuson	Stennis
Dole	Mathias	Stevenson
Domenici	Matsunaga	Stone
Durkin	McClure	Thurmond
Eagleton	McGovern	Wallop
Ford	McIntyre	Weicker
Garn	Melcher	Williams
Glenn	Metzenbaum	Zorinsky
Gravel		

NAYS—7

Bartlett	Long	Tower
Bellmon	Schmitt	
Hatch	Stevens	

NOT VOTING—11

Abourezk	Goldwater	Pearson
Anderson	Hart	Talmadge
Curtis	Johnston	Young
Eastland	Laxalt	

So the conference report was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Washington.

Mr. JACKSON. Mr. President, I want to express my appreciation to our staff for their outstanding contribution in making this first legislation since 1953 affecting the Outer Continental Shelf.

Mike Harvey, general counsel of the committee, is the individual who is, indeed, knowledgeable in this field affecting the Outer Continental Shelf public land law. I must say, and I know that members of the staff and members of the committee will agree, that his knowledge in this field is encyclopedic.

I must point out that his wise counsel and help made possible, really, after all of the efforts that had been made to no avail in the past, the updating of the law affecting the Outer Continental Shelf.

He has been ably assisted on our side by associate counsel, R. D. Folsom, who worked long and hard.

I want to point out that Dave Swanson, on the minority side, worked as a part of the team. I want to say to my colleagues that this matter from a professional standpoint could not have been handled better. There has not been any partisanship in terms of doing the professional work of the committee. I commend Dave Swanson and my distinguished colleague and ranking member on the minority side, the able Senator from Wyoming (Mr. HANSEN).

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. HANSEN. Mr. President, let me express my appreciation and gratitude to the chairman of the Energy and Natural Resources Committee (Mr. JACKSON) and to the staff, as he has already done. I join with him in saying we have seen a very professional job performed by the staff. I certainly echo the laudatory things he said about all members. I want to particularly note the contribution made by the minority staff, Mr. Swanson, whose knowledge and expertise I believe has been invaluable as a complementing force to that provided by the majority side.

I would like to say that I had the feeling that this bill was unnecesary in the first place, but, nevertheless, it is the will of the Congress that we have a new bill. I think everything considered, we can be proud of the job that has been done in drafting the OCS bill, which has gone to conference and which the Senate has now approved.

The PRESIDING OFFICER. The Senator from West Virginia.

EDUCATION AMENDMENTS OF 1978

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of Calendar Order No. 787, S. 1753.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 1753) to extend the Elementary and Secondary Education Act of 1965, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Human Resources with an amendment in the nature of a substitute.

Mr. PERCY. Mr. President, I ask unanimous consent that Lucinda Oliver and Barbara Block of my staff be granted the privilege of the floor during debate and votes on S. 2570, the Comprehensive Employment and Training Act Amendments of 1978.

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

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business, not to extend beyond 30 minutes, with statements therein limited to 5 minutes each.

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

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

EXECUTIVE MESSAGE REFERRED

As in executive session, the Presiding Officer laid before the Senate a message from the President of the United States submitting the nomination of William H. Luers, of Illinois, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Venezuela; to the Committee on Foreign Relations.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. CHILES, from the Committee on Governmental Affairs, without amendment:

S. 3259. A bill to authorize the permanent establishment of a system of Federal Information Centers (Rept. No. 95–1129).

By Mr. ABOUREZK, from the Select Committee on Indian Affairs, without amendment:

S. Res. 544. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to consideration of H.R. 11092, a bill to amend the act of December 22, 1974 (88 Stat. 1712) relating to the Navajo and Hopi Indian Relocation Commission. Referred to the Committee on the Budget.

S. 3184. A bill to designate the Indian Health Facility in Ada, Okla., the "Carl Albert Indian Health Facility" (Rept. No. 95–1130).

By Mr. ABOUREZK, from the Select Committee on Indian Affairs, with an amendment:

S. 2358. A bill to declare that the United States holds in trust for the Pueblo of Zia certain public domain lands (Rept. No. 95-1131).

By Mr. ABOUREZK, from the Select Committee on Indian Affairs, with amendments:

S. 2588. A bill to declare that the United States holds in trust for the Pueblo of Santa Ana certain public domain lands (Rept. No. 95–1132).

By Mr. ABOUREZK, from the Select Committee on Indian Affairs, without amendment:

H.R. 8397. An act to provide that a certain tract of land in Pinal County, Ariz., held in trust by the United States for the Papago Indian Tribe, be declared a part of the Papago Indian Reservation (Rept. No. 95–1133).

By Mr. NUNN, from the Committee on Armed Services, without amendment:

H.R. 3532. An act to amend chaper 639 of title 10, United States Code, to enable the Secretary of the Navy to change the name of a publication of the Naval Observatory providing data for navigators and astronomers (Rept. No. 95–1134).

H.R. 7161. An act to amend title 10, United States Code, to allow nationals, as well as citizens, of the United States to participate in the Junior Reserve Officers' Training Corps program (Rept. No. 95–1135).

H.R. 8471. An act to authorize the Governor of the State of Wyoming to exhibit the nameplate, ship's bell, and silver service of the U.S. ship *Wyoming* without restriction as to the place of such exhibition (Rept. No. 95–1136).

By Mr. NUNN, from the Committee on Armed Services, with amendments and an amendment to the title:

S. 3373. A bill to amend title 10, United States Code, to authorize the Secretary of Defense to provide transportation to the Girl Scouts of the United States of America in connection with international world, friendship events or troops on foreign soil meetings, and for other purposes (Rept. No. 95–1137).

By Mr. NUNN, from the Committee on Armed Services, with an amendment:

H.R. 3702. An act to amend title 10, United States Code, to make certain changes in the Retired Serviceman's Family Protection Plan and the Survivor Benefit Plan as authorized by chapter 73 of that title, and for other purposes (Rept. No. 95–1138).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. SPARKMAN, from the Committee on Foreign Relations:

Mary S. Olmsted, of Tennessee, now Ambassador Extraordinary and Plenipotentiary of the United States to Papua New Guinea, to serve concurrently as Ambassador Extraordinary and Plenipotentiary of the United States to Solomn Islands.

(The above nomination from the Committee on Foreign Relations was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

POLITICAL CONTRIBUTIONS STATEMENT

Nominee: Mary S. Olmsted.
Post: Honiara, Solomon Islands.

Contribution, amount, date, and donee:
1. Self: None.
2. Spouse: (No spouse).
3. Children (No children).
4. Parents: Mr. and Mrs. George C. (Zadia S.) Olmsted (Deceased more than four year).
5. Grandparents: Mr. and Mrs. Henry T. (Mary S.) Olmsted (Deceased more than four years). Mr. and Mrs. John A. (Sarah R.) McDonald (Deceased more than four years).
6. Brothers and spouses: Mr. and Mrs. John M. (Loretta S.) Olmsted. None.
7. Sisters and spouses (no sisters).

By Mr. SPARKMAN, from the Committee on Foreign Relations:

The following-named persons to be representative and alternate representatives of the United States to the 22d Session of the General Conference of the International Atomic Energy Agency:

Dale D. Myers, of Virginia, Representative;

Gerard C. Smith, of the District of Columbia, Alternate Representative; and

Roger Kirk, of the District of Columbia, Alternate Representative.

(The above nominations from the Committee on Foreign Relations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. ROBERT C. BYRD, from the Committee on the Judiciary:

Tyree A. Richburg, of Alabama, to be U.S. marshal for the southern district of Alabama.

(The above nomination from the Committee on the Judiciary was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Mr. NUNN. Mr. President, from the Committee on Armed Services, I report favorably the nominations of Maj. Gen. Howard Mac Lane, U.S. Air Force, to be lieutenant general; and Vice Adm. Harry D. Train II, U.S., Navy, to be admiral; and Adm. Isaac C. Kidd, Jr., U.S. Navy, age 58, for appointment to the grade of admiral on the retired list. I ask that these nominations be placed on the Executive Calendar.

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

Mr. NUNN. In addition, there are 1,325 for promotion in the Regular Army of the United States, to be lieutenant colonel and below, list beginning with Rudolph E. Abbott; and there are 78 for reappointment and appointment in the Regular Army of the United States, in the grade of colonel and below, list begining with Frederick T. Abt; and there are 12 in the Navy, to be permanent and temporary commanders and below, list beginning with Keith E. Burtner. Also, there are 28 chief warrant officers, W–2, in the Navy, for promotion to the grade of chief warrant officer, W–2, list beginning with Denis R. Boudreau; and there are 448 in the Navy and Naval Reserve, for temporary and permanent promotion to captain and below, list beginning with Leon E. Ackart. Also, there are 2,199 in the Navy for temporary promotion to the grade of lieutenant, junior grade, list beginning with William C. Absher; and there are 14 chief warrant officers, W–1, in the Navy, for temporary promotion to the grade of chief warrant officer, W–2, list beginning with Paul A. Anderson. Since these names have already appeared in the CONGRESSIONAL RECORD and to save the expense of printing again, I ask unanimous consent that they be ordered to lie on the Secretary's desk for the information of any Senator.

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

(The nominations ordered to lie on the Secretary's desk were printed in the RECORD on July 24 and July 28, 1978, at the end of the Senate proceedings.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. MORGAN (for himself, Mr. BAKER, Mr. SASSER, Mr. MAGNUSON, Mr. HODGES, Mr. INOUYE, Mr. PERCY, and Mr. MATHIAS):

S. 3441. A bill to amend the tax laws of the United States to encourage the preservation of independent local newspapers; to the Committee on Finance.

By Mr. BUMPERS (for himself and Mr. HODGES):

S. 3442. A bill to name a certain Federal building in Jonesboro, Arkansas, the "E. C. 'Took' Gathings Building"; to the Committee on Environment and Public Works.

By Mr. ANDERSON:

S. 3443. A bill for the relief of M. Javier Rivera; to the Committee on the Judiciary.

By Mr. MARK O. HATFIELD (for himself, Mr. EASTLAND, Mr. HANSEN, Mr. MCCLURE, Mr. YOUNG, Mr. CURTIS, and Mr. LAXALT):

S. 3444. A bill to repeal the Color of Title Act; to establish standards and procedures whereby certain persons in adverse possession of public lands may acquire legal title thereto; and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. JACKSON:

S. 3445. A bill for the relief of Marian Law Shale Holloway, Adeline Mary Gill Charles, and Eliza Shale Carstens; to the Committee on Energy and Natural Resources.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MORGAN (for himself, Mr. BAKER, Mr. SASSER, Mr. MAGNUSON, Mr. HODGES, Mr. INOUYE, Mr. PERCY, and Mr. MATHIAS):

S. 3441. A bill to amend the tax laws of the United States to encourage the preservation of independent local newspapers; to the Committee on Finance.

(The remarks of Mr. MORGAN when he introduced the bill appear elsewhere in today's proceedings.)

By Mr. BUMPERS (for himself and Mr. HODGES):

S. 3442. A bill to name a certain Federal building in Jonesboro, Arkansas, the "E. C. 'Took' Gathings Building"; to the Committee on Environment and Public Works.

E. C. "TOOK" GATHINGS BUILDING

● Mr. BUMPERS. Mr. President, today I am introducing a bill to name the Federal Building in Jonesboro, Ark., the "E. C. 'Took' Gathings Building." Took Gathings is a member of what I hope is not a vanishing breed—Arkansas public servants who have played a vital role in our Nation's history. He served as First District Representative in the House of Representatives from January 1939 to January 1969. In so doing, he served through five Presidencies and three wars.

As ranking member of the House Agriculture Committee, he was in a position to look after the interests of Arkansas farmers, a task he performed well. At a time when cotton was Arkansas' most important crop, he chaired the Cotton Subcommittee. Not content to remain in Washington, Took traveled across the country and was an effective spokesman for cotton.

He was born on November 3, 1903, in Prairie, Miss., and attended public schools in Arkansas. After receiving his law degree from the University of Arkansas at Fayetteville, he was admitted to the Arkansas Bar and practiced law. In 1935 he was elected to the Arkansas State Senate. Only 4 years later the people of Arkansas sent him to Congress.

After his retirement from the House, he and Tolise, his wife, moved back to West Memphis, Ark., where he set up a law practice. Mr. President, Took is still going strong. It is only fitting that a facility providing Federal services should be named after him. I urge expeditious action by the Senate.●

By Mr. MARK O. HATFIELD (for himself, Mr. EASTLAND, Mr. HANSEN, Mr. MCCLURE, Mr. YOUNG, Mr. CURTIS, and Mr. LAXALT):

S. 3444. A bill to repeal the Color of Title Act; to establish standards and procedures whereby certain persons in adverse possession of public lands may acquire legal title thereto; and for other purposes; to the Committee on Energy and Natural Resources.

● Mr. MARK O. HATFIELD. Mr. President, today I am introducing legislation aimed at providing relief for unsuspecting landowners who find themselves in conflict with the Federal Government over property resurveys. Each year, when Government land is resurveyed, many people run the risk of unexpectedly being labeled as trespassers, with no means to refute the charge. My proposal is aimed at resolving the inequities which have fallen upon these landowners.

Although this is a problem felt by the Congress, the courts and Federal agencies, its most basic impact is the personal suffering of an unintentional trespasser. When a dispute with the Federal Government arises, these people face difficult and sometimes heartbreaking problems under current law.

As an example, I would like to share with my colleagues the problems faced by Mr. and Mrs. Noel McClure of Blue River, Oreg. About 26 years ago, the couple bought their house and a small parcel of land near the Willamette National Forest. Over the next quarter of a cen-

tury, they made a home for themselves there. Adding a carport and machine shed, planting flowers and shrubs, they improved the site and were later joined by their son and his family. After years of working, they decided to retire at this location.

They paid little attention to resurveys of nearby land until a letter from the Forest Service arrived. They were not near the National Forest as they had believed, the Forest Service said, but in it. According to the new surveys, they did not actually own the land they had purchased, improved, and lived on for those 26 years. To make matters worse, the Forest Service now wanted this land back.

About this time, the McClures, as well as several of their neighbors who were faced with the same problems, contacted me. In turn, I asked for a review by the Forest Service and by special permit, renewed annually at a cost to the McClures, the couple will be allowed to remain in their home. But when they move or die, the property will revert to the Government.

For the McClures, this situation is very trying at the least. They cannot will the property to their son, nor can they sell it to him. If they decide to relocate somewhere nearer to medical facilities, they will not have the benefits of a house sale to help with the move. Under the law as it exists today, they are without a home and without a means to clarify their status as landowners.

Mr. President, the roots of the present problem are long and set deep into American history. In the first place, nearly all lands, public and private, in the original 13 States were surveyed by metes and bounds. Under this age-old system, each tract of land was set out by arbitrarily establishing some point in the boundary of the property as a starting point and then reciting the courses (or directions) and distances from point to point around the tract. Surveyors took notes as property was measured, creating land descriptions which are incomprehensible to the layman and useless even to the expert unless tied to the land by some identifiable monument such as a boundary stone, a distinctive tree, or a unique river bend. The surveying tools of the time were highly erratic magnetic compasses and chains and tapes—rarely standardized, stretchable, and subject to wear.

The inadequacies and complexities of the metes and bounds system were recognized even during the colonial period, and this soon led to changes in American survey techniques. In 1785, the Continental Congress designated the rectangular survey as the sole acceptable method of surveying any public lands which might thereafter be acquired. This system prevails even today as the official method of Government survey. Gradually but implacably, a uniform surveyor's grid of 1 mile by 1 mile square with sides running north and south and east and west has been laid out on most of the public lands.

Theoretically, under the rectangular system, any given tract of surveyed land "can readily, easily, and briefly be described and distinguished from all other tracts;" and boundary lines and corners, even if obliterated, can usually be retraced. In actuality, rectangular surveys, like metes and bounds surveys, are often the source of property disputes.

When the use of the rectangular system was instituted, surveying was not as much a science as an art—and it was a young art at that. Surveying tools and techniques were crude and often inaccurate. The same magnetic compass which introduced errors into metes and bounds surveys was used in all early rectangular surveys. The reliable solar compass used by modern surveyors did not even exist at the time much of the public domain was being surveyed.

Fraudulent and slipshod surveying and recording undoubtedly occurred. Field surveyors worked long hours for low wages with crude instruments. They often found themselves knee deep in mud or snow, tortured by flies and mosquitoes, and frightened by the very wilderness they had come to map.

As Vernon Carenstan points out in his book on the history of public lands, "(P)erhaps no one had a right to expect the task (of surveying) to be done well: the remarkable thing was that it was done at all, that the whole machinery did not collapse."

The job of surveying the public lands is yet to be completed. According to the BLM's own statistics, at the close of the 1975 fiscal year, 405,027,320 acres of federally owned property in the United States remained to be surveyed. Of the unsurveyed land, 77 percent, or nearly 314 million acres, lies in Alaska. The remaining acres are located exclusively in 11 Western States.

Arizona has about 11 million acres of public land still unsurveyed; California has 9.2 million acres; Colorado, 3.7 million; Idaho, 8.8 million acres; Montana, 9.0 million acres; Nevada, 19.5 million acres; North Dakota, 4.7 million acres; Oregon, 2.8 million acres; Utah, 8.9 million acres; Washington, 6.3 million acres; and Wyoming, 6.7 million acres. In States like Nevada, where the Government holds 86 percent of all real property, the fact that Federal surveys are unfinished means that much of the land area of the State is unsurveyed.

It is the law that before the United States has conveyed lands, it may make as many surveys of a tract of public lands as it desires and the last accepted survey will control. It is also the law, however, that once property rights are acquired on the faith of a Government survey, that survey, even if erroneous, becomes controlling.

By statute, property rights once vested in bona fide private owners and claimants cannot be affected by subsequent resurveys which change the boundaries of the public lands. The essential rule of a resurvey, is, therefore, to follow the steps of the first survey. The clear duty of the retracting surveyor is to determine what the first surveyor did, not what he should have done.

Because of the complex detective work a surveyor must perform in order to reestablish lost boundary lines, the task of resurveying the public lands is not likely to be accomplished quickly.

Because many original surveys were not properly or uniformly conducted, recreating them may not always be possible, regardless of the diligence of BLM surveyors. The Government and private landowners are certain to disagree in some instances on just where a boundary originally lay. Because of this, resurveys can beexpected to create nearly as many problems as they solve.

Due to the expanse of public land across the country, many honest disputes can develop between the Government and private citizens. Although the exact size of the unintentional trespass problem is difficult to judge, one observer, commenting on the findings of the Public Land Law Review Commission, termed it not severe, but substantial nonetheless.

For anyone who has paid full value for land they thought was theirs, made valuable improvements, mortgaged it, met tax assessments against it and become emotionally attached to it, the problem can only be termed harsh.

To remedy this situation, the bill I am proposing would go beyond the sharply limited relief currently available to a narrowly defined group of people. In place of existing law, I am proposing a procedure which would allow innocent trespassers enough aid to resolve their disputes with the Federal Government.

In general terms, this legislation would provide that:

First. Claimants who meet the requirements for color of title do not have to purchase the land from the Government as currently required under law.

Second. Claimants must have held the land in good faith and in peaceful adverse possession for at least 20 years while making valuable improvements on the land. In the absence of work on valuable improvements, the land would have to be held for at least 30 years.

Third. The Secretary is not always required to transfer a specific portion of land if it is needed by the Government for other purposes.

Fourth. All mineral rights are reserved to the United States.

Fifth. The actions of the Secretary are expressly made subject to judicial review.

Congressional interest in balancing public and private interests has been a recurrent theme in public land policy over the years, and I believe my proposal closely follows this tradition. Land, after all, is one of our most important material resources, whether private or public. Central to this legislation is the fundamental belief that both public and private interests need to be protected.

Obviously, the bill is aimed at providing a large measure of help for private parties. At the same time, it was carefully drafted to incorporate important safeguards for public domain. By reserving all mineral rights, the possibility of using the provisions for land speculation are greatly reduced. Yet another impor-

tant protective measure is available to the Secretary in cases where public land must be retained. Under those circumstances, the Secretary has the authority to keep the land and offer the claimant a comparable piece of property or a cash payment equal to the value of the property plus improvements.

Mr. President, existing laws also carry the same safeguards for the public incorporated in my proposal, but there are district limits on the aid available to unintentional trespassers. The Quiet Title Act of 1972, while a very important statute for many, does not help those people who technically do not have good title because of surveying errors discovered in recent resurveys. Another useful statute, the Color of Title Act, does provide some relief of victims of surveying errors, but again its aid is limited.

Based on review of these laws and a recognition of the real problems encountered by innocent landowners who run afoul of Government resurveys, I believe the legislation I am proposing today represents an important tool in reestablishing equity to such situations. We should not underestimate the magnitude of the problem we are addressing here. Public land accounts for over one-third of our total land surface, encompassing large areas in both the Eastern and Western reaches of the Nation. In order to insure that we remedy the problems confronting many private landowners, I hope that this legislation will serve as a starting point for Senate action.

Mr. President, I would like to make one final point concerning my proposal. When survey problems for several families in the community of Blue River first became apparent, students and faculty at the University of Oregon law school were quick to respond to my request for help in researching the situation. One student in the Environmental Law Clinic, Mary Fiebing, played a crucial role in writing this legislation. Her thorough background studies and careful drafting of the bill were immense aids to me. It does no good to talk about the difficulties facing many landowners following resurveys when Federal law lacks the necessary tools to be of assistance. Ms. Fiebing helped focus attention on the problem and then helped immensely in working out possible solutions. And I want to again thank her for the time and effort.

So that my colleagues may review this proposal in detail I ask unanimous consent 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. 3444

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That as used in this Act, the term—

(1) "Secretary" means the Secretary of the Interior;

(2) "qualified person" means—

(A) any individual who is authorized to hold title in the State in which the property is located.

(B) any partnership or association, each of the members of which is within the purview of clause (A) of this paragraph; or

(C) any corporation organized under the laws of the United States or of any State thereof, and authorized to hold title to real property in the State in which the property is located;

(A) land owned by the United States, including land permanently or temporarily withdrawn, withheld or reserved from private appropriation and disposal, as well as land available for private appropriation and disposal, but excluding land dedicated to Indian reservations;

(B) any interest of the United States in land, other than a security interest or water right;

(4) "color of title" means a written instrument which gives the semblance or appearance of title but is not title in fact;

(5) "good faith" means a good faith at the time of acquisition of color of title.

PETITIONS FOR GRANT OF PATENT

SEC. 2. (a)(1) Any qualified person who believes he has a valid claim under color of title to an interest in public land, and meets the standards as provided in Section 2(b) of this Act, may file a petition for a patent thereto with the Secretary.

(1) Application under this Act may be made for government-surveyed land. If unsurveyed, the petition shall include a description sufficiently complete to identify the location, boundary, and area of the land, and, if possible, the approximate description or location of the land by section township and range. If unsurveyed land is claimed, final action will be suspended until the plat of survey has been officially filed.

(3) Each petition shall include information relating to all record and nonrecord conveyances, and to all nonrecord claims of title affecting the land. The statements of record conveyances must be certified by the proper county official or supported by an abstract of title. The petitioner may be called upon to submit documentary or other evidence relating to conveyances or claims.

(b) A patent shall be granted to a tract, a portion of a tract, or an interest in a tract claimed if the petitioner, his ancestors, or grantors have held said tract in good faith and in peaceful adverse possession under color of title for at least twenty (20) years and have made valuable improvements thereon, or reduced a portion thereof to cultivation. Discovery of a defect in title after acquisition of title, but short of twenty years of adverse possession, shall not defeat a petition for grant of patent under this Act.

(c)(1) Within a reasonable time after receipt of a petition for grant of patent, the Secretary shall determine the sufficiency of the petition and any supporting documentary evidence. If the Secretary determines that the petition and any supporting evidence is insufficient, and adjudicatory hearing shall be held regarding the claim according to appropriate procedures set forth in Sections 554, 556, and 557 of Title 5, United States Code.

(2) If the Secretary determines the petition is sufficient, initially or upon completion of a hearing held pursuant to subsection (c)(1) above, he shall issue a patent for the interest claimed, up to and including a fee simple, in an area of public land not to exceed fifty (50) acres upon the payment of not more than $1.25 per acre.

(3) If the tract claimed is in excess of 50 acres, the Secretary may:

(A) determine which particular portion of the land, not exceeding 50 acres, shall be patented, based on existing improvements and public need for the land, or

(B) in his discretion, issue grants in excess of 50 acres upon a finding that such excess acreage is not needed for public purposes and will be put to active use by the petitioner. This grant shall be made available upon payment of $1.25 per acre.

(4) Where land claimed under this Act has been withdrawn, withheld, or reserved in aid of a function of a Federal department or agency other than the Department of the Interior, or of a State, county, municipality, water district, or other local governmental subdivision or agency, the Secretary may issue a patent thereto only with the consent of the head of the governmental unit concerned and under such terms and conditions as such unit head may deem necessary.

(5) If the Secretary determines that a petition is sufficient but (A) the consent required by subsection (c)(4) above is not given or terms and conditions imposed on such consent are unacceptable to the petitioner, or (B) the particular land claimed is needed for public purposes, the Secretary shall either issue the petitioner a patent for a comparable tract of Federal land upon payment by the petitioner of $1.25 per acre, or pay the petitioner the fair market value of the land or interest in land claimed, including any improvements placed upon such land by the petitioner, his ancestors or grantors. A petitioner who qualifies for a patent under this Act, but is denied title to the particular tract claimed under this subsection, shall have the option of electing monetary compensation over a patent to substitute land.

(6) If a petitioner is to be given monetary compensation for lands claimed, improvements thereon, or both, as allowed under this subsection, the Secretary shall cause the land or improvements, or both, to be appraised, said appraisal to be on the basis of the value of the and or improvements, or both, exclusive of mineral interests, at the time of such appraisal.

(7) No patent for substitute land and no monetary compensation shall be granted until arrangements satisfactory to the Secretary have been made for termination of the petitioner's occupancy of the land claimed.

(8) The mineral interests of the United States in any land to which patent is issued under this Act shall be reserved to the United States, and shall be subject to sale, lease, and disposal under applicable leasing and mineral land laws. No right of surface ingress or egress is reserved to the United States.

CONFLICTING CLAIMS

SEC. 3. No patent shall issue under this Act for any tract to which there is a conflicting claim adverse to that of the petitioner, unless and until such claim shall have been finally adjudicated in favor of such petitioner.

JUDICIAL REVIEW

SEC. 4. Any final action of the Secretary under this Act, including appraisals under Section 2(c)(7), shall be subject to judicial review by the United States court of appeals for the circuit in which the property claimed is located upon the filing in such court within 60 days from the date of such action of a petition by any aggrieved person. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary or other officer designated by him for that purpose. Upon the filing of the petition, the court shall have jurisdiction to review the action in accordance with Chapter 7 of Title 5 of the United States Code and to grant appropriate relief as provided in such chapter.

RULES AND REGULATIONS

SEC. 5. The Secretary is hereby authorized to make such rules and regulations as are necessary to carry out the provisions of this Act.

AUTHORIZATION OF APPROPRIATIONS

SEC. 6. There are hereby authorized to be appropriated such sums as may be necessary to implement the provisions of this Act.

COLOR OF TITLE ACT

SEC. 7. The provisions of this Act are intended to be supplemental to, an not intended to supersede or replace, the provisions of the Color of Title Act (43 U.S.C. 1068 et seq.).

By Mr. JACKSON:

S. 3445. A bill for the relief of Marian Law Shale Holloway, Adeline Mary Gill Charles, and Eliza Shale Carstens; to the Committee on Energy and Natural Resources.

● Mr. JACKSON. Mr. President, the bill I am introducing today for the relief of Marian Law Shale Holloway, Adeline Mary Gill Charles and Eliza Shale Carstens, corrects a mistake made by the Bureau of Indian Affairs in erroneously approving a purported sale of property.

The individuals, or their estates, who are named in this relief bill, would be compensated by approximately $14,000 as a result of this erroneous conveyance. I ask unanimous consent that a letter from the Department of the Interior explaining this situation be printed in the RECORD.

I urge my colleagues to support this bill.

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

U.S. DEPARTMENT OF THE INTERIOR,
Washington, D.C., August 10, 1976.

Hon. HENRY M. JACKSON,
Chairman, Committee on Interior and Insular Affairs, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Your Committee has requested the views of this Department on S. 3537,, a bill "For the relief of Marian Law Shale Holloway, Adeline Mary Gill Charles and Eliza Shale Carstens."

We recommend that the bill be enacted.

S. 3537 would authorize and direct the Secretary of the Interior to pay, out of any money appropriated to the Department of the Interior, to Marian Law Shale Holloway, Adeline Mary Gill Charles, and Eliza Shale Carstens (or to their estates) such sums as he determines each is legally and equitably entitled to as compensation for losses (including reasonable attorney fees) resulting from his "erroneous approval of purported conveyances" of some 18.75 acres of trust land located on the Quinault Indian Reservation in Washington and more specifically described in the bill. Section 2 would provide a standard prohibition against the payment of more than ten percent of the funds appropriated for said payments for the services of any agent or attorney in connection with this claim.

The trust land in question was validly conveyed in 1931 by Harry Shale to his wife, Eliza Shale. In 1951, Bureau of Indian Affairs officials, acting on behalf of the United States and the Secretary of the Interior, inadvertently and erroneously approved a purported sale of the same trust land from Harry Shale to the United States in trust for Marian Law Shale Holloway. Ms. Holloway, who is a Quinault Indian, paid $5,000 for the land from funds held in trust for her by the Bureau of Indian Affairs on behalf of the United States and the Secretary of the Interior.

In 1953 and 1955, the Bureau of Indian Affairs inadvertently and erroneously approved purported sales by Ms. Holloway of two two-acre portions of the land involved in the purported 1951 sale for which she received a total of $2,400. The purchasers in these purported sales were also Quinault Indians who utilized trust funds in their purchases.

The mistake of the 1951 approval was not discovered until 1968, some twelve years after the death of Harry Shale. Mr. Shale's estate has been probated and proceeds distributed so that no recourse is available against him or his estate for his purported sale of the land in 1951 which he had previously sold in 1931 to his then wife, Eliza Shale.

As indicated below, we believe that the United States owed Ms. Holloway and the 1953 and 1955 Quinault purchasers the duty of assuring that they would obtain clear titles prior to approving the purchases and sales of the restricted land involved and prior to approving the related expenditures of trust funds. Under the provision set out in 25 U.S.C. 379, such purchases and sales require the approval of the Secretary of the Interior (or his delegate) who has set up a procedure by which such sales can be made (25 CFR 121.22 to 121.31).

Pursuant to the statutory provision set out in 25 U.S.C. 5, the Secretary has established a system to maintain land records and title documents (25 CFR 120.1). These land records are maintained by the Secretary on behalf of the United States and are the only title records of Indian land. As such, they are relied upon by Indian people and by all persons who have transactions with Indians related to trust lands.

We do not mean to imply that a duty to maintain these land records is owed by the United States to everyone who deals with Indian people. However, it is inescapable that the United States, acting through the Secretary of the Interior and his delegates, has an obligation to maintain these records as part of its trust responsibilities in approving sales of trust land and in approving the expenditure of trust funds for such land. We believe that this trust responsibiltiy was breached by approval of the deeds and sales of restricted land in each of the three purported sales (1951, 1953, and 1955) and by the approval of the expenditures of trust funds in connection with each such sale.

Any right of action relating to those purported sales, Ms. Holloway or the 1953 and 1955 purchasers may have had to sue the United States is apparently now barred by the statute of limitations (25 U.S.C. sec. 2401 and sec. 2501). However, we understand that a suit (*Holloway* v. *United States*—USDC, W.D. Wash.—Civil No. 40–7167) is being held in abeyance to give the plaintiff the opportunity to appeal to the Congress for relief.

We believe that the erroneous approval by the Bureau of Indian Affairs (on behalf of the United States) of the purported 1951 sale to Ms. Holloway and the related expenditures of her trust funds justifies the United States providing compensation. Similarly, the erroneous approvals of the purported 1953 and 1955 sales and the related expenditures of the purchasers' of trust funds, justifies the United States providing compensation to those purchasers. Ms. Holloway's losses were lessened by the 1953 and 1955 sales and her compensation should be adjusted accordingly. Therefore, compensating the 1953 and 1955 purchasers would not increase the total compensation paid by the United States.

The amount of compensation due Ms. Holloway would be the sum of (1) the $5,000 she paid for the land in 1951 plus interest compounded at the interest rates and intervals which would have applied if the funds had stayed in trust until the purported 1953 sale, plus (2) the interest calculated on the balance of such trust fund at the time of the purported 1953 sales less the $2,000 received by Ms. Holloway at that time with such interest compounded at the rates and intervals which would have applied if the funds had stayed in trust until the purported 1955 sale, plus (3) the interest calculated on the balance of such trust fund at the time of the purported 1955 sale less the $400 received by Ms. Holloway at that time with such interest compounded at the rates and intervals which would have applied if the funds had stayed in trust until the date the compensation is paid by the United States to Ms. Holloway. In addition, S. 3537 would allow her to receive compensation for reasonable attorney fees which she has incurred as the result of the erroneous approval by the Secretary.

The purported 1953 sale was to Adeline Mary Gill Charles (Quinault Allottee No. 1094) and the purported 1955 sale was to Eliza Shale Carstens (Quinault Allottee No. 918). The amount of compensation to be paid to each of these persons would be calculated in the same manner as described above for Ms. Holloway.

If the payments are calculated as set out above and are paid this calendar year, we estimate the total to be about $14,000.

It should be noted that Eliza Shale Carstens, the purchaser of the two acres in the purported 1955 sale was also the purchaser (Eliza Shale) of the entire 18.75 acres in the valid 1931 sale. However, we do not feel that this fact alters the justification for compensation to her for her loss of funds due to the Bureau of Indian Affairs approval of both the 1955 sale and the related expenditure of her trust funds.

In line with section 1(b) of S. 3537, the payment to each of the three parties would be in full satisfaction of all claims they may have against the United States in connection with the approvals of the purchases and sales and the expenditures of trust funds and they would be required to execute releases to that effect and such other documents as may be necessary to clear any cloud on the title to the land in question. In addition, the 1953 and 1955 purchasers would be required to execute releases for any claims they may have against Ms. Holloway in connection with the purported 1953 and 1955 sales.

Information available in the Office of the Area Geologist, Menlo Park, California, shows that the acreage in question is located within an area which has been classified valuable prospectively for oil and gas. Exploratory drilling has produced indications of oil and gas but, as yet, no producible quantities have resulted.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely yours,

RONALD G. COLEMAN,
Assistant Secretary of the Interior.●

ADDITIONAL COSPONSORS

S. 2502

At the request of Mr. ABOUREZK, the Senator from North Dakota (Mr. BURDICK) and the Senator from Colorado (Mr. HASKELL) were added as cosponsors of S. 2502, a bill to authorize the States and the Indian tribes to enter into mutual agreements and compacts respecting jurisdiction and governmental operations in Indian country.

SENATE RESOLUTION 519

At the request of Mr. ANDERSON, the Senator from Massachusetts (Mr. BROOKE) was added as a cosponsor of Senate Resolution 519, expressing the sense of the Senate that the 1980 Summer Olympic Games be held at a site outside the Soviet Union.

SENATE RESOLUTION 526

At the request of Mr. DOLE, the Senator from New York (Mr. MOYNIHAN) and the Senator from Florida (Mr. STONE) were added as cosponsors of Senate Resolution 526, commemorating the 10th anniversary of the invasion of Czechoslovakia.

SENATE RESOLUTION 544—ORIGINAL RESOLUTION REPORTED WAIVING CONGRESSIONAL BUDGET ACT

Mr. ABOUREZK, from the Select Committee on Indian Affairs, reported the following original resolution, which was referred to the Committee on the Budget:

S. RES. 544

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to consideration of H.R. 11092, a bill to amend the Act of December 22, 1974 (88 Stat. 1712) relating to the Navajo and Hopi Indians Relocating Commission. This waiver is necessary because the Commission estimates that during fiscal year 1979 it will relocate approximately 500 families of the estimated 1,100 Navajo and Hopi families to be relocated from areas of the joint use area partitioned to the respective Navajo and Hopi Tribes of which the relocatees are not members. H.R. 11092 increases the authorization of appropriations for the operation of the Commission from $500,000 a year to $1 million a year. In anticipation of enactment of H.R. 11092 the House and Senate Committees on Appropriations have reported out appropriations bills which increases the appropriations for the operation of the Commission (by $490,000 and $430,000 respectively) over and above the $500,000 presently authorized by the Act of December 22, 1974. The existing authorization for the Commission's operating expenses is insufficient for the Commission's enormous task in relocating the estimated 500 families and fulfilling their other duties under the law during fiscal year 1979. The increased authorization will enable the Commission to hire the additional personnel needed to adequately carry out their activities.

H.R. 11092 passed the House of Representatives April 11, 1978, however, the Senate Select Committee was not able to take action on the bill until well after May 15, 1978, because of ongoing research and investigation of other issues related to the implementation of the relocation efforts.

AMENDMENTS SUBMITTED FOR PRINTING

COMPREHENSIVE EMPLOYMENT AND TRAINING ACT AMENDMENTS—S. 2570

AMENDMENT NO. 3526

(Ordered to be printed and to lie on the table.)

Mr. SCHWEIKER submitted an amendment intended to be proposed by him to S. 2570, a bill to amend the Comprehensive Employment and Training Act of 1973 to provide improved employment and training services, to extend the authorization, and for other purposes.

AMENDMENT NO. 3527

(Ordered to be printed and to lie on the table.)

Mr. BELLMON (for himself, Mr. NELSON, Mr. JAVITS, Mr. MUSKIE, Mr. RIBICOFF, Mr. BAKER, Mr. CHILES, Mr. BARTLETT, Mr. DECONCINI, Mr. DOMENICI, Mr. HATCH, and Mr. DANFORTH) submitted an amendment intended to be proposed by them, jointly, to S. 2570, supra.

● Mr. BELLMON. Mr. President, I submit an amendment to S. 2570 and ask that it be printed. I ask unanimous consent the amendment and a section-by-section description of the amendment be printed in the RECORD.

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

AMENDMENT NO. 3527

On page 182, line 14, after "rehabilitation" insert a comma and the following: "public assistance".

On page 185, line 9, insert after "shall" a comma and the following: "in coordination with units of general local government,"

On page 189, line 7, after "agencies" insert a comma and the following: "public assistance agencies".

On page 190, line 23, strike out the word "or".

On page 190, line 23, before the period insert a comma and the following: "or are public assistance recipients".

On page 195, lines 3 and 4, after "education" insert a comma and the following: "State and local public assistance agencies".

On page 204, line 5, after "agencies" insert a comma and the following: "public assistance agencies".

On page 206, between lines 14 and 15, insert the following:

"(iii) one representative of the State public assistance agency;

On page 206, line 15, strike out "(iii)" and insert in lieu thereof "(iv)".

On page 206, line 19, strike out "(iv)" and insert in lieu thereof "(v)".

On page 206, line 21, strike out "(v)" and insert in lieu thereof "(vi)".

On page 207, line 18, after "rehabilitation" insert a coma and the following: "public assistance".

On page 218, line 21, before the period insert a comma and the following: "and to eligible persons who are public assistance recipients or who are eligible for public assistance but not receiving such assistance".

On page 243, line 20, strike out "and" the first time it appears.

On page 243, line 21, insert before the semicolon a comma and the following: "and public assistance recipient status".

On page 244, between lines 11 and 12, insert the following: "(6) an estimate of the savings realized in public assistance, food stamps, housing assistance, medical assistance and other programs due to the increased employment of recipients of benefits under those programs as a result of the employment and training services provided under this Act."

On page 260, between lines 19 and 20, insert the following:

"SERVICES FOR PUBLIC ASSISTANCE RECIPIENTS

"SEC. 216. (a) Services for public assistance recipients under this part shall be designed to assist eligible participants in overcoming the particular barriers to employment experienced by such recipients, including lack of basic educational or vocational skills, insufficient preparation for the personal adaptations necessary for labor force participation, inability to find or successfully apply for employment, inability to obtain transportation to employment opportunities, medical problems, inability to obtain satisfactory child care, and lack of appropriate job opportunities.

"(b) The Secretary shall insure that each prime sponsor's plan for serving eligible public assistance recipients under this part includes provisions for—

"(1) coordinating services assisted under this part with other programs assisted under this Act;

"(2) coordinating services assisted under this Act with services provided by State and local public assistance agencies;

"(3) assisting public assistance recipients to develop skills necessary for taking advantage of opportunities to enter or re-enter the labor force, including, but not limited to—

"(A) outreach, assessment and orientation to the local labor market and to occupational and training opportunities available in the community;

"(B) counseling, placement assistance, and job placement;

"(C) technical assistance to employers for establishing flexi-time, child-care, job sharing, and other innovative arrangements suited to public assistance recipients;

"(D) activities to overcome sex and welfare status stereotyping in job placement and development; and

"(E) other activities designed to increase labor force participation rates among eligible participants who are able and willing to work but have been unable to secure employment.

On page 263, delete lines 19 through 23.

On page 263, line 15, strike out "(a)".

On page 388, between lines 12 and 13, insert the following:

"(c) The Secretary shall develop information relating to the number of individuals who have attained 16 years of age and who are members of a family with an income which is equal to or less than 70 percent, 85 percent, and 100 percent of the lower living standard income level for the jurisdiction of each prime sponsor. The Secretary shall prepare and submit, not later than one year after the date of enactment of the Comprehensive Employment and Training Act Amendments of 1978, to the President and to the Congress a report on the information required by this subsection.

On page 267, line 3, insert "(1)" after "person".

On page 267, line 4, strike out "twelve" and insert in lieu thereof "fifteen".

On page 267, line 5, before the period insert a comma and the following: "(2) or who is, or whose family is receiving aid to families with dependent children provided under a State plan approved under part A of title IV of the Social Security Act, or who is receiving supplemental security income benefits under title XVI of the Social Security Act".

On page 268, line 5, after "older workers" insert a comma and the following: "public assistance recipients,".

On page 292, line 7, after "agencies" insert a semicolon and the following: "State and local public assistance agencies".

On page 294, line 2, strike out "and".

On page 294, between lines 2 and 3, insert the following:

"(L) assurances that special efforts will be made to recruit youth from families receiving public assistance, including parents of dependent children who meet the age requirement of this subpart; and

On page 294, line 3, strike out "(L)" and insert in lieu thereof "(M)".

On page 301, line 20, before the comma insert a comma and the following: "a description of arrangements with public assistance agencies on the employment of youth from families receiving public assistance, including parents of dependent children".

On page 314, line 10, after "organizations" insert a comma and the following: "public assistance agencies".

On page 353, line 25, after "service" insert a comma and the following: "public assistance agencies".

On page 374, line 25, beginning with the word "a", strike out through line 5 on page 375 and insert in lieu thereof a hyphen and the following:

"(A) an individual—

"(i) who has been unemployed for at least 10 out of the 12 weeks immediately prior to a determination under this section,

"(ii) who is unemployed at the time the determination is made, and

"(iii) whose family income does not exceed 85 per centum of the lower living standard income level based on the three-month period prior to the individual's application for participation; or

"(B) an individual—

"(i) who is, or whose family is, receiving aid to families with dependent children provided under a State plan approved under part A of title IV of the Social Security Act, or who is receiving supplemental security income benefits under title XVI of the Social Security Act,

"(ii) who has been unemployed for at least 10 out of 12 weeks immediately prior to the determination under this section, and

"(iii) who is unemployed at the time the determination is made.".

On page 178, in the Table of Contents, after item "Sec. 215" insert the following new item:

"Sec. 216. Services for Public Assistance Recipients.".

SECTION-BY-SECTION DESCRIPTION OF AMENDMENT TO S. 2570

The following are brief descriptions of the content and purposes of the various changes the Amendment would make to S. 2570, the Comprehensive Employment and Training Amendments of 1978:

1. Sec. 2 This would add "public assistance" to the list of programs in the statement of purpose with which there is to be maximum feasible coordination of plans, programs, and activities.

The Statement of Purpose in the bill already provides for CETA activities to be coordinated with "economic development, community development and related activities such as vocational education, vocational rehabilitation and social service programs." Adding public assistance to the list of program with which CETA activities are to be coordinated will recognize that public assistance recipients are among the groups most in need of CETA services, and that coordination between CETA and public assistance agencies will help assure more effective responses to the employment-related needs of these recipients.

2. Sec. 101(d): This would require State prime sponsors, in making arrangements for area planning bodies to serve subareas within the State prime sponsor's area, to coordinate such arrangements with units of general local government.

This change will help assure that local governments will have some voice regarding groupings of local jurisdictions for purposes of sub-area planning. This provision would apply whenever balance-of-state prime sponsors organize new sub-area planning councils or change arrangements that now exist.

3. Sec. 103(a)(7): This would require a prime sponsor in its employment and training agreement to provide for utilizing (with or without reimbursement) services and facilities available from public assistance agencies.

The bill already specifies that employment and training agreements shall provide for utilization in CETA programs, to the extent appropriate, of the services and facilities of state employment services, vocational rehabilitation agencies, local education agencies, and a number of other types of agencies. Adding state and local public assistance agencies to the listing of agencies whose facilities and services are to be considered in developing the agreements will emphasize the high priority Congress intends the CETA planning and delivery system to give to the employment needs of public assistance recipients. This change will help assure that prime sponsors consider public assistance agencies as a potential resource for referral of candidates for training and public service employment, and as potential deliverers of various services needed by such recipients who participate in CETA programs.

4. Sec. 103(b)(3): This would add public assistance recipients to the list of groups which are experiencing severe handicaps in obtaining employment; prime sponsors would have to specify intended services for such persons in their annual plans.

Although many prime sponsors have treated the employment and training of public assistance recipients as a high priority, this has not been the case in all parts of the country. This provision will give a very clear signal to prime sponsors that they are to address specifically in their annual plan the steps they will take to help public assistance recipients overcome handicaps which prevent them from being employed. These handicaps include educational deficiencies, lack of skills, lack of work experience, race and sex discrimination, family responsibilities, and many other problems.

It is not expected that CETA prime sponsors can solve all these problems by themselves, but by working imaginatively with public assistance recipients and other agencies serving these recipients, prime sponsors can contribute much to helping many of the recipients to become self-sufficient.

5. Sec. 105(b)(1): This would add state and local public assistance agencies to the list of agencies whose services are to be addressed by the Governor's Coordination and Special Services Plan.

This change will help assure that state-level CETA planning takes into account the work registration, counseling, training and other activities provided to employable recipients of public assistance by the agencies which provide cash assistance, food stamps, medical services and related services to these recipients. The specific inclusion of these agencies in the Governor's CETA coordination responsibilities will help provide more effective linkages of the various services needed by these recipients.

6. Sec. 109(b): This would add public assistance agencies to the list of persons and organizations which are to be represented on the local planning council.

It will help assure that the provision of employment and training opportunities to public assistance recipients is given an appropriate priority in the CETA prime sponsor's planning and operational activities.

7. Sec. 110(a)(3)(D)(iii): This would add a "representative of the State public assistance agency" to the membership of the State Employment and Training Council.

Again, the purposes are to assure that state-level CETA planning places appropriate priority on responding to the employment and training needs of public assistance recipients, and to promote effective coordination of CETA services and other services and benefits delivered by public assistance agencies.

8. Sec. 110(b)(3)(A): This would add public assistance programs to the listing of programs which the State Employment and Training Council is to assess in determining the extent to which a consistent, integrated, and coordinated approach is being used in meeting the employment needs of the State.

This change recognizes the important relationships which exist between the objectives of public assistance programs and CETA and other programs. It will help assure that state employment and training councils take an active role in integrating public assistance and other programs, together with CETA, into an effective, comprehensive approach to employment problems, as opposed to fragmented, uncoordinated and inefficient approaches.

9. Sec. 122(c)(I): This would provide special consideration in filling public service employment jobs to public assistance recipients and persons eligible for public assistance.

This change will emphasize that public assistance recipients and persons eligible for public assistance are a high priority group for CETA public service jobs, and that persons in this group shall receive special consideration in filling such jobs. The Department of Labor's implementing procedures will specify the precise ways in which this provision is to be implemented. Implementing actions can include:

Establishing PSE positions which are especially well-suited for public assistance recipients and eligibles.

Developing working arrangements with state and local social service agencies to help public assistance recipients and eligibles solve transportation, child care and other problems.

Considering public assistance recipients and eligibles for PSE vacancies before such vacancies are advertised more widely.

It is expected that this and other changes included in this amendment will result in a substantial increase in the hiring in PSE positions of public assistance recipients and eligibles. The Department of Labor will be expected to monitor carefully the implementation of these provisions and to take appropriate actions to improve the performance of any prime sponsors which fail to respond to this priority.

10. Sec. 128(d)(2): This would require the Secretary in his annual report to Congress to include in the cross-tabulation of participant characteristics "public assistance recipient status".

This requirement will help enable the Congress to assess how well the CETA system carries out the directions being given in this legislation regarding increased services to public assistance recipients.

11. Sec. 128(d)(6): This would add a requirement that the Secretary include in his annual report to Congress an estimate of the savings in public assistance, Food stamps, medical assistance and other programs resulting from participation in CETA of recipients of such benefits.

This information will be especially useful in helping Congress assess the overall costs of CETA and the efficiency of possible future changes in eligibility standards.

It is expected that the Labor Department's estimates will address savings related both to persons currently participating in CETA employment and training, and to those who were former participants who have now obtained continuing employment.

12. Sec. 216—Services for Public Assistance Recipients: This would add a provision describing services for public assistance recipients; it would parallel those sections in title II which describe services for youth and older workers.

Addition of this section will emphasize the priority attention public assistance recipients are to receive in the planning and delivery of services under Title II. This section cites a number of the particular barriers to employment experienced by public assistance recipients. It then directs the Secretary of Labor to insure that each prime sponsor's plan includes appropriate provisions for assisting public assistance recipients to enter or reenter the labor force, and for coordinating CETA services with services provided by state and local public assistance agencies.

13. Sec. 232: This would delete a provision which directs the Secretary of Labor to first make available from those funds appropriated for public service employment under titles II and VI, $3,000,000 for title II–D.

Deletion of the provision in question will permit Congress to appropriate funds under Title VI, without having first to provide a minimum amount under Part D of Title II. The sponsors of this amendment strongly support the Human Resources Committee's efforts to reorient CETA public service employment from the objective of reducing counter-cyclical unemployment to the employment of persons unemployed for structural reasons. This change is not intended to impede that reorientation; rather it is in-

tended to reserve to the appropriations process the Congressional decisions on the levels and mix of funding for public service jobs.

14. Sec. 237: This would make recipients of public assistance under titles VI–A and XVI of the Social Security Act (AFDC & SSI) categorically eligible for services under title II–D, notwithstanding the required weeks of unemployment.

Additionally it would increase the number of weeks which a person must be unemployed, for purposes of determining eligibility, from 12 weeks to 15 weeks.

These changes will tighten the eligibility standards for the public service jobs provided under Title II, D, so that persons who qualify for these jobs will either be recipients of Federal welfare benefits or unemployed for more than 15 weeks, whose family incomes are below 70% of the BLS lower standard. These changes are appropriate given the focus of Title II D on persons who are unemployed for structural reasons.

15. Sec. 301(a)(1): This would add "public assistance recipients" to the list of target groups who the Secretary must serve in title III.

This will help assure that the employment and training needs of public assistance recipients are addressed by the Department of Labor in the special national programs and the research, training and evaluation activities conducted under Title III. It is particularly appropriate that Congress express to the Department of Labor its intent that employment and training needs of public assistance recipients be dealt with in all relevant activities under Title III, given the new authorization in Section 311(f) for demonstration projects related to employment of public assistance recipients and potential recipients.

These new special demonstration projects should be additions to, rather than replacements of, other activities under Title III addressing the employment needs of public assistance recipients.

16. Sec. 413(a)(1)(D): This would direct the Secretary, in selecting prime sponsors to administer Youth Incentive Entitlement projects, to assure that the prime sponsors have consulted with state or local public assistance agencies, among others, prior to submitting their proposals.

This change recognizes that unemployment of youth in public assistance families is one of the serious problems those families face. Increased contact between prime sponsors delivering youth incentive programs and public assistance agencies can help assure that youth from welfare families have maximum opportunity to compete for available work and training.

17. Sec. 413(a)(4)(L): This would direct the Secretary, for purposes of the Youth Incentive Entitlement Projects, to select only those prime sponsors who provide assurances that special efforts will be made to recruit youth from families receiving public assistance, including parents of dependent children who meet the age requirements of this subpart.

This change, along with the preceding one, will convey clearly the intent of Congress that special efforts be made to recruit youth from public assistance families for available Youth Incentive Program opportunities. The specific reference to parents who meet the age definition of the Youth Incentive Program appropriately recognizes that many teenage parents receive public assistance as heads of households, and that provision of employment opportunities to such parents can help them avoid long-term dependence on public assistance.

18. Sec. 426(b)(1): This would require eligible applicants, in submitting proposals for the Youth Community Conservation and Improvement Projects to describe the methods they intend to use to coordinate with public assistance agencies concerning the employment of youth from public assistance families.

As with the changes relating to the Youth Incentive Program, this change is intended to increase contacts between public assistance agencies and Youth Community Conservation and Improvement Projects, so that a greater number of the YCCIP slots are filled by youth from public assistance families than would otherwise be the case.

19. Sec. 436(a)(3): This requires prime sponsors as a condition of financial assistance to provide assurances that there is coordination with public assistance agencies in the implementation of Youth Employment and Training programs.

This change complements those already discussed and emphasizes the need for close coordination between prime sponsors and public assistance agencies on the employment-related needs of youth from public assistance families.

20. Sec. 492: This would direct the Secretary of Labor to make arrangements for obtaining the referral of candidates, for purposes of the Young Adult Conservation Corps, from public assistance agencies in addition to public service employment agencies, prime sponsors, and the sponsor of Native American entities.

This change recognizes that referrals by public assistance agencies of candidates for the Young Adult Conservation Corps can help assure that an appropriate portion of the Corps resources are focused on youth from families experiencing the most serious economic difficulties.

21. Sec. 607: This would make recipients of public assistance under titles IV–A and XVI of the Social Security Act (AFDC & SSI) categorically eligible for title VI jobs, not withstanding the required weeks of unemployment.

Additionally it would modify the number of required weeks of unemployment, for purposes of determining eligibility, from 45 days to 10 out of 12 weeks. No change would be made in the income eligibility standard included in the reported bill of 85 percent of the BLS lower living standard.

The lengthening of the required period of unemployment recognizes that the public service jobs made available under Title VI should be reserved for people who have tried and been unable to obtain unsubsidized jobs for an extended period. The ten out of twelve weeks standard proposed for Title VI, rather than the standard of 15 weeks unemployment proposed for Title II D, recognizes the counter-cyclical purposes of Title VI.

Retaining categorical eligibility for recipients of Federal public assistance benefits (as under current law) recognizes that families in this group have almost no resources to live on, and that they have generally been unemployed for much more than ten weeks before they began receiving public assistance.

22. S. 2570 Sec. (5)(c): This would direct the Secretary of Labor to develop within one year after enactment of this legislation, information as to the number of individuals 16 years of age and older whose families' incomes are at or below 70 percent, 85 percent, and 100 percent of the lower living standard, in each CETA prime sponsor's jurisdiction.

Availability of this information would enable the Congress to direct more precisely the distribution of CETA and other resources intended to alleviate unemployment and poverty.●

AMENDMENTS NOS. 3528 THROUGH 3531

(Ordered to be printed and to lie on the table.)

Mr. PERCY submitted four amendments intended to be proposed by him to S. 2570, supra.

● Mr. PERCY. Mr. President, I am today submitting four amendments to S. 2570, the bill to amend and extend the Comprehensive Employment and Training Act of 1973. I ask unanimous consent that the text of these amendments be printed in the RECORD.

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

AMENDMENT NO. 3528

On page 204, insert immediately before the period at the end of line 23 the following: ", including efforts to reduce and eliminate artificial barriers to employment.".

AMENDMENT NO. 3529

On page 230 at line 15, insert the following new paragraph and redesignate the succeeding paragraphs and references thereto accordingly:

"(1) the term 'artificial barriers to employment' refers to limitations in the terms and conditions of employment which are not directly related to the individual's qualifications to perform the duties required by the employment position."

AMENDMENT NO. 3530

On page 278, at line 17, after the word "processes," insert the following: ", including programs designed to eliminate artificial barriers to employment;".

AMENDMENT NO. 3531

On page 313, at line 18, after the words, "public employment service" and before "other youth programs" insert the following: "the courts of jurisdiction for status and youthful offenders,".

On page 314, at line 14, after "public employment service system;" add the following: "and the courts of jurisdiction for status and youthful offenders.".

CIVIL SERVICE REFORM—S. 2640

AMENDMENT NO. 3532

(Ordered to be printed and to lie on the table.)

Mr. LEAHY submitted an amendment intended to be proposed by him to S. 2640, a bill to reform the civil service laws.

NOTICES OF HEARINGS

SPECIAL COMMITTEE ON AGING

● Mr. CHURCH. Mr. President, the Special Committee on Aging will continue its hearings on "Retirement, Work, and Lifelong Learning" on September 8 at 10 a.m. in room 5110, Dirksen Senate Office Building. Representatives of national organizations on aging will testify at that time.●

SUBCOMMITTEE ON TAXATION AND DEBT MANAGEMENT

● Mr. HARRY F. BYRD, JR. Mr. President, the Subcommittee on Taxation and Debt Management of the Finance Committee, will hold a hearing on August 28, 1978, on miscellaneous tax bills.

The hearing will be held on Monday, August 28, 1978, at 9:30 a.m. in room 2221, Dirksen Senate Office Building.

The following legislation of general application will be considered in addition to legislation previously announced in the CONGRESSIONAL RECORD of August 18, 1978.

S. 3441, sponsored by Senators MORGAN, BAKER, SASSER, MAGNUSON, HODGES, INOUYE, PERCY, and MATHIAS, a bill to

assist independent, local newspapers (nonchain newspapers) and in-State newspaper chains in existence before October 31, 1977, to pay their estate taxes by providing the option of creating an estate tax trust. It is estimated that the bill will involve a revenue loss of $10 million annually.

Requests to testify.—Persons who desire to testify at the hearing should submit a written request to Michael Stern, staff director, Committee on Finance; room 2227, Dirksen Senate Office Building, Washington, D.C. 20510, by no later than the close of business on Thursday, August 24, 1978.

Written testimony.—Senator BYRD stated that the subcommittee would be pleased to receive written testimony from those persons or organizations who wish to submit statements for the RECORD. Statements submitted for inclusion in the RECORD should be typewritten, not more than 25 double-spaced pages in length and mailed with five copies by September 8, 1978, to Michael Stern, staff director, Committee on Finance, room 2227, Dirksen Senate Office Building, Washington, D.C. 20510.●

H.R. 11445 CONFERENCE

● Mr. NELSON. Mr. President, I wish to announce that the Senate Select Committee on Small Business and the Committee on Small Business of the House of Representatives will hold a conference on H.R. 11445 (the SBA authorization legislation) on Thursday, September 7, at 1 p.m. in room EF-100 in the Capitol.

In case of unfinished business, Tuesday, September 12 (9:30 a.m. in the same room) has been held open for continuation purposes.●

ADDITIONAL STATEMENTS

"SING A SIGN": A MUSICAL IN SIGN LANGUAGE, CARRIED BY PUBLIC BROADCASTING

● Mr. RANDOLPH. Mr. President, many of my colleagues will recall the recent premiere of "Sing a Sign," a musical in sign language, sponsored by the American Speech and Hearing Association. It was cosponsored by Gallaudet College and by the Bureau of Education for the Handicapped in conjunction with the American Telephone and Telegraph Corp.

This musical entertainment, the first nationally televised musical in sign language, expresses the often overlooked capability of deaf people to communicate effectively in the hearing world. The production will help to promote the building of a bridge of understanding and respect between the world of the hearing and the world of the deaf.

I ask that an article in the current issue of the magazine of the American Speech and Hearing Association concerning this program be printed in the RECORD.

The article follows:

PUBLIC BROADCASTING'S "SING A SIGN"

The American Speech and Hearing Association served as host at a gala Congressional premiere of Sing a Sign, the first nationaly televised musical in sign language. The program, aired over most Public Broadcasting Stations (PBS) May 20, received accolades from reception attendees, including Senators Jennings Randolph of West Virginia and Robert Dole of Kansas.

THE PROGRAM

Sing a Sign was written and produced by Susan Smith, who, previous to developing Sing a Sign, had produced a series of Emmy-nominated public service announcements at a Washington, D.C. television station.

Upon the suggestion of a principal at a school for the deaf, Smith developed the program, which features young deaf and hearing singers, dancers, and actors. Her husband Rip agreed to direct the special program.

The Smiths, who both hear, prepared for Sing a Sign by attending classes for hard-of-hearing students at Gallaudet College in Washington. The couple learned sign language and taped 14 public service announcements featuring deaf children. The series of announcements won an Emmy nomination resulting in I Hear Your Hand, a full-scale experimetal musical with deaf and hearing people. I Hear Your Hand served as the pilot for Sing a Sign, which PBS ordered as a result of the first program.

YOUNG CAST SPARKLES

Presented by PBS affiliate WETA-TV in Washington, the musical's talented group of performers includes Susan Davidoff, who holds the title of Miss Deaf America; Rita Corey, star of the National Theatre of the Deaf; and Bernard Bragg, renowned deaf mime.

Other performers are Vince DiZebba, Donna Gadling, Ogden Whitehead, Roney Johnson, Martie Stephens, Tracy Tuttle, and David MacFarlane. Musical numbers included "Fantasy," "All Kinds of People," "Just the Way You Are," "Little Arrows," "Candle on the Water," and "Welcome to My World."

Sing a Sign is "a dream come true for me," said Smith, who has long wanted to do a program as a showcase for the talents of deaf performers, to promote better understanding between deaf and hearing people, and to call attention to sign language, which she views as "an effective form of creative expression."

ASHA INVOLVEMENT

The premiere of *Sing a Sign*, held at the Dirksen Senate Office Building on May 16, was sponsored by ASHA and cosponsored by Gallaudet College and the Department of Health, Education, and Welfare's Bureau of Education for the Handicapped in conjunction with the American Telephone and Telegraph Corporation, the financial sponsor of *Sing a Sign*.

Guest of honor at the reception was West Virginia Senator Jennings Randolph, who was hailed by ASHA President Katharine G. Butler as "a good friend to handicapped Americans and to those of us who devote our professional energies to the rehabilitation and education of the handicapped."

Butler cited the 1973 Rehabilitation Act and the Education of All Handicapped Children Act of 1975 as "two of the landmarks of the Senator's distinguished legislative career." The former statute, she pointed out, assures equal treatment under federal law for all handicapped Americans, while the 1975 enactment guarantees a free and appropriate public education for all handicapped children.

"In each instance," Butler said, "Senator Randolph has helped to see to it that those of us who devote our professional energies to the rehabilitation and education of the handicapped have the research, training, and service-delivery support we need to do our job well."

In his speech, Randolph credited ASHA as being "extremely supportive of our efforts over the years to enact legislation that promotes full and productive involvement by handicapped citizens in the life of this nation."

Remarks were also presented by Senator Dole, ASHA Executive Secretary Kenneth O. Johnson, Susan Smith, and members of the *Sign a Sign* cast.●

DEATH OF JOMO KENYATTA

● Mr. ROTH. Mr. President, it was with great regret that I learned this morning of the death of Jomo Kenyatta, the President of Kenya.

Mr. Kenyatta will be long revered not only as the father of his country, but also as one of the greatest black African leaders of this century.

Rising from a humble background, he became the leader of anticolonialist forces in Kenya and ultimately that nation's first President in 1963.

Under his leadership, Kenya has been characterized by stable rule, racial harmony, and economic growth sparked by a healthy and prosperous private sector. The contrast between Kenya and such neighboring countries as Ethiopia and Uganda is stark.

Mr. Kenyatta has made Kenya one of the most influential nations in the Third World and an important site for international organizations.

A leader like Jomo Kenyatta will be hard to replace. I am hopeful, however, Kenya will find an heir who will maintain the successful economic and social policies of Mr. Kenyatta.●

REPORT OF STUDY MISSION TO VIETNAM

● Mr. KENNEDY. Mr. President, the Judiciary Committee met this morning to receive the report of its special study mission which recently returned from Vietnam. The study mission—composed of Archbishop Philip Hannan of New Orleans; Dr. Jean Mayer, president of Tufts University, Medford, Mass.; Dr. LaSalle Leffall, president-elect of the American Cancer Society, Washington, D.C.; Ms. Mildred Kaufman, chairman of the food-nutrition section of the American Public Health Association; and Mr. Jerry Tinker of my staff—visited Vietnam for 1 week beginning on July 31.

Their immediate objective was to facilitate the family reunion of several children and their mothers separated from their families in the United States. However, like the study mission that the committee sent to Southeast Asia last year, the team this year also reviewed for the committee the many urgent humanitarian problems that remain in the aftermath of the Indochina war.

For the record, I would like to take this opportunity to introduce their findings and recommendations offered at this morning's hearing. For their report tells us that "people problems" continue to fester in Southeast Asia. Refugees are still on the move from Indochina, even as millions displaced by years of war struggle to return to their war-scarred homes and lands. Relief and rehabilitation needs have grown among orphans, refugees and malnourished men, women, and children.

There are the urgent problems of family reunion among thousands of families separated by the chaos of Vietnam in 1975—wives and husbands, and children and parents who remain apart after more than 3 years. There are the problems of tracing the missing, especially accounting for those members of our armed services still listed as missing-in-action in Indochina.

These humanitarian issues were the focus of the study mission that traveled to Southeast Asia at my request 2 weeks ago. Their mission serves to remind us that the international community, and especially the United States, faces many humanitarian problems in Southeast Asia—caused by the dislocations of war, the mounting pressure of refugee movement, and the ravages of drought and natural disaster which, together, have produced serious food shortages and critical health needs in many areas.

Mr. President, the United States cannot stand aloof from these humanitarian problems, not only because of our long involvement in the region, but also because these issues impinge deeply upon the concerns and lives of many in America, as well as involve our Nation's interest in peace and stability in Southeast Asia.

Over the past 2 years, the United States has joined with other countries in pledging help to the displaced persons in Southeast Asia—and we must continue to keep our door open to thousands of homeless refugees who need and who seek our help. But at the same time we cannot neglect the vast human needs that continue within Indochina, especially the growing food shortages that threaten the lives of so many.

One of the finest traditions of the American people is to respond to humanitarian needs wherever they exist, and wherever we can be of help. The following report of the study mission to Vietnam will help us better understand how we, as a nation, can today fulfill our humanitarian traditions in Indochina.

Having contributed so heavily to the years of war, we must not now fail to pursue policies and programs that will contribute to peace and relief in Southeast Asia, and respond to new opportunities for a reconciliation and normalization of relations between the American people and the people of Vietnam.

Mr. President, I ask that the prepared statements of the study mission submitted to the Judiciary Committee this morning, as well as the summary of their recommendations, be printed in the RECORD.

The statements follow:

SUMMARY OF RECOMMENDATIONS BY THE STUDY MISSION SENT TO VIETNAM BY SENATOR EDWARD M. KENNEDY, AUGUST 1978

The United States has both a profound humanitarian and foreign policy interest in developments in Southeast Asia, not only because of our long involvement and concern with the people of the area, but also because of our Nation's interests in the peace and stability of the region. Given this historic and long-term involvement, and the many immediate humanitarian issues that touch the lives of both the Vietnamese and American people, the Study Mission offers the following recommendations to the Committee:

1. United States Involvement in Southeast Asia: It would be a tragic lost opportunity if our Nation today failed to respond to the recent overtures of the government of Vietnam to normalize our relations and to renew our involvement, in a constructive and positive way, with the people and government of Vietnam. Indeed, we have arrived at an historic decision point in our foreign policy towards Southeast Asia—where we now have an opportunity to do through peaceful means what we sought to do for so long through war: to protect United States national interests in Southeast Asia by assuring Vietnam's independence from the domination of any outside power

Peace and stability in Southeast Asia has been the objective of our Nation's foreign policy for nearly three decades, and it is today the urgent desire of the Vietnamese—as stated directly to the Study Mission by Prime Minister Pham Van Dong. The normalization of our relations with Vietnam, and the involvement of our diplomacy in that country, will help assure that Vietnam remains independent of either Russia or China. And it will help assure that Vietnam will continue it policy of peaceful relations with the five countries of the Association of Southeast Asian Nations (ASEAN).

2. Reconciliation and Normalization of Relations with Vietnam: The President should be commended for his Administration's early efforts to pursue a policy of reconciliation and normalization of relations with Vietnam. These efforts deserve the full support of Congress and the American people, for such a policy is clearly in the interests of both the United States and Vietnam, and of all parties concerned with the future of Southeast Asia.

The Vietnamese have now given every indication that they are prepared to immediately establish diplomatic relations with the United States, and to resolve all outstanding issues between our two countries through that diplomatic process—with no preconditions mentioned. Vietnamese officials at the highest levels expressed the view that they understood that normalization was a process, and that steps towards reconciliation would assist the normalization process. In their turn, they have responded in good faith to a number of humanitarian issues of concern to the American people—new initiatives on the MIA issue, and the beginning of a policy to promote family reunification. In our turn, the United States should contribute to the process of reconciliation by being mindful of the humanitarian issues of immediate concern to the Vietnamese people—humanitarian food assistance, relief and rehabilitation needs, and medical problems.

3. Food and Related Humanitarian Assistance to Vietnam: Serious humanitarian problems persist in Vietnam. Families dislocated by the recent war are still returning to their villages or resettling in other areas of their country in an effort to normalize their lives. Some crippled and maimed, some orphans and widows, and many thousands of other war victims still need help and concern. Farm land and battered villages are still being renewed. And housing, schools, medical facilities, markets and whole villages are still being rebuilt in the war-ravaged countryside. In short, recovery is still underway.

Adding heavily to the humanitarian problems resulting from the recent war, are the current food shortages in Vietnam. These documented shortages—brought on by the dislocations of the war and by devastating drought and other natural disasters—threaten the health and nutrition of thousands of people in many areas.

The United States can no longer stand aside and ignore the humanitarian problems of the Indochina Peninsula and the international appeals in behalf of suffering and needy people in Vietnam. This is contrary to the humanitarian traditions of our country and to the active support the American people have always given to the provision of humanitarian assistance to people in need throughout the world.

At an early date, the United States should respond to the serious food and related humanitarian assistance needs of the Vietnamese people. This matter should be pursued apart from any ongoing bilateral discussions with either country over future diplomatic consular, and economic relations.

A number of steps should be taken:

(a) In response to international programs by several United Nations agencies, the International Red Cross, and others, the United States should immediately make available, to the Vietnamese people, food and related assistance under international auspices.

(b) The United States should also provide such assistance under the international disaster relief provisions of present law, as we previously have done in the case of many other disasters including those in the Sahel. Romania, Italy, and elsewhere.

(c) The United States should immediately provide ocean freight reimbursement to American voluntary agencies, which purchase food and other supplies or receive donations in kind from the American people for shipment to Vietnam.

4. Cambodian Refugees in Vietnam: The United States should immediately respond to the urgent relief needs among refugees have for Cambodia refugees in Thailand. The United Nations High Commissioner for Refugees has already made an emergency contribution of $500,000, and has under active consideration a special appeal for Cambodia refugees in Vietnam—who now number over 200,000 with an additional 100,000 ethnic Vietnamese displaced by the recent border conflict. There is also an outstanding appeal of the International Committee of the Red Cross, to which the United States has yet to respond.

Preliminary estimates indicate that the UNHCR program will run at least $20 million or more for one year. A comparable program in Thailand and Southeast Asia for refugees from Indochina—for care and maintenance of some 150,000 Indochinese refugees, plus transportation costs—has risen from an appeal of $18.3 million early this year, to a $25 million appeal this past June. The United States has contributed over half the funding for the Southeast Asian program of UNHCR, and we should be equally forthcoming in support of its program for Cambodians in Vietnam. The needs are just as real, and the refugees are similar. A pledge of $10 million now from the United States would greatly assist the UNHCR's efforts to respond to the problem of Cambodian refugees in Vietnam.

5. Trade Embargo against Vietnam: To facilitate the ability of the United States to respond to the many humanitarian needs in Vietnam, and to promote the process of reconciliation and normalization of relations between our two countries, the President should allow the trade embargo against Vietnam to lapse. Whatever the merits of the previous Department of State position that the trade embargo will be lifted as a consequence of normalized relations, the Vietnamese today view the embargo as a punitive act carried over from a previous Administration, and a stumbling block to the process of reconciliation. From both the standpoint of America's international trade, as well as our diplomatic posture, the imposition of a trade embargo against Vietnam today is harmful to our national interests, and costly to our balance of payments overseas.

6. Family Reunion Problems: Vietnamese authorities have clearly stated their intention to begin the process of facilitating on humanitarian grounds, outstanding family reunion cases to the United States—even prior to the establishment of formal diplo-

matic and consular relations. The resolution of these family reunion problems between the United States and Vietnam will inevitably be a long-term process, involving time-consuming details and the activities of individual case workers. However, the Study Mission was assured that in the context of the process of reconciliation with the United States, the government of Vietnam would act in good faith on all humanitarian family reunion cases brought to its attention.

Although this question is clearly a long-term, consular problem, which would be greatly facilitated by consular relations between the United States and Vietnam, the Vietnamese have nonetheless indicated a sincere willingness to start the process now.

7. Promoting People-to-People Contact with Vietnam: Since 1975 there have been no real contacts between the United States and Vietnam—culturally, educationally, or scientifically. As part of the reconciliation process, the United States should promote people-to-people contacts, and facilitate communications between our two countries. After three decades of intensive contact with the Vietnamese people, and contributing substantial sums to the development of southern Vietnam's social, medical, educational, and economic systems, we should not today ignore these strong ties. They are ties which will help both our peoples look to the future rather than to the tragedies of the past.

The Study Mission will submit to the Committee a series of specific recommendations which will serve to facilitate closer contacts between the people of the United States and Vietnam, and between private voluntary agencies, foundations, and public and private institutions in our country and similar groups in Vietnam. It is time to build bridges to the people of Vietnam, after too many years of conflict and war.

8. Responding to the Needs of Refugees in Southeast Asia: While visiting Thailand, the Study Mission received up-dated information for the Committee on the continuing problem of Indochinese refugees in Southeast Asia. Clearly, the United States has a continuing responsibility to offer resettlement opportunities to a reasonable number of Indochinese refugees. Given the demonstrated need over the past several years to maintain some flexibility in this regard, the Attorney General should exercise his parole authority on a continuing basis and without a specified number of entries into the United States.

As the Committee's Study Mission report noted last year, the number of entries for Indochinese refugees should respond to the ebb and flow of their movement and demonstrated resettlement needs, and not to some arbitrary quota which, inevitably and sometimes needlessly, is always immediately filled. Especially for refugees in Thailand, the principal, but not exclusive, criteria for parole eligibility should be the traditional American concern for family reunion. Given the special nature of the "boat people" problem, however, a more general humanitarian criteria should apply to these refugees. The current criteria, left-over from the evacuation in 1975, are no longer appropriate or useful.

A formula for this purpose should be worked out in consultation with this Committee and in the context of the number of refugee entries from other areas of the world, where people also have legitimate claims upon the attention and concern of the United States.

Since 1975, public debate in the United States and our ad hoc national response to the refugee problems in Thailand and Southeast Asia have stressed parole programs and the resettlement of refugees in the United States. As a nation, we do have continuing responsibilities in this regard. But we must not focus on resettlement in the United States to the exclusion of other important alternatives for the refugees. We must finally be more balanced in our policy and approach.

As the Committee's report noted last year: "The time is past due for the United States to encourage and promote more actively the local settlement of refugees in the host countries, especially Thailand. Thailand is prepared to move in this direction, in the context of general rural development which would also benefit its own citizens. The United States must be prepared, diplomatically and financially, to join others in the international community in lending strong support to such local resettlement efforts.

"American policy must also acknowledge the possibility of voluntary repatriation among certain refugees, especially among Lao nationals in Thailand. Voluntary repatriation will only become a viable and humane option for certain numbers of refugees if there is a general agreement among all parties concerned and if real assurances are given for their care and protection when they return. Should voluntary repatriation occur at some future time, it should be carried out under international auspices."

Finally, the Study Mission concurs in the view that the United States should more fully support the United Nations High Commissioner for Refugees in all of his efforts to find durable solutions for the mounting refugee problem in Southeast Asia. We should also lend our full diplomatic support to his stated objective of involving a "wide number of countries" in meeting the on-going problem of the refugees. In this connection, the United States should continue its support of the Intergovernmental Committee for European Migration, the private voluntary agencies, and others directly involved in meeting the humanitarian needs of the refugees.

OPENING STATEMENT OF ARCHBISHOP PHILIP M. HANNAN, ARCHDIOCESE OF NEW ORLEANS, LOUISIANA, AND MEMBER OF STUDY MISSION TO VIETNAM

Mr. Chairman, I wish to preface my brief opening remarks with an expression of my deep gratitude for the opportunity provided by you and the Committee to serve on a Mission that secured a notable humanitarian result and which gives promise of producing other significant results in the future. I personally applaud your efforts, and appreciate the opportunity to serve on your Study Mission.

As you know, we traveled to Vietnam for one full week, arriving in Hanoi on July 31st, departing Saigon, now called Ho Chi Minh City, on August 7th. We spent two and a half days in Hanoi, principally meeting with officials of the Government of the Socialist Republic of Vietnam, including Prime Minister Pham Van Dong, Vice Foreign Minister Phan Hien, who was our host, and other senior ministers in the Ministries of Agriculture, Health, and State Planning.

In addition, we traveled freely for four days in southern Vietnam, staying in Ho Chi Minh City. Without hindrance, and with complete freedom, we walked the streets of Saigon, and we traveled to Tay Ninh and Long An provinces, and to Vung Tau district. We visited a broad range of institutions, both public and private, involved in relief and rehabilitation problems which persist in the aftermath of the war, and which understandably occupy the concern of the Vietnamese government and several international and United Nations agencies. We traveled to within a mile of the Cambodian border—close enough to hear repeated artillery shelling—in order to view firsthand the plight of Cambodian refugees now in Vietnam—who are under the mandate of the United Nations High Commissioner for Refugees.

Altogether, we had a brief, but intensive, tour of the contemporary scene in Vietnam, and we were received warmly and openly by all levels of society and government. We were treated with candor and honesty. For example, on a trip to one of the "new economic zones" on the outskirts of Ho Chi Minh City we were shown what was admittedly a "model" new agricultural zone. But what was refreshing was their ready admission that it took them over three years of hard and difficult work to achieve their good results—and that the first year was an absolute "disaster." They were candid in their assessment of the many problems involved in even the best of intentioned programs sponsored by the new government—especially in implementing the functionally sound, but obviously difficult, concept of creating new economic zones.

Within this framework, Mr. Chairman, of friendly discourse—where we reviewed the many issues that remain between our two countries—we were given nearly all the information that we asked for and we saw everything that time would allow.

As you know, Mr. Chairman, the immediate objective of our Mission was accomplished—namely the agreement by Vietnamese authorities to recognize and facilitate the reunion of families between the United States and Vietnam, who have been separated since 1975. Prime Minister Pham Van Dong gave solid evidence of his good faith and adherence to this statement by the release of 29 persons with American family ties, who accompanied us on our return to the United States, where they were reunited with the other members of their families. We were assured that preparations for the reunion of other families were being made by the same authorities who were responsible for the arrangements for the release of this original group. The United Nations High Commissioner for Refugees, his representative in Vietnam, Mr. Andres Johnson, and representatives of the International Red Cross, stand ready to help, and are continuing their efforts in behalf of family reunion cases.

The Prime Minister was very cordial in receiving the Study Mission and spent nearly an hour discussing with us the matters of mutual concern. During the discussion he frequently stated the desire of the government of Vietnam for better relations with private, humanitarian groups in the United States and for a normalization of relations between our two countries. He also took the opportunity to speak of the humanitarian needs of Vietnam and their appreciation for the interest and help offered by various groups and nations. We assured the Prime Minister of our interest, and the interest of the American people, in the welfare of the people of Vietnam. I expressed my personal view that all mankind is a family of nations and that we must be of mutual benefit to each other, respecting the rights and dignity of individuals and nations. The Prime Minister said that he fully agreed with this statement.

The Study Mission was afforded an opportunity to see the needs of Vietnam which are evident and notable Humanitarian needs include food and many urgently needed supplies, for hospitals and other institutions. There is no doubt of the severe need in Vietnam for food and other materials basic for the welfare of the people and the development of the country.

With renewed gratitude for inviting me to participate in this Study Mission and with the hope that this report may be of some service, we appreciate the opportunity to appear before the Committee this morning.

TESTIMONY BY DR. JEAN MAYER

Inasmuch as my colleagues will testify concerning the refugees and the medical and hospital situation in Vietnam, I will con-

fine my remarks to two other areas: the state of Vietnamese agriculture and their food supply, and the situation of their academic institutions.

In the course of the mission and at the request of Ambassador Sol M. Linowitz, Chairman of the President's Commission on World Hunger, of which I have the honor to be Vice Chairman, I took the opportunity to examine with members of the government the food and agriculture situation in Vietnam. In addition to prolonged discussions with all relevant high officials, from the Prime Minister on down, I spent considerable time at the Ministry of Agriculture and at the State Planning Committee, as well as at the main agricultural academic institutions. I may say that all the officials with whom I talked exhibited a pragmatic and completely candid attitude in their desire for improved relations with the United States. This was true both in larger meetings conducted through interpreters in English and Vietnamese, and in one-to-one private conversations conducted in French.

It appears to me that their food and agriculture problems are severe, particularly in view of their exploding population, which increases 3 percent a year—one of the highest rates in the world. It is further complicated by the presence of some 300,000 refugees from Cambodia. It is noteworthy that this was freely brought up by every official as a matter of the gravest concern. They told me that instruction in birth control is lagging, and that the situation is further aggravated by an acute shortage of birth control devices. The Minister of Health and several other ministers expressed the hope that with outside assistance they could undertake the manufacture of inexpensive, reliable materials for condoms, which are the preferred form of contraception in Vietnam.

As to agriculture, the targets of the five-year plan are not being met. Government ministers and officials readily conceded that unless considerable foreign aid becomes available the gap between actual and planned production figures will increase. The Chinese have suspended all aid. Aid from the Soviet Union and Eastern Europe is seriously inadequate to meet Vietnamese needs. The World Bank has approved a 60-million dollar loan to Vietnam for an irrigation project to be administered through the International Development Association, and FAO is also giving some aid. The Vietnamese feel that much more is urgently needed—and that only the United States can give food and agriculture assistance on the scale required.

The 1977 rice crop fell far short of meeting their needs. This year's winter and spring crop, the first and smaller of the two yearly harvests, is already in. It represents an increase of between 400,000 and 500,000 tons over the 1977 crop. The main, summer and fall, crop was planted over 3.4 million hectares. The weather has been favorable, and this crop, too, is expected to be better than last year's. However, the Minister of Agriculture told me that extremely heavy insect infestation over the southern MeKong Delta has all but ruined crops over some 200,000 hectares because of an acute shortage of insecticides. At best, the 1978 rice crop will probably total about 16 million tons. While this does not mean starvation, it does mean the Vietnamese will be short by about 1.5 million tons of the basic requirements for their population.

Herbicides and fungicides, as well as insecticides, are urgently needed. In fact, Vietnam appears to be very short of every agricultural need—with the exception of good soils and a hard-working peasantry. In some areas, they told me, there is even a shortage of hand tools and buffaloes! They badly need tractors, for areas now under cultivation and to open areas in the New Economic Zones. They are, the Minister told me, acutely short of fertilizers. Nitrogen fertilizers (they are used to urea) are unavailable. The minimum need is placed at one million tons, but they could use even more. They need potash, a minimum of 200,000 tons. They need phosphate. While in some areas of the country raw material for the manufacture of some phosphate fertilizer is available (apatite), they need both the technology and the machinery to exploit it.

Ironically, the fertilizer problem is particularly urgent because of assistance programs the U.S. conducted during the war in South Vietnam. We introduced and vigorously pushed the replacement of native varieties of rice by IR8, a "miracle" crop which provides high yields if vigorously fertilized but otherwise produces mediocre crops. Over 600,000 hectares were planted with IR8. This particular turn of events is one of the contributing factors in the overall shortage.

The Vietnamese officials told me that they badly—and immediately—need food assistance. While at this point there is no famine, rations are skimpy. Any serious deterioration of the weather would bring about a tragic situation. The Vietnamese government would very much appreciate food assistance from the United States. They would prefer rice, because it is their staple food, but they would gladly also receive corn (maize), wheat, potatoes, and even manioc (which is low in protein and nutritionally far less desirable).

If we decided to send food to Vietnam, the method and timing of shipments would be crucial. Because of the destruction and shortages caused by the war, their transportation system is extremely limited. Trucks and railroad equipment are in very short supply, and there are fewer every day because spare parts are unavailable, both for American and Chinese equipment. It was emphasized to me that by dividing deliveries among the various harbors of South, Central and North Vietnam commodities would be easier to deliver. Spreading shipments over the course of the year would facilitate distribution. It would be important to the handling of wheat, if much of the assistance were in that form, as milling facilities in Vietnam are extremely limited. (Conversely, aid could be delivered in the form of flour, though, again, storage facilities would not be adequate for the amounts required if deliveries were made all at once.)

Beyond food assistance, the Vietnamese would welcome assistance in agricultural machinery, agricultural implements, and, above all, as I said, agricultural chemicals. All the officials I saw, including the Prime Minister, also emphasized that they would welcome the installation in Vietnam of U.S. machinery and chemical plants, "provided it is done with full respect for the sovereignty of Vietnam and with advantage for both parties." That formula was ritualistically recited by all those officials—the Prime Minister, Minister of Agriculture, Chairman of the State Planning Committee, members of the Foreign Trade Commission, and the Deputy Foreign Affairs Minister—who discussed this area with me. The same welcome and the same qualifications were expressed in repeated statements of interest in resuming collaboration with U.S. multinational oil companies for the exploration and exploitation of offshore oil resources. Indeed, they stated that they would welcome immediate discussion with representatives of American industry for the development of joint ventures (though examination of their actual present capabilities would suggest that third-party financing is necessary for any sizable matching of capital investment by Vietnam).

I also had the opportunity to talk with government officials, including the Prime Minister and the Minister of Education, Health and Agriculture about the situation of Vietnamese universities and technical schools, and to visit the Universities of Hanoi (including the Polytechnic Institute) and the University of Ho Chi Minh City (including its medical school).

From these conversations and my own observations I can report that the universities are isolated and destitute. In the libraries, the collections of scholarly and technical journals stop in 1975, except for some Russian journals, useless in a country where French, and, in the Southern area, English, are the only foreign languages widely known. Chemical reagents, which came from China and the United States, are unavailable. Russian help is negligible, not to say farcical. In the Polytechnic Institute it has consisted of a limited number of secondhand pieces of electrical equipment, most of them not in working order. The unavailability of foreign exchange precludes using UNESCO as an intermediary to buy books and equipment abroad. The professors, North and South, feel completely cut off from outside civilization and anxiously asked me what discoveries had been made in the past three years "in all fields." The beginning of the coming academic year is looked at with dread by the medical schools, which feel unable to properly prepare for the teaching of basic sciences in the face of a shortage of textbooks, journals, reagents, instruments and animal feeds.

Whatever decisions we make in other matters, I believe—as an academician and a scientist—that we should act to lift the isolation of Vietnamese universities, at the very least by sending them journals, reprints and books. The free flow of ideas and current information can only be in the interest of the free world.

After the bitter conflict between our two countries, the question can be asked—and is by many Americans—why should the United States provide direct food and agriculture assistance, particularly at a time of inflation and retrenchment here at home? The Vietnamese have their own answer. As a high official of the Foreign Ministry said to me, "Two of the countries we feel closest to, both of which have helped us, are France and Japan, both of which we have fought during my lifetime. We would hope that we could work even more closely with you. You have been so generous to Japan after World War II. We hope that you would assist us, too." And then he added, after a pause, "Of course, the Japanese had the good taste to lose the war."

This is a complex foreign policy issue to which I would not attempt to offer a definitive answer—even if I had one. But let me argue that there does seem to be merit, from the point of view of our own national interest, in giving such aid. One objective in the Vietnamese war was to keep South Vietnam from Communist domination. Our other major concern was to prevent the monolithic spread of communism throughout Asia. Communist Vietnam is now a fact of international life. The question is to what extent it acts as an independent power with whom we can initiate useful relationships? I think we have an opportunity at this point to bolster the independence of Vietnam by giving another source of help besides the Soviet Union. They very much desire it. The Vietnamese have a very strong sense of historical continuity. The Prime Minister said to us, "Whenever in our 4,000-year history Vietnam has been dependent on one large friend it has been a disaster for us." With help from European-community nations very small, with the disagreement with China severe and growing, with a war-like situation on the Cambodian border, the Vietnamese regard normalization of relations with the United States as a prime national need.

It is admittedly difficult for our government and for our citizens to approach this

matter so soon after the conclusion of the war. Yet the national interest may dictate that we do so in a pragmatic manner, as a matter of our own desire to maintain maximum influence over political developments in Asia. In the longer run, doing what is morally the right thing in feeding hungry people anywhere in the world has generally proven to be politically advantageous and a source of added influence and respect for our country.

If I may digress for a moment, I would like to mention something I learned, almost accidentally, in my conversations with Vietnamese scientists and health officials. There is some epidemiologic evidence—which at this point is reasonably good—that the chemicals used during the war in defoliation and crop destruction campaigns may have caused an increase in congenital malformations which is being seen in areas where these agents were used. On the other hand, the Vietnamese feel that the evidence is not conclusive. I have been struck by the fact that while they mentioned it as a strong possibility they certainly did not want to emphasize it until absolutely certain of their facts—an attitude which is both interesting and commendable. Reflection on the use of herbicides for both crop destruction and crop interdiction leads me to the following idea which I would like to place before this body. Whatever the final evidence shows, we do know that attempts to starve the Vietcong into surrender proved to be futile, as have similar attempts throughout history. As a weapon of war, starvation acts preferentially against noncombatants, and against the weakest of these. Young adult men are the most resistant to starvation. It is the elderly, pregnant and nursing women, and most especially the children, who suffer and die. Soldiers can, and do, requisition whatever supplies they need to fight on—and they can always justify their action by the nobility of their cause. Wars are won on the battlefield.

The French lost the Franco-Prussian War at Sedan and Metz, in the Loire Valley and on the Swiss border, while children died by the hundreds in the Siege of Paris. In our own Civil War, the South did not surrender because of Sherman's devastating March to the Sea, but because Lee was defeated at Gettysburg and Vicksburg. Malnutrition killed scores of noncombatants in Berlin and Vienna during the Allied blockade in the First World War, but the German armies never lacked for food. Russian children died by the thousands during the siege of Leningrad in World War II, but the Red Army kept enough food and strength to eventually break out and join the advancing Allied relief force. The Nigerians put down the Biafran rebellion by the weight of their arms and numbers, not through starvation. Hunger was used as an instrument of terror by one side, of propaganda by the other, while children, mothers, and old people died.

The use of hunger as a weapon of terror or coercion is not only morally indefensible—if this were not reason enough—it is militarily ineffective. I would like to propose that the United States take the lead in introducing and supporting before the nations of the world an international convention which would outlaw the use of starvation as a weapon of war and as a means of pressure or punishment against individuals in small or large population groups. It is a fundamental violation of the Rights of Man.

As for the immediate situation, I believe that it is very much in our interest, ethically as well as politically, to normalize our relations with Vietnam and to give them aid in the area of food and agriculture as well as in the areas of health and education. This will not only reestablish our moral authority in Asia, but also give us an opportunity to succeed in one of the objectives for which we fought the war, namely to insure the independence of Vietnam from China and from Russia, and give us some means of influencing events in Southeast Asia. It may also give us a chance to engage in mutually profitable ventures, particularly in the agriculture and chemical areas, but possibly in the oil area as well. Meditation on the war in Vietnam and its aftermath suggests that we ought to do it.

REPORT OF VISIT TO VIET NAM—AS A MEMBER OF A SPECIAL DELEGATION TO STUDY NEEDS FOR HUMANITARIAN ASSISTANCE

On behalf of the American Cancer Society and the medical profession, I would like to express my sincere thanks to Senator Edward M. Kennedy for the opportunity to be a member of the delegation to study humanitarian needs in Viet Nam. The visit was most stimulating and informative. Having had the opportunity to speak with several public health officials and physicians and to visit hospitals and clinics, I believe that my observations and recommendations are founded on reliable information. Further, I hope that this report will be helpful in proving that humanitarian assistance in the area of health care is urgently needed.

HEALTH CARE

These impressions were gained by visits to hospitals, clinics and social rehabilitation centers, and interviews with public health officials, professors, surgeons and physicians in Viet Nam, a country of 50 million people that is now 3 years into post war reconstruction. Health care delivery is organized on 4 levels: 1) the communal level; 2) the district level; 3) the provincial level and 4) the central level. There are about 8 physicians per 10,000 population. The Ministry of Health plans to increase the number of clinics, hospital beds and physicians in order to provide better health care for the people. At the communal health level, 4 types of care are given: 1) first aid; 2) family planning; 3) preventive services and 4) health education. These are staffed in 90% of cases by auxiliary doctors—persons who have received 2–3 years of training after secondary school in contrast to the M.D. who has received a minimum of 7 years education beyond secondary school. At the district level, health care is provided primarily in hospitals of 100–200 beds. The care delivered there is primarily medical with only minor surgery being performed. At the provincial level, practically all medical, surgical and obstetrical care is rendered in hospitals of 500–1000 beds. Central level hospitals, as those in Hanoi and Ho Chi Minh City, provide advanced level care for their areas in addition to managing difficult cases from the provinces and performing major cancer and heart surgery. All university hospitals, medical research departments and the faculty of medicine are under control of the Ministry of Health. There are 6 medical schools with about 10,000 students. Students are chosen for university study after rigorous examinations. Some dental care is provided at the district and provincial levels. There are 2 dental schools and 2 pharmacy schools. There is no formal school of nursing. Medical, surgical and obstetrical units train their own nurses to meet their particular needs. A better system of nursing education is urgently needed. Vietnamese officials responded favorably to the suggestion that facility exchange programs could be of definite value to them and wanted to pursue this idea further. Public health officials spoke fervently for the need of well organized programs in family planning. With a birth rate of approximately 3% per year, the population increase continues to exceed food production, thus making worse the current problem of inadequate food production. More detailed information concerning medical care is available in the Scrimshaw Commission Report of 1973.

The 2 major health problems are: 1) epidemic diseases as diarrhea, tuberculosis, skin infections, venereal diseases (cholera and plague have almost disappeared) and 2) Malaria—which is present in approximately 40 percent of the population. These medical problems are worse in the South. The average life expectancy is 58 years. Although epidemic diseases and malaria are the most common illnesses in Viet Nam, the public health authorities are noting an increase in cardiovascular diseases and cancer. The most common cancers in men are: 1) lymphoma; 2) hepatoma and 3) gastric cancer, and in women: 1) breast and 2) uterine cervix. The cancers are usually diagnosed late and thus patients present with advanced disease. Screening for liver cancer has not been cost effective. In one study, only 2 cases were found in 1000 patients examined. Treatment for cancer consists of surgery, chemotherapy and immunotherapy. There is no radiotherapy available.

Professor Ton That Tung, the leading surgeon in Viet Nam, has had great experience with liver tumors. He has called to our attention the increased incidence of hepatomas in Viet Nam and believes that this may be related to the use of defoliants during the war. Dioxin, 2,3,7,8-TCDD, a chemical impurity of the 2,4,5 T herbicide which was repeatedly and massively used in Viet Nam during the war, is a very toxic agent that may be disseminated by avian or aquatic fauna. It has been shown experimentally to be teratogenic, mutagenic and carcinogenic. Its carcinogenicity appears to be much greater than known carcinogens as benzopyrene and methylcholanthrene. Professor James R. Allen, Chief of the Department of Pathology at the University of Wisconsin, stated in a letter to Professor Tung that the Wisconsin researchers had observed that there was a significant increase in hepatocellular carcinomas in rats who received a diet containing 5 parts per billion to 5 parts per trillion of Dioxin over a period of 18 months. The Vietnamese researchers ascribe an important, but as of yet undetermined, role to Dioxin for the increased incidence of hepatomas. Further studies are being conducted to clarify the role of this agent. The average life expectancy for patients with hepatomas who receive conventional treatment is 6 months. Professor Tung and his associates have studied the use of immunotherapy in patients with hepatomas. To be most efficacious, the immunotherapy (BCG or LH1), should be combined with hepatic artery ligation or partial hepatectomy to reduce the tumor burden. The immunotherapy must be prolonged (1 to 2 years) and improved survival rates have been noted with such combination therapy. Because of economic factors, diagnosis and treatment must be rendered as cheaply as possible. For example, the diagnosis of hepatoma is made primarily by physical examination and not by serum levels of alpha fetoprotein. During our visit with Professor Tung, we saw several patients who had been treated for hepatomas, two of whom were alive and well more than 6 years after therapy. Professor Tung has achieved some fairly impressive results in liver tumors with surgery and the immunostimulant LH1—a drug developed from traditional medicine. A tour of the Viet Duc Hospital (where Professor Tung works) revealed that patients are receiving good medical care though many of the refinements seen in American hospitals were missing.

There is a Department of Social Rehabilitation that is concerned with: 1) prostitutes; 2) drug addicts; 3) juvenile delinquents; 4) amputees; 5) beggars and 6) orphans. It was estimated that there were 300,000 prostitutes, ages 14–30, in South Viet Nam at the end of the war 3 years ago. Today there are thought to be about 25,000 prostitutes. This Department seeks to rehabilitate these young

women and return them to society capable of performing productive work. They are examined; treated for any venereal disease (64% have syphilis); reeducated (especially informing them that they should not feel ostracized from society by their previous bad experiences); taught a new profession and then returned to their families as better members of society. The physicians often lack antibiotics to treat the venereal diseases. An active program has been developed for the treatment of drug addicts by 3 modalities: 1) acupuncture; 2) traditional medicine and 3) exercises. Addicts remain at the drug treatment center for 10–14 days. They then undergo reeducation and training for a vocation. At the end of the war there were 1,100,000 people unemployed in Ho Chi Minh City. In the last 3 years, work has been found for 700,00 persons leaving almost 400,000 still unemployed. However, the rate of unemployment is still much too high. There are several orphanages with many children. They are given total care here including food, clothing, shelter, medical care and education. As they become older, they learn different trades as barbering and carpentry. Great attempts are made to place them in foster homes but much needs to be done in this area.

We visited a medical clinic in a new economic zone (NEZ) in the South which served 800 families (about 4,000 persons) and was staffed by a physician, an auxiliary physician and 12 nurses—2 of whom were midwives. The population is primarily young and the 2 most common health disorders were: 1) respiratory infections and 2) skin diseases—especially eczema. A dentist comes once a week to provide dental care. Because of the predominant young age of the population the physician sees little cardiovascular disease or cancer. Assignment of physicians for varying periods of time is made to the various clinics by the Ministry of Health. A hospital is being constructed to provide district level care for the people of this NEZ and some surrounding communities. However, construction has been delayed because of a shortage of building materials. The clinic physician usually has adequate medicines for the types of diseases he commonly treats but related to us the overall shortages of medicines and equipment in the clinics and hospitals of Viet Nam.

A visit to Saigon Hospital, a 250 bed hospital specializing in trauma care, revealed a dedicated staff but again a marked shortage of supplies and equipment. There was an acute shortage of X-ray film, and some medicines as metronidazole (Flagyl—used in the treatment of amebiasis) and antibiotics. Much of the equipment and surgical instruments is outmoded.

For example, the instruments esp. the lenses used in eye surgery are more than 25 years old. All members of the staff requested aid for the hospital especially X-ray film, operating room lights, medicines and equipment.

We visited 2 refugee camps—one in Tay Ninh province with 5,000 persons and the other with 9,000 persons. Most refugees were Cambodians (Kampucheans) but there were a few Chinese, Chums and Vietnamese. Each refugee—man, woman and child—received a 13 Kg ration per month—the same as the native Vietnamese people receive. In our interviews with various refuges, they recounted numerous tales of terror and barbarism committed by the present Cambodian government. Many people have been killed, tortured and maimed. There are no schools, no churches (many were burned) and no freedom. The work is very hard and arduous. They must get up at 3:00 a.m. and work until 8:00 p.m. with only a small break for lunch. Among the refugees are all levels of Cambodian society—peasants and intellectuals. The refugees applauded the efforts of the Vietnamese government in providing them food, clothing, shelter and medical care. We saw no obvious cases of malnutrition. All refugees appeared to be adequately fed and all had been in the camp for at least 7 months. Each camp has an auxiliary doctor and several nurses to deliver health care. A certified physician visits the camps once per week to examine seriously ill patients. Those patients requiring additional care are transferred to district or provincial hospitals. The refugees seemed overjoyed to see us and were happy when speaking about the American and Vietnamese people. They showed their anger and bitterness only when speaking about the atrocities in Kampuchea.

Having spoken with several persons—government officials, physicians, nurses, patients, I was convinced that much is needed to provide better health care for the people of Viet Nam. Among the more urgent needs are: 1) medicines—especially medicines for specific diseases, as venereal diseases, malaria, tuberculosis, amebiasis; 2) medical equipment and supplies of all types—especially X-ray film, operating room lights and modern diagnostic and surgical equipment; 3) teaching materials and scientific journals for hospitals and materials; 4) effective family planning programs and materials; 5) faculty exchange programs between medical schools of both countries; 6) a well organized nursing school program. It seems that some of these recommendations could be implemented fairly soon and easily. Such implementation would do much to show the people of Viet Nam in a most tangible way the concern and interest of the United States. In this category for early disposition are: 1) scientific journals and books to the 6 medical schools and the hospital of Professor Ton That Tung; 2) X-ray film and operating room lights to Saigon Hospital in Ho Chi Minh City; 3) medicines, as antibiotics, antimalarial drugs, antituberculous drugs, and amoebicidal drugs. The other recommendations would take longer to implement.

REPORT OF MS. MILDRED KAUFMAN

An adequate supply of nutritious foods available and accessible to all of the people at reasonable cost is essential for a healthy, productive and stable society, and for the physical and mental growth and development of their children. Recent reports from Vietnam have indicated serious food shortages with associated problems of hunger and malnutrition. This was a major focus for the study mission during our visit from July 31 to August 7, 1978. On this fast paced trip, using information from briefings and limited personal observations, I summarize impressions of the food and nutritional needs of the people of Vietnam. No anthropometric biochemical or dietary study data were available to validate these observations. You should also be aware that my frame of reference is my professional experiences with urban and rural public health nutrition programs in the United States.

FOOD RATIONS

Briefings by Vietnamese government officials cited natural disasters (floods and drought) during recent growing seasons which have reversed Vietnam's previously favorable food production to current food shortage estimated at from 1,000,000 to 2,000,000 tons per year. Basic staple foods are being rationed. The minimum ration for adults and children made up of rice, maize, manioc and wheat (used in noodles and bread) is currently 13 kilograms per month providing about 1500 calories per day largely as carbohydrate. Increases to 17 kilograms per month (2,000 calories per day) and 21 kilograms per month (2400 calories per day) were quoted for those doing physically active work. All these calorie allowances would generally be considered marginal for high labor intensive activity levels, even estimating that some additional foods are purchased on the open market.

Meat, fish and eggs are also rationed but repeated probing did not elicit the amounts of the ration for these animal protein rich foods. Public health authorities stated that supplemental foods were provided in the ration allowances for invalids and for pregnant and lactating women. These supplemental rations include meat, fish sauce (a dietary staple in Vietnam) and sugar. For babies who cannot be breastfed (orphans, etc.) condensed milk is provided for artificial formula. It was stated that some milk is produced in Vietnam but not nearly enough for the needs of their children. Despite requests made by Mr. Tinker and me for a visit to a government food ration store, especially in Ho Chi Minh City, this visit was not arranged. Questions persist regarding the quality, variety and prices of foods at the government food stores, their continuing availability as well as the equity of their distribution to the population. Also of concern is the rationale for food and nutrition policy decisions related to the ration system.

Additional foods are available for purchasing on the open market. No food markets were visited in Hanoi and little food vending was observed on the streets. In Ho Chi Minh City, and Vung Tau we briefly visited the central market and observed many small food vendors along the streets. They were selling a myriad of tropical fruits, green vegetables, dried beans, seafood and fish, pork and poultry. No milk or dairy products were seen in these markets. Prices of foods in the open market were difficult to determine but appeared exorbitant in relation to the income quoted for the average worker of 60 dong per month. In the Vung Tau Market 10 eggs were being sold for 7 dong.

At the model New Economic Zone visited at Ten Dong, where pineapple was being grown for export, families had their own garden plots planted with banana trees, tropical fruits, tomatoes and vegetables. At a home we visited, there we saw the small fish pond. Chickens and ducks were foraging in the area. We were told that families grew these food items for their own use and could sell them in the free market. Along the roads in rural areas, we saw some pigs.

Vietnam is a lush tropical country with tremendous potential for food production. Travelling through the countryside, the visitor is impressed with the intensive cultivation of all available land with rice, maize, manioc and sweet potatoes along with tropical fruits and many green vegetables. The long seacoast and fresh water ponds provide sources for fish and seafood. The fermented fish sauce is a basic component of the diet.

Food in the markets, being sold by street vendors and in cultivation, would appear to be excellent sources of all of the major nutrients except calcium from dairy products. However, the observer questions the availability and accessibility of these foods in the diet of the city people because of their cost in relation to income. Rural families able to grow some of their own food can be better fed than city people. Stated government policy is to decrease the population in Ho Chi Minh City, and officials are pressuring families to move from cities to new economic zones, particularly those people who fled from the country to cities during the war.

Food, farm equipment, seeds fertilizer and insecticides were cited by officials as urgent needs with the goal of self sufficiency in food supply by 1980. In the Departments of Agriculture and Public Health, persons who spoke with us indicated concern for the insufficient supplies of milk. A new program mentioned by Vice Minister of Foreign Affairs, Mr. Han Mien and confirmed in Mr. Tinker's conversation with the Indian Ambassador is the importation of milking water buffaloes from India to supply milk as well as animals for traction.

EVIDENCES OF MALNUTRITION

In the July 31, 1973 report based on March 10, 1973 visit to North Vietnam, Dr. Nevin Scrimshaw stated, "As a consequence of their very strong emphasis on preventive medicine, on immunization and on maternal and child health care at the level of the family, we found essentially no evidence of malnutrition and were impressed by the general health of the population." It would appear that the nutritional status of the population has deteriorated since 1973. The "Report of Public Health Work in the Socialist Republic of Vietnam in 1977" published by the Ministry of Public Health states on page 24, "Nutrition has for many years been the focus of our attention in child health care work. There are clear cases of undernourishment due to economic under-development and aggravated by the sequels of war in protein and calorie deficiencies, and even numerous cases of marasmus. We have studied the constituents of different kinds and of complete food powders made of cereal flour and fish as substitutes, as the raising of milch cows in our country is still limited." In the absence of any nutritional assessment or anthropometric data, I tried to carefully observe the men, women, and children in the streets, in the institutions and working in the fields. I was impressed that obesity, the major nutritional problem in the U.S. does not exist in Vietnam. Everyone appeared physically active.

In rural areas, people were observed working in the fields from early morning to dark, including during the midday when we were told that it was too hot for farm work. Almost no mechanical farm equipment was seen. Human labor was aided by water buffalo and oxen. In the cities there were few cars, with transportation chiefly on foot or bicycle. Bicycles dominate the streets of Hanoi and Ho Chi Minh City, sometimes with families of two parents plus two or three children on one bicycle. In response to questions regarding the price of a bicycle, we calculated the cost to be comparable in the same proportion to family income, as is a car for working people in the U.S.

The people appear extremely lean and wiry with not very well developed musculature, reaffirming the low calorie level of the available rations for a population performing hard physical work. At the hospitals and outpatient clinics, many we saw appeared emaciated. Most children and adults were short in statute, suggesting growth retardation. The best nourished group seen were the children of government workers in a day care center in Hanoi, which serves three meals daily.

At the briefing at the Department of Public Health in Hanoi, officials stated that malnutrition was more of a problem in the south than in the north. They attributed this to food shortage and the high birth rate. Several clues indicate that severe malnutrition exists particularly in high risk groups such as pregnant women and children. Dr. Ton That Tang, Professor of Surgery, Vietnam East German Friendship Hospital in Hanoi, discussed his concerns about the nutritional interrelationships with susceptibility to infection, citing infectious diseases as the major public health problem in Vietnam. In Ho Chi Minh City, we visited the Hospital for the Rehabilitation of Malnourished Children where 250 orphans from age one month to three years receive care. There we were shown a scrapbook of "before and after" pictures of children successfully treated for kwashiorkor and marasmus. We saw some of these rehabilitated children as well as several recently admitted infants with kwashiorkor. There were also children at this center who were profoundly mentally retarded. At the hospital visited in Ho Chi Minh City, a young woman ophthalmologist who had post graduate medical training in Australia and spoke excellent English, asked me as we walked through the hospital, "What are the nutritional treatments for eye diseases?" I replied that xeropthalmia was a severe vitamin A deficiency disease leading ultimately to blindness, but that I had never seen it. She shook her head vigorously saying, "yes, I see it." There was no opportunity to probe further, as we were hurried off to our next appointment. From friends in Chapel Hill who had worked in Vietnam previously, I understand that xeropthalmia had not previously been a problem in Saigon.

At the Cambodian refugee camps in Tay Ninh Province, we were informed that the refugees under the care of the Vietnamese government received the same 13 kilograms per month ration. As a group the refugees appeared to look better than many of the people observed on the streets and in the institutions. The stories of the refugees, about the hardships endured in walking long distances to reach Vietnam, would suggest that they had arrived eight to twelve months before we saw them in seriously depleted nutritional status. This speculation was confirmed in conversation with Mr. Anders Johnson, on the staff of the U.N. High Commission for Refugees who had visited these camps shortly after the refugees had arrived. Therefore, the nutritional rehabilitation observed with the limited ration appears remarkable. Refugees with whom we conversed in French said that they were "getting enough to eat." These refugees are sharing and straining the limited supplies of food available in Vietnam.

PUBLIC HEALTH PROGRAMS AND SERVICES

The public health program described by officials at the state planning commission and at the Ministry of Public Health in Hanoi, is essentially described in detail in the report of Dr. Nevin Scrimshaw's study mission to North Vietnam in 1973. The 1977 Annual Report of the Ministry of Health provided to us at the conclusion of our visit, clarified details. The well organized health system integrates free preventive and curative medical care in a plan to serve all workers; it now is said to cover 90% of population. Organization is at four levels: (1) communal village or "grassroots" with a health station for primary care, normal deliveries and preventive health education, staffed with auxiliary doctors, nurses, midwives and family health workers and serving 4,000 to 6,000 people; (2) district level serving 100,000 to 200,000 population provides a 100 to 200 bed hospital and medical doctors along with a public health office, pharmacy and other senior staff who provide in-service training for communal level health workers and leadership in sanitation and epidemiology; (3) provincial level provides 500 to 1,000 bed general and specialized hospital care and public health service for hygiene, epidemiology, maternal and child health and rehabilitation. At this level are the schools for training mid-level health workers including vocational level nurses and midwives who provide family planning services and prenatal care. Some mental health services are provided but mental health is said not to be a serious problem; (4) at the central or governmental level is the Ministry of Health, University Hospital with faculty of medicines, pharmacy and public health for training personnel and research. A system of triage is used to direct patients into the appropriate level of care according to their needs. There is limited dental care at the district level. Dentistry was stated to be not too well developed and there was an obvious need for more dental care.

Priority health programs discussed were eradication of the infectious diseases which are the major causes of death and include cholera, plague, malaria, dengue fever, tuberculosis, leprosy and venereal diseases; family planning to reduce population growth, the highest in the world, from 3% to 2% per year: maternal and child health (in 1976 maternal mortality rate was 0.9, infant mortality rate 34.2); environmental sanitation; and health education. Rehabilitation centers for drug addicts and prostitutes and homes providing care for orphans are important related programs conducted by the Department of Social Welfare.

Health programs at all levels from the rural clinic visited in the New Economic Zone to the hospitals in Hanoi and Ho Chi Minh City, are providing dedicated health care attempting to combine modern medical practice with traditional medicine, but are seriously handicapped by shortages of drugs, vaccines, x-ray film and medical equipment. Training is jeopardized because the new medical textbooks and journals are not available. Both Dr. Tong in Hanoi and the physicians at the hospital in Ho Chi Minh City expressed the need for medical journals from the USA. The physicians also stated needs for more advanced education for professional nurses for the hospitals and public health. Dr. Tong recommended a national school for nurses. The woman ophthalmologist in Ho Chi Minh City said that the best prepared nurses are now being trained in Japan.

In questioning of several of the health officials regarding who taught mothers how to feed their children, it was stated that the nurses handled it. Persistent questioning did not identify any specific efforts to educate and guide the people in nutrition or wise use of scarce food supplies. As a Public Health Nutritionist, I was unable to identify any counterparts in public health work or dietitians in the large hospitals. Dr. Scrimshaw states in a report prepared for Nutrition Today published in July/August, 1973 from his 1973 visit to Hanoi, "There is no profession of dietetics or nutrition, however the assistant doctors often are given some training in this field." Dr. Tong expressed the need for a nutritionist in Hanoi. I was told that in Ho Chi Minh City, Dr. Duong Thi Guynh Hoa was a woman physician in the Public Health Service who was concerned with nutrition and maternal and child health. A conference was requested with her but she was unavailable. Later in Bangkok, I asked Ms. Margaret Crowley, Regional Home Economics and Family Development Officer, FAO of UN about her knowledge of current professional training in nutrition or of efforts in nutrition education for the public in Vietnam. Ms. Crowley knew of no organized national nutrition program. Ms. Crowley stated her strong conviction that food aid without public education on how to use foods provided is ineffective and wasteful, especially when foods provided are unfamiliar or unpopular.

RECOMMENDATIONS

1. Clearly there is an overall food shortage which requires short-term and long-term assistance in response to the obvious food needs and evidence of malnutrition among the population of Vietnam. The United States should live up to its humanitarian tradition and immediately move to assist in overcoming the one to two million ton food deficit this year. Food shortages threaten the health and productivity of a people industriously struggling to overcome the ravages of war on their society and coping with an influx of refugees coming to Vietnam from Cambodia. Long term assistance aimed to help Vietnam move toward self sufficiency in food supply would be provision of fertilizer, insecticides and farm equipment. Agricultural assistance should be appropriate to the needs, capabilities and practices of the Vietnamese farmers.

2. Special attention in a food aid program should be given to providing milk powder and other special protein-rich products such as CSM (corn-soya-milk) for the infants and young children, particularly for feeding programs for the many orphaned chil-

dren. Milk powder was stated to be in very scarce supply by both the representative of UNICEF with whom we spoke and the staff of the Hospital for Rehabilitation of Malnourished Infants. Contributing to an adequate supply of milk could tremendously improve the nutritional quality of infant and child feeding programs to prevent and treat malnutrition and be an investment in the physical and mental development of the children.

3. In cooperation with the UN agencies—UNICEF, FAO and WHO and private relief agencies a tracking system to monitor food aid would seem desirable to assure that foods are transported and stored to maintain their quality and that foods are targeted to reach those with the greatest nutritional needs, particularly children in the urban areas. It would also be important to determine that foods provided are acceptable to those receiving them and that they use the foods advantageously.

4. Technical assistance in nutrition and food science is needed to train public health workers and teachers in basic nutrition and appropriate use of food provided in the aid programs. During briefings, government officials stated that "the people prefer rice but could eat wheat and maize." Nutrition education initiatives would be essential to introduce changes in the staple foods in the diet as well as milk powder and milk from the milk producing water buffalo. The public health network with its emphasis on health education offers an excellent channel for nutrition education to all of the population.

5. Support needs to be provided to the family planning initiatives with supplies and technical assistance in order to reduce population growth from 3 percent to 2 percent or less per year. Control of population growth is important in reducing the increasing demand on limited food supplies. It is also desirable to reduce the stress of repeated pregnancies on women who are nutritionally depleted and are at high risk of producing more malnourished infants.

6. With malnutrition as an acute problem and deployment of food supplies as a critical issue, consideration should be given with the Vietnamese government to leadership training in nutrition and food sciences as basis for rational food and nutrition policy development. Academic training in nutrition and dietetics needs should be considered in Vietnam on a long range basis. More immediately, offering opportunities for training applied nutritionists, dietitians and nutrition educators in universities in the United States might be useful.

GENERAL OBSERVATIONS AND IMPRESSIONS

The officials with whom we spoke largely addressed the basic human needs of their people for food, medical supplies and equipment to help them achieve their goals of independence of self-sufficiency. Visitors must be impressed with how diligently the people of Vietnam are working and their generally stark standard of living. Officials cited Japan to be their model for future development. During a brief stopover in Japan en route home, I was amazed at the achievements in Japan in terms of nutritional status and child growth and development; health, sanitation; industrial development and prosperity; a dramatic contrast with what we observed in Vietnam.

I hope that we have been able to adequately convey a picture of the real human needs for immediate help of food, medical supplies and educational resources to people who are valiantly trying to help themselves. Major disruptions in the society in Vietnam are being addressed by the government including the care for large numbers of racially mixed children observed in the orphanage in Ho Chi Minh City, rehabilitation of the many drug addicts and prostitutes, as well as providing a haven for refugees from neighboring Cambodia.

I wish to thank Senator Kennedy and the Senate Judiciary Committee for the opportunity to participate in this study mission and Mr. Jerry Tinker for facilitating our travel. For me it has been a tremendous learning experience and hopefully an opportunity to contribute to an important humanitarian effort. Great appreciation must also be expressed to the government of the Socialist Republic of Vietnam for their warm welcome and gracious hospitality.

Submitted by:

MILDRED KAUFMAN, R.D., M.S.,
Associate Professor, Department of Nutrition, School of Public Health, University of North Carolina.●

THE FINAL HOURS OF THE KOREAN WAR

● Mr. GOLDWATER. Mr. President, what were the battlefield conditions like during the final hours of the Korean war? We are indebted to Mr. Charles A. Wahlheim, publisher of the Mesa, Ariz., Tribune, for a grisly picture of those conditions in one sector of the combat zone. On July 27, 1953, he was serving as chief of a 155-millimeter howitzer section in our forces and remembers vividly the events that transpired. In a recent editorial, he recounted that experience and used it as the basis of some observations on this country's current problems with the military situation that confronts us around the world.

I ask that this editorial be printed in the RECORD.

The editorial follows:

JULY 27, 1953

Twenty-five years ago today is more than a little memorable to me. I had spent over a year in Korea first as a forward observer for an artillery battery, later as a chief-of-section on a 155mm Howitzer. The last few months of the war had been intense, with both sides realizing an armistice was pending and, as a consequence, trying to position themselves on the most strategic locations.

At 10 a.m. on the morning of July 27, 1953, our firing battery was at the bottom of a ridge, firing nearly point blank. The battery commander called six of us together and told us to inform our troops a cease fire has been signed and that all firing would stop in 12 hours.

The day was grisly beyond belief, both sides unleashing everything they had at one another. Many young Americans died that day on that hill in front of me.

At 10 p.m. all guns were silent. The next morning we pulled back and a few days later I was headed for Pusan—and home—left with the thought of all who died those last 12 hours after the cease fire had been signed.

Besides personal nostalgia, Korea has a significant meaning for all of us. It was the first limited war for limited objectives, and I guess if you put aside the loss of 40,000 American boys, one could say it was successful as South Korea is still free. This new concept in warfare led us into the morass of Vietnam, and 50,000 American lives later we learned it is really impossible for this nation to fight a limited war for limited objectives.

If that is true, it leaves us with a few alternatives. Certainly atomic warfare is something none of us wishes to contemplate. So what do we do as a nation to stay the constant communist encroachment going on all over the globe?

It seems to me there is no simple solution short of this nation really waking up to the need to turn back to God and ask for His divine assistance, which probably we won't do. Aside from that we need to carefully identify who our friends are and assist them in being militarily strong.

I would particularly cite our position vis-a-vis Turkey, which sits right on the Russian border and has been a long-time adversary of Russia. Germany, although it sits in a precarious position with its Berlin dilemma, has to be the backbone of NATO.

Israel, South Korea and Japan, to name just a few others, need to have the capability of protecting not only themselves but acting as a deterrent in their general global areas.

Strategically I think that the neutron bomb should be developed as a deterrent against the massive tank forces of Russia and the cruise missile should be developed and its range not restricted as a solution to the problem of our aging and somewhat obsolete ballistic missile system.

More importantly, I think great care should be taken that our president doesn't negotiate a SALT agreement just for the sake of a SALT agreement. That could put us at the mercy of the Russians who, I am sure, have no intention of honoring whatever agreement they sign.

I think programs such as Radio Free Europe should be beefed up and expanded. They not only get the truth behind the iron curtain but keep the Eastern bloc nations stirred up enough that they require a lot of attention from the Russians.

A similar type of radio network probably should be set up in Africa in hopes of informing them and, hopefully, educating African nations as to the seriousness of the Russian and Cuban threat.

We can't fight limited wars. We can't fight all-out atomic wars, but assuredly we can't bury our heads in the sand and hope the threat of communism goes away.

It is unbelievable to me how quickly that 25 years went by, and I am not sure we will have a free country 25 years from now if all of us don't get active and let the people who run this country know how we feel and express our concern.

Not everyone can have the privilege of writing an editorial in the newspaper. But everyone can write his congressman or senator.

CHARLES A. WAHLHEIM,
Publisher.●

BILL HATHAWAY'S LEADERSHIP HELPS RESTORE MONEY FOR KEY AGRICULTURE PROGRAMS

● Mr. MUSKIE. Mr. President, my friend and colleague, BILL HATHAWAY, took the lead in the Senate last week in restoring money cut from this year's agriculture budget for the agricultural conservation program, the only major farm program in our region. I was happy to support his effort. His success in restoring $105 million for the program was responsible in terms of the congressional budget and in terms of sound farm policy. The careful, low key way he built support for his amendment is only the most recent example of why his legislative ability is so valued in the Senate.

I congratulate him for his leadership, and ask that an article on the subject from the Bangor Daily News of August 21 be printed in the RECORD.

The article follows:

MAINE AGRICULTURE—HATHAWAY SUCCEEDS IN RESTORING FULL FUNDING FOR AGRICULTURE PROGRAM

(By David Bright)

On Friday, July 28, Missouri Senator Thomas Eagleton came to Portland to boost the campaign efforts of Bill Hathaway. Eagleton was one of many in a long line of political types who've been to Maine for

Hathaway. The list is topped by President Jimmy Carter. It includes, among others, Secretary of Agriculture Bob Bergland and Ohio Senator John Glenn.

But less than two weeks after Eagleton was in Maine he and Hathaway were locked in strong debate on the Senate floor. On Eagleton's side were Carter, Bergland and Glenn, Rooting for Hathaway were many of the nation's farmers and a number of farm and conservation groups.

The issue was $105 million for conservation cost-sharing funds which Hathaway wanted restored to the Senate agriculture budget.

In the end Hathaway prevailed. How he did it is a story conservation and farm groups are still wondering about.

The money is for the Agricultural Conservation Program (ACP) of the USDA's Agricultural Stabilization and Conservation Service (ASCS). ASCS handles many of the cost-sharing, subsidy, emergency loan and similar farm programs. In the Northeast the ACP program is the only major farm program. It provides cost sharing from 50 to 90 percent for a number of conservation practices on farms. The program will give a farmer a maximum of $2,500 a year for such things as waterways, manure storage facilities, establishment of cover crops, assistance in strip-cropping and contour plowing.

Despite its popularity with farmers, the program has never been very popular among bureaucrats, presumably, says Hathaway staffer Charles Peck, because it's run by locally-elected farmers and not by the government.

Last year Carter recommended funding at $190 million for ACP and he became the first president since Truman to place ACP money in his budget. Every year since then Congress has been adding funds on its own.

The budget passed at the $190 million figure last year but this year Carter cut ACP to $100 million.

The House of Representatives rejected the Carter plan, however, and restored the full $190 million. But when the bill got to the Senate Appropriations Committee the ACP funds were cut back further to $85 million. Eagleton is the chairman of the subcommittee on agriculture.

The bill was still bottled up in the subcommittee when Hathaway's office began to hear concerns about it while making routine monthly calls to Maine farmers.

Private attempts to move the subcommittee failed and the Hathaway staff then began working with the staff of South Dakota Senator George McGovern, the Democrats' 1972 presidential nominee who had picked Eagleton as his running mate.

McGovern's office was also hearing complaints from farmers but decided not to go out front with the issue because McGovern had some other business he wanted to bring before the Senate and didn't want to get into a fight over ACP.

On July 27, the day before Eagleton was to come to Maine, Hathaway wrote to Senate Appropriations Committee Chairman Warren Magnuson, urging that the committee restore the $190 million.

The next step was meetings with the staff of Vermont Senator Patrick Leahy, a dairy farmer who serves on both the Senate Appropriations and Agriculture committees. When the Eagleton cut got to the full appropriations committee, Leahy tried several times to restore the $190 million. But the only other vote he could muster was that of Massachusetts Sen. Edward Brooke.

At that point Hathaway decided a gamble was in order. The bill was obviously going to a conference committee. If he left the issue alone the Senate conferees would be able to give ground and perhaps the funding could be raised. A halfway split would have funded ACP at $137 million. If Hathaway brought up his amendment and it failed, there would be a record of Senate disfavor and it would be a hard point to negotiate in conference. On the other hand, if Hathaway won, the budget would be secure as it could not be changed in conference.

In the balance was an extra $1.1 million for Maine.

It was determined that the gamble was worthwhile. With the assistance of Senate Majority Leader Robert Byrd, another who has campaigned for Hathaway in Maine, the amendment was scheduled for first thing in the morning, a time, aides say, when senators are more prone to be agreeable.

By the time the voting day arrived, most of the senators had been made aware of the controversy. The National Association of Conservation Districts had been lobbying hard on behalf of the program, as were other farm groups.

During the debate, Eagleton threatened that passage of the Hathaway amendment would result in a sure veto of the entire agriculture appropriations bill by President Carter. But Hathaway, using information he had requested from USDA as well as backup from Maine Senator Edmund Muskie's budget committee, showed that the budget could handle the increase and managed to ward off the arguments.

As the debate progressed, more and more senators added their names to the Hathaway-sponsored bill. By the time of the vote, Hathaway had been joined by McGovern, the only original co-sponsor, as well as Mississippi conservative John Stennis, Republican leader Robert Dole, a former vice presidential candidate, and eight others.

The final vote was 55 to 26 in favor of Hathaway's amendment. His staff, as well as lobbyists for some conservation groups, doesn't expect any presidential veto, especially since other cuts in the agriculture budget have made up the difference.●

THE CHALLENGE OF PRODUCTIVITY

● Mr. LUGAR. Mr. President, as Congress struggles with the issue of how best to stimulate growth in productivity in our Nation's economy, Eli Lilly & Co. provides a refreshing example of an enterprise that is meeting the challenge of productivity. This pharmaceutical firm headquartered in Indianapolis posted annual productivity gains averaging 9.2 percent per year over the past 10 years, compared with 2.3 percent for all U.S. manufacturers.

Lilly's remarkable record was detailed in column by John Felter, which appeared in the Indianapolis News on August 15, 1978. I ask that the article be printed in the RECORD:

PRODUCTIVITY: MAGIC IS IN MANAGEMENT

(By John Felter)

Productivity, the quarterly report on a business's output, is issued by U.S. Bureau of Labor Statistics and has an enormous effect on American lives.

In the Eli Lilly and Co. six-month report, corporate staff economist, Dr. John R. Virts, tries to bring some understanding to the complex term—productivity.

A simple definition, according to his "Viewpoint" article, is what a company gets from what it puts into a product.

For instance, output per employe for 1967 and 1977 are calculated in the following manner with the term "Index (1967=100)" as an arbitrary base (starting point).

Using the following figures as an example:

On sales of 100 in 1967 and 500 in 1977, divide a price index of 100 into the 100 for 1967.

Since prices have doubled from 1967, divide 200 into the 500 for 1977.

Dropping the zeros, this will leave 100 and 25.

If there are 10 employes in 1967 and 20 employes in 1977, divide the 100 by 10 and the 25 by 20.

The results will be the output per employe for 1967 (the base year) and the output per employe for 1977 (the given year).

Divide the output per employe for 1977 by the output per employe for 1967.

Presto, the index of comparison.

During the decade 1967–1977. Lilly's labor productivity was four times as great as that for the average of other manufacturers, according to Dr. Virts. He said, "Our estimates show that this trend of increasing Lilly productivity is continuing in 1978, and we believe that it will continue in the future."

When asked why the big difference in Lilly's and other manufacturing productivity, Dr. Virts said management, people, technology and capital are all represented in productivity.

Management must motivate employes, have the awareness of cost, and be able to use resources properly. He added, "It does not mean that anyone is working harder or longer, it means that it is efficient use. There must be a willingness to work and a sense of accomplishment, but no resentment."

The attitude of people is very important because a "rigid" environment might be created. If there are rules that establish the amount of output, like government regulations, union contracts, or unreasonable management, output can be hampered, according to Dr. Virts.

"The more educated the work force, the more possibility there is to get the people to work, but a company must have the technology along with the people," says Dr. Virts.

Another spokesman for Lilly said 36 percent of Lilly's 12,241 employes employed in the U.S. are college graduates: 2,760 with bachelor's; 915 with master's; and 588 with doctorates. An interesting fact is that Lilly has no union.

Dr. Virts said in "Viewpoint," "It (high productivity) has enabled the company to pay good wages to its employes."

The recent productivity report also agrees with Dr. Virts' statements. Second quarter output per employe costs jumped at an annual adjusted rate of 7.8 percent, slower than the first quarter's 17.4 percent increase. The first quarter's revised-productivity figure declined 4.6 percent and the second quarter reported a gain of .1 percent.

This means productivity declined because labor costs were high. Management, people, research or capital were not working as a total combination, as explained by Dr. Virts.

Research is important to productivity because new technology makes better use of time, according to Dr. Virts. As Dr. Virts watched his secretary, he said that the typewriter-recorder cartridge has increased efficiency enormously. "I can't even tell if she made any mistakes." He did say that Lilly spent $124.6 million on research in 1977.

And finally where does a company get capital?—Sales.

Lilly has supplied products to the public the prices of which have increased at a very modest rate compared with the Consumer Price Index as the second graph shows over the 1967-1977 period. The index of Lilly prices increased about one-fifth as much as consumer prices.

As an example, the stable Lilly prices and high productivity secure the type of capital that any company needs.

In conclusion, Dr. Virts said, "There is no single cause or simple explanation of productivity. Clearly, it is not just how hard people work or how fast machinery runs. It is these things plus the combination of technology, people, and their motivations."

The blending of employes; the use of effective management skills; and research and development play a vital role in productivity. This is the important challenge of business, according to Dr. Virts.●

PROPOSED ARMS SALES

● Mr. SPARKMAN. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $25 million or, in the case of major defense equipment as defined in the act, those in excess of $7 million. Upon such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of proposed sale shall be sent to the chairman of the Foreign Relations Committee.

In keeping with my intention to see that such information is immediately available to the full Senate, I ask to have printed in the RECORD at this point the two notifications I have just received.

The notifications follow:

DEFENSE SECURITY,
ASSISTANCE AGENCY,
Washington, D.C., August 18, 1978.

In reply refer to: I-6890/78ct
Hon. JOHN J. SPARKMAN,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith, Transmittal No. 78-91, concerning the Department of the Navy's proposed Letter of Offer to Iran for other than major defense equipment, as defined in the International Traffic in Arms Regulations (ITAR), estimated to cost $350 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

ERICH F. VON MARBOD,
Acting Director,

TRANSMITTAL No. 78-91

[Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b) of the Arms Export Control Act]

(i) Prospective Purchaser: Iran.
(ii) Total Estimated Value:

[In millions]

Major defense equipment [1]	$0
Other	350
Total	350

[1] As included in the U.S. Munitions List, a part of the International Traffic in Arms Regulations (ITAR).

(iii) Description of Articles or Services Offered: U.S. Armament Suite to equip twelve (12) frigates to be built in the Netherlands and FRG shipyards. The US suite for each ship consists of the following: MK 13 Mod 4 Guided Missile Launching System, HARPOON Cannister Launching System, VULCAN-PHELANX Close-In Weapon System MK 15 Mod O, MK 32 Above Water Torpedo Tubes.[2]

(iv) Military Department: Navy.

(v) Sales Commission, Fee, etc. Paid, Offered or Agreed to be Paid: None.

(vi) Date Report Delivered to Congress: August 21, 1978.

[2] Continuous Wave Illuminators (CWIs), Link 11 Modulator/Demodulator, and Super Rapid Blooming Off-Board Chaff Launching Systems.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., Aug. 21, 1978.

In reply refer to: I-5803/78ct
Hon. JOHN J. SPARKMAN,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith, Transmittal No. 78-94, concerning the Department of the Navy's proposed Letter of Offer to Saudi Arabia for other than major defense equipment, as defined in the International Traffic in Arms Regulations (ITAR), estimated to cost $800 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

ERICH F. VON MARBOD,
Acting Director.

TRANSMITTAL No. 78-94

[Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b) of the Arms Export Control Act]

(i) Prospective Purchaser: Saudi Arabia.
(ii) Total Estimated Value:

[In millions]

Major defense equipment*	$0
Other	800
Total	800

(iii) Description of Articles or Services offered: Services to plan and perform initial management and initial operation and maintenance of the Saudi Naval Forces shore establishment. The facilities include two ship repair facilities, three supply activities, two naval bases, one training center and three communication stations.

(iv) Military Department: Navy.

(v) Sales Commission, Fee, etc. Paid, Offered or Agreed to be Paid: None.

(vi) Date Report Delivered to Congress: August 21, 1978.

*As included in the U.S. Munitions List, a part of the International Traffic in Arms Regulations (ITAR). ●

U.S. NAVY—A FLEET OF THE FUTURE OR OF THE PAST?

● Mr. GOLDWATER. Mr. President, is the U.S. Navy to be a fleet of the future or of the past? I believe this question is central to the debate going on concerning President Carter's veto of congressional plans to build a new nuclear-powered aircraft carrier. As the Members know, I plan to support the Executive veto because I feel the money that it would cost to build the new carrier could be better utilized for other phases of naval construction.

There are many facets to this problem and a recent article by Herschel Kanter, a senior fellow on a defense analysis staff of the Brookings Institution, illustrates many points that need clarification. I ask that this article be printed in the RECORD.

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

THE U.S. NAVY: FLEET OF THE FUTURE OR THE PAST?

(By Herschel Kanter)

This year, President Carter, in the first defense budget prepared by his Administration, greatly reduced the Ford Administration's shipbuilding program. Carter proposed to build seventy ships in the years 1979–1983 at a cost of $32 billion. The President included a new medium size 60,000 ton "midi" aircraft carrier in his five-year program but did not request any new carrier funds for 1979. Moreover, the President failed to submit his shipbuilding plan until mid-March instead of in January as Congress requires. President Ford, in his last defense budget before leaving office, had proposed a much larger five-year shipbuilding program providing for the construction of 158 ships in the years of 1978–1982, at a cost of $48 billion. Included in this total were funds for two midi carriers.

Not surprisingly, the Carter budget has been greeted with dismay and anger from top Navy officials, and from the Armed Services Committees in Congress. The result has been a bitter budget fight which has received a great deal of media attention. While a number of issues are involved in this dispute, the central one is the place of the aircraft carrier in the Navy of the future.

The House and Senate Armed Services Committees each have their own views on what role the carrier should play. (In particular, both committees have approved a large 90,000 ton Nimitz-class aircraft carrier not included in the program of either Ford or Carter.) The Carter Administration seems to have several views. It has regularly given conflicting signals about its position on aircraft carriers and their expensive escorts. As long as confusion about the aircraft carrier's role prevails, billions of dollars for unnecessary carriers, escorts, and aircraft may be requested and approved in the next few years. At the same time, other ships and aircraft needed to modernize the Navy will not be procured. A chance to save money and take advantage of new technology, and of Soviet weakness, will be lost.

BACKGROUND—THE AIRCRAFT CARRIER IN THE NUCLEAR AGE

Since the end of World War II, the Navy has been committed to the aircraft carrier as the most important component of its strength. This commitment has remained firm despite changes in Naval missions and conditions of combat which seem to mandate a shift away from carriers.

The first large aircraft carriers—the six 80,000 ton Forrestal ships—were built in the early 1950's to attack the Soviet Union with nuclear weapons as part of the strategic war plan. For this purpose it was necessary for the carriers to sail into Soviet home fleet waters, though they needed only to survive long enough for their planes to take off. They could perform this mission because of the Soviets low anticarrier capability.

In the mid-1960's, during the Vietnam war, the carrier was withdrawn from the strategic retaliatory mission, because the carrier's contributions to that mission were small compared to the TRIAD of bombers, ICBMs, and Submarine Launched Ballistic Missiles. But the role of the carrier, instead of being deemphasized, was changed to the projection of power ashore in limited wars. The carrier would be used, as Secretary of Defense McNamara described it, for the 90% of the world outside the Soviet Union which lies within 500 miles of sea coasts.

As the Vietnam War decreased in popularity it became necessary, in order to justify not only the large nuclear carrier but its sophisticated protective systems, for the Navy to stress again operations in Soviet home fleet waters and strikes against the Soviet homeland, at least against naval (and naval air) facilities. In testimony supporting the 1979 budget, the Chief of Naval Operations discussed the "important war plans option of Navy battle groups." These would be groups, he said, "consisting of carriers, surface combatants, and submarines operating together in mutual support with the objective of destroying Soviet air, surface, and submarine forces, [which] could by a concentration of force gain local maritime superiority in the eastern Mediterranean, Norwegian Sea, or Northwest Pacific, to the degree necessary to conduct strike operations into the Kola Pe-

ninsula, Black Sea, Vladivostok, or Petropovlosk areas."

This role, launching attacks against Soviet territory from the home waters of the Soviet fleet on the flanks of NATO is an expensive one. There are now thirteen carriers, three of which are to be retired in the next few years. Delivery of two ships now under construction, and modernization of six more built in the 1950's, will give the Navy twelve carriers until the turn of the century, if the Carter shipbuilding plan is carried out. The two new ships are the Nimitz-class carriers that are nuclear powered, carry 90–95 aircraft, and displace 90,000 tons. Each costs more than $2 billion. They are expensive because of their nuclear propulsion, and because the large modern aircraft they carry require special take-off and landing equipment, as well as expensive maintenance and supply systems aboard the carrier. Moreover, the carrier requires costly built-in protection to survive hits by cruise missiles, and special construction which allows for partial flooding of the ship in case of torpedo damage.

To survive in areas where Soviet air and submarine power can be brought to bear, the twelve carriers will be protected by large fast escorts—a total of about 100 cruisers and destroyers. New ones cost between $250 million and $1 billion, the most expensive carrying the new Aegis air defense system. Aegis will have the capability of tracking and shooting down large numbers of incoming missiles simultaneously. In addition, one or two of the new $500 million Los Angeles-class attack submarines may be attached to each carrier force to provide protection against submarine attack. Further, each carrier is protected against air attack by twenty-four F–14 aircraft, the most sophisticated air defense fighter in the U.S. inventory. The F–14 carries the Phoenix missile system that can intercept up to six incoming aircraft or missiles simultaneously. Each carrier may also carry a squadron of ten advanced antisubmarine fixed-wing aircraft and about twenty other support aircraft.

The total investment cost of each such carrier "task force" or "battle group" can run from $5 to over $7 billion, with fifteen year operating costs running about the same level. (See chart for sample task force.)

THE BATTLE OF THE 1979 BUDGET

The Navy's view of the proper role of the aircraft carrier, however, is not shared by some top civilian officials in the Defense Department. This was indicated by a draft internal Defense Department document, the Consolidated Guidance, which was leaked to the press. The early draft of the Guidance, prepared by the staff of the Secretary of Defense, concluded that the aircraft carrier had no role on the flanks of NATO in support of a land war in Western Europe.

Interestingly enough, despite its larger shipbuilding program, the Ford Administration had reached a similar conclusion in a National Security Council study. It then deleted the large Nimitz class carriers from its program opting instead for midi-carriers.

The leaked Guidance and the cuts from the Ford shipbuilding program set the stage for a funding battle. The Armed Services Committees have traditionally shared the Navy's commitment to the aircraft carrier. In fact, they had previously objected to the Ford Administration's plan to buy the midi-carriers, advocating larger 90,000 ton Nimitz class carriers. Not surprisingly, this year the Committees rejected the Carter program and its rationale. The Committees instead came up with a series of conflicting, costly proposals.

The House Armed Services Committee approved, and the House authorized, a $2 billion, 90,000-ton Nimitz nuclear aircraft carrier and a $1 billion nuclear cruiser, neither of which were requested by the administration. Funds were added for almost $500 million worth of additional F–14, F–18, and A–7 carrier-based aircraft. At the same time, funds for development of the vertical or short-take-off and landing (V/STOL) aircraft were deleted to eliminate a competitor of the large carrier.

The Senate Armed Services Committee, on the other hand, while it approved the Nimitz-sized carrier (though not the nuclear cruiser) also approved $115 million to convert a large amphibious helicopter ship to a V/STOL aircraft carrier and to provide initial funds for construction of a large new amphibious ship (costing eventually $400 million) to replace the converted ship. At the same time, it cut the research funds for V/STOL aircraft from $72.4 million to $50 million, which would slow down the V/STOL development program.

The Administration response to these increases has been somewhat contradictory. After it was leaked, the draft Guidance was modified to take into account the view of the Navy on the carrier's role. Further, to head off the large nuclear carrier mandated by the Armed Services Committees, the Administration has now said it would accept FY 1979 funds for a small midi carrier costing about $1.4 billion.

THE AIRCRAFT CARRIER AND ITS MISSION

The central question remains whether the mission of the aircraft carrier is important enough to justify spending billions of dollars for new carriers and their support ships and planes. It has been claimed that the aircraft carrier would play an important role in a non-nuclear NATO–Warsaw Pact war by delivering strikes against Soviet facilities on NATO's flanks. However, in recent years, the Soviet Union has built a formidable force to sink or disable the carrier in an initial attack. The force includes a fleet of surface ships and aircraft that fire cruise missiles, and submarines that fire cruise missiles and torpedoes. Moreover, any time the carrier moves near the Soviet Union an anti-carrier task force of submarines and surface ships is dispatched to shadow and target the carrier. Where this is impractical the cruise missile attacks are supported by satellite reconnaissance that can locate the carrier. Even if the carrier survives, its limited numbers of attack aircraft are unlikely to do much damage in a non-nuclear conflict, given the extensive Soviet air defenses in the key areas.

Perhaps the carrier would be more effective delivering nuclear strikes in a NATO-Warsaw Pact conflict. But there are two problems with such a mission. First, it seems dubious strategy to respond to an attack in Western Europe with "tactical" nuclear strikes against the Soviet Union proper unless one intends to escalate the war to a general nuclear exchange. Second, even if the U.S intends such a mission, there are less expensive weapons available.

The mission described above, land attacks against the Soviet Union or other parts of the world, is called "power projection" or "projection of power ashore." Other power-projection missions cited by the Navy as requiring carriers are raids against airfields and other military targets in Eastern Europe in defense of NATO's central front, support of amphibious landings in Norway, Turkey or Greece to regain captured territory, peacetime and crisis deployments in the Mediterrannean, Indian Ocean and Western Pacific, and air strikes against countries other than the Soviet Union.

Some of these other tasks should be considered in choosing naval forces, as the Navy has suggested. But defense against every possible contingency is not only unnecessary but impossible. Some territory, such as Northern Norway, is like Berlin in that it cannot be directly protected by U.S. military power, but is instead protected by the threat of U.S. retaliation elsewhere. In other cases, such as attacks on Greece or Turkey, it seems reasonable to plan on the use of land-based aircraft for defense. Finally, raids in support of the central front in Europe can be performed more efficiently by Air Force tactical aircraft.

The other major mission of the Navy's general purpose forces is "sea control." This entails controlling the use of the sea for various purposes: attacking land targets to assure the flow of military or economic shipping to U.S. allies, and the prevention of others from using the sea to our detriment. While most of the Navy's arguments in favor of aircraft carriers have been arguments in favor of power projection, the Navy also claims a sea control mission for carriers. The Navy has argued that if the carrier does not challenge the Soviets in their home fleet waters, then the Soviet Navy will be able to come out and disrupt the military and commercial sea lines of communication between the U.S. and its allies. Although not discussed by the Navy, one might also consider the possibility that the Soviet Navy would be able to search for U.S. ballistic missile submarines or to deliver nuclear-armed cruise missiles against U.S. or allied land targets.

Yet three of the four Soviet Navy fleets—the Northern, Baltic and Black Sea—must pass through narrow seas and straights to reach the open ocean. Even the fourth, the Pacific, has only part of its fleet in a base that has direct access to the open ocean, the rest also being in constricted waters. The U.S. has powerful ASW forces including nuclear submarines, patrol planes and mines to blockade those forces. Large allied naval forces have also been built up for the purpose of helping with this mission. Worse for the Soviet Navy, the U.S. has developed—according to recent newspaper reports quoting defense officials—listening devices and digital processing equipment which allow the Navy to identify and locate almost every Soviet submarine from the time it leaves port.

Investment cost of sample carrier task force for operations in or near Soviet home fleet waters

[In billions of dollars]

1 Nimitz-class nuclear aircraft carrier (CVN)	$2.0
1 Nuclear cruiser with Aegis air defense system (CGN)	1.0
1 Destroyer with Aegis air defense system (DDG–47)	0.5
4 Destroyers (DD–963)	1.0
1 Nuclear submarine (SSN–688)	0.5
90 Aircraft	1.5
Total	6.5

Note: Additions might include one nuclear submarine, deletions might include either one of the Aegis ships or two of the other destroyers.

Moreover, it seems unlikely that the Soviets would place high priority on attacking U.S.-European sea lines of communication if they thought the U.S. could threaten the Soviet strategic submarine force, since submarine launched missiles are the strategic reserve of Soviet intercontinental forces. Indeed, sea control is not the primary mission of the Soviet Navy. Their Navy has been structured for an anticarrier role and to contend with the American threat to the strategic reserve, whether or not exaggerated.

ALTERNATIVES TO NEW CARRIERS

For the tasks which the Navy should perform there are lower cost, more effective Naval alternatives to buying new large, or even midi-sized carriers. Existing aircraft carriers can be modernized and overhauled to extend the useful service life from thirty to forty-five years. Ford and Carter have both included such plans in their five-year ship building programs at a cost of $500 million per carrier. The functions of aircraft carriers with conventional aircraft could

also be taken over by new systems, less vulnerable to Soviet anticarrier defenses. These include vertical or short take-off and landing (V/STOL) aircraft on large number of platforms, cruise missiles on aircraft, surface ships and submarines, and greater use of land-based maritime aircraft.

One of the central problems faced by new carriers and their protecting task forces, for example, is that their huge cost has meant that only a limited number could be procured. The Soviets are able to devote large military resources to the destruction of each carrier. The risks of concentrating so much of the Navy's air power in such a small number of ships could be overcome by using V/STOL aircraft. This would allow the Navy to preserve its air superiority over the seas without risking one-sixth to one-third of its force in a single confrontation. It would also enable the Navy to continue peacetime and crises deployments of aircraft capable of attacking land targets, should this still be necessary. The development of V/STOL aircraft would allow the Navy to fly fixed-wing aircraft from the twelve 20,000 to 40,000 ton amphibious assault helicopter ships. These plus the existing carriers would give the Navy twenty-four flat decked aircraft carriers. Moreover, V/STOL aircraft would give as many as 100 additional ships the capability to support high performance aircraft. In time of emergency V/STOL planes, supported by containerized support systems could even be flown off merchant ships. Unfortunately, the new administration has expressed doubt about the technology and value of V/STOL aircraft, slowing down both the second generation Marine Corps V/STOL aircraft—the AV–8B—which would be available in the early 1980's, and the first generation of the Navy's conversion to V/STOL, which would not in any case be available until the 1990's.

This slow down is another confusing signal. Many of those in Congress who favored the Administration's planned change in the aircraft carrier's role, supported V/STOL as a way to increase the number of aircraft platforms. Their position has been weakened. On the other hand, the advocates of more large carriers have found their position strengthened by the Administration's coolness to V/STOL development.

Another substitute for the carrier, in some missions, is the cruise missile which has only recently received wholehearted support by the Navy. The land attack Tomahawk, fired from surface ships and submarines, would be a cheaper and more effective vehicle for limited nuclear strikes against Soviet naval facilities, should this mission prove necessary. Moreover, two other cruise missiles, the Harpoon with a range of 60 miles and a second version of the Tomahawk, with a range of over 300 miles, will be available to be fired against surface ships—another mission the Navy claims for the aircraft carrier.

Finally, land-based aircraft could provide defense for land bases and military shipping against raids by Soviet naval aviation using Backfire bombers. Proposals have been advanced for (1) new high performance interceptors flying at speeds of 2000 miles per hour which would be combined with advanced early warning radar aircraft or (2) transport type aircraft, equipped with advanced radars and weapons to shoot down aircraft and cruise missiles, that could fly out and remain on-station with multiple crews for as much as 24 hours. Aircraft of this type may be particularly attractive since they could also have ASW and anti-surface ship capability, and could therefore participate in the blockading of Soviet submarines and surface ships. They could also provide the air defense capability. In any case both of these approaches appear to be much less costly than buying carriers.

CONCLUSION

The large, or even the "midi" aircraft carrier, and its protection are no longer worth the cost as a weapon against land targets in the Soviet Union. Updating and operating the existing carrier force may be worthwhile for other missions, but promising alternatives to the carrier are also available. Despite strong evidence that a new carrier is not needed, the Congress seems likely to agree to spending up to $2 billion for one in 1979 as well as additional funds for escorts and other protection.

The large carrier, built originally for the strategic nuclear mission to which it made only a minor contribution, has caused the Soviets to react by building up its Navy, particularly its submarine and air arms. These forces have, in turn, become a potential threat to U.S. sea lines of communication with its allies.

To break this arms race, the administration might consider a clearer public statement on the missions of the carrier and removal of the tactical nuclear weapons they now carry. Deemphasis of the carrier in its role against land targets in the Soviet Union will probably not, in the short run, break the momentum of Soviet building programs. In the longer run, however, such a move would influence the Soviet Union to slow the build-up of its Navy as it sees the threat of the carrier diminish.●

PRELIMINARY NOTIFICATION PROPOSED ARMS SALES

● Mr. SPARKMAN. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $25 million, or in the case of major defense equipment as defined in the act, those in excess of $7 million. Upon receipt of such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of proposed sale shall be sent to the chairman of the Foreign Relations Committee.

Pursuant to an informal understanding, the Department of Defense has agreed to provide the committee with a preliminary notification 20 days before transmittal of the official notification. The official notification will be printed in the RECORD in accordance with previous practice.

I wish to inform Members of the Senate that three such notifications were received on August 21, 1978.

Interested Senators may inquire as to the details of these preliminary notifications at the offices of the Committee on Foreign Relations, room S–116 in the Capitol.

The notifications follow:

DEFENSE SECURITY ASSISTANCE AGENCY
Washington, D.C., August 21, 1978.

In reply refer to: I–6943/78ct.

DR. HANS BINNENDIJK,
Professional Staff Member, Subcommittee on Foreign Assistance, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR DR. BINNENDIJK: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a Near Eastern Country tentatively estimated to cost in excess of $25 million.

Sincerely,

ERICH F. VON MARBOD,
Acting Director.

DEFENSE SECURITY ASSISTANCE, AGENCY,
Washington, D.C., August 21, 1978.

In reply refer to: I–4564/78ct.

Dr. HANS BINNENDIJK,
Professional Staff Member, Subcommittee on Foreign Assistance, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR DR. BINNENDIJK: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

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Sincerely,

ERICH F. VON MARBOD,
Acting Director.

DEFENSE SECURITY ASSISTANCE, AGENCY,
Washington, D.C., August 21, 1978.

In reply refer to: I–6124/78ct.

Dr. HANS BINNENDIJK,
Professional Staff Member, Subcommittee on Foreign Assistance, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR DR. BINNENDIJK: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a NATO country tentatively estimated to cost in excess of $25 million.

Sincerely,

ERICH F. VON MARBOD,
Acting Director.●

INTEGRATED PEST MANAGEMENT

● Mr. LUGAR. Mr. President, integrated pest management is a promising technique for controlling weeds and insects, a critical element in producing food and fiber for our Nation and the world, without excessive use of chemical pesticides. Despite the significant economic and environmental benefits of IPM, it is not yet in use on a wide scale, and information on IPM is not yet available to many farmers who might be interested in this idea.

Mr. Phil Norman, the farm editor of the Louisville Courier-Journal, has written an excellent column focusing on a successful IPM experiment in Kentucky. Mr. Norman notes that similar programs are in operation on 55,000 acres in 20 Indiana counties. He points out that the key to integrated pest management is the employment of trained "scouts" to monitor crops and make accurate counts of pests present.

I have sponsored legislation which would include IPM jobs in CETA employment programs, and my proposal has been approved in the Human Resources Committee. I am confident that this provision will not only provide productive jobs for rural youth, but will promote the implementation of IPM techniques.

Bob Abrams, a pest-management supervisor at Purdue University, sums

up the IPM story in a quote from the Courier-Journal article:

Economically and environmentally, it's the only way to go.

I ask that the entire article be printed in the RECORD:

The article follows:

[From the Louisville Courier-Journal]

THE SCOUTS ARE THE STARS IN NEW PEST-MANAGEMENT PROGRAM

(By Phil Norman)

ELKTON, KY.—Eston Glover, a Todd County farmer, can't seem to say enough good things about Kevin Perry, a sophomore at Murray State University.

If it hadn't been for Perry, the struggling grain farmer said last week, he would have spent hundreds of dollars to spray his corn fields with unneeded insecticides.

A lot of his neighbors were spraying for corn bores, "and I was itchy," Glover said. But he said he got detailed reports from young Perry. And he was pleased to learn that his own fields didn't have enough insects to force him into a costly spraying program.

Perry is working this summer as a "pest-management scout"—a new kind of seasonal job that some farm leaders think will become an increasingly important part of American farm life.

He works for Glover and about 10 other farmers, visiting each of their fields once a week to count weeds, bugs and diseased or damaged plants in selected rows of corn, soybeans and other crops.

Perry and seven other young farm scouts are working with University of Kentucky scientists in a pilot project involving 50 farms in Todd County. The project is part of what some experts see as a promising new drive in the battle against a multitude of pest that each year seem to be destroying more of the nation's food before it ever leaves the fields.

The costs amount to more than $75 million in Kentucky corn fields alone, according to UK estimates. Weed damage to corn is estimated at $60 million, with damage from major insects placed at $12 million and pest-control costs at $4 million. Kentucky soybean yields are reduced by about $63 million a year as a result of weeds, UK pest-control spokesmen said.

The new approach is aimed mainly at letting farmers know when and where they should apply chemicals to kill the most weeds and insects at the least cost. And, by encouraging some farmers to spray less, or at least more judiciously, the program could also reduce environmental damage from toxic insecticides, according to some agricultural leaders.

The idea is simple, the leaders say. In an era of mechanized food production, many farmers don't have time to climb down from their tractors to make detailed inspections of their fields. But relatively inexpensive summer workers—the Todd County scouts get $3 an hour—might be able to do it for them.

And, they add, it really isn't such a new system, having been originated years ago in the cotton fields of the South. It is new, however, to many grain farmers who have been rapidly expanding their acreage and running into a succession of new weed and insect problems in recent years.

The U.S. Department of Agriculture (USDA) this year offered some money—a total of about $2.9 million—and services for "integrated pest management" programs in 33 states, including Kentucky and Indiana. The ground rules were that public funds would be used to train and supervise scouts but that the farmers themselves would have to pay the summer workers.

UK got about $30,000, which has been devoted largely to the project in Todd County, where a non-profit pest-management group has been organized by farmers. To meet the scout payroll, the farmers pay a one-time fee of $1.50 for each of the nearly 15,000 acres they have put in the program.

The program was showed off last week in a "press tour" of some Todd County farms, where several farmers expressed enthusiasm over the new system of spotting weeds, insects and plant diseases.

None was more enthusiastic than Glover, who said he has been farming only about three years and needs advice on raising his 600 acres of corn and soybeans.

Joining the program "has been a bigger help to me than anything I've done," Glover said. He added that "I can't say enough" for Young Perry. "He's an awful quiet boy, but he got out there and dug around, and if there was something wrong, he wrote it on the sheet."

Some larger farmers, including Laurence Teetes, who raises about 2,600 acres of corn and soybeans, also had praise for the student helpers.

"My operation is so large and intensive that you get in trouble before you know it," Teeter said. With the scouting reports, he added, "we see our problems as they develop and don't find all of a sudden we're in a crisis. . . . I kind of rely on my scout to plan (chemical) applications. We use low rates, and get the weeds when they're small."

It was noted that some of the scouts are agriculture students. Most underwent three days of special training at UK. And all work under the supervision of Marvin Davidson, the Todd County farm agent, and others from UK. The supervisors use the scouts' information to help farmers deal with pest and plant-disease problems.

Such experiments have been under way, in more limited ways, for the past few years. UK, for instance, has been involved in some alfalfa programs in which all costs were covered by public funds.

But Harley Raney, pest management coordinator at UK, said the Todd County program could inspire a major expansion of pest-management efforts in Kentucky. The program already is operating in a small way in Washington County, he said, and he hopes to see more counties become involved next year.

Expansion could mean programs run by private consultants as well as nonprofit corporations, Raney said. He said farmers probably would have to start paying the wages of supervisors in addition to those of the scouts. But the costs still shouldn't be more than $3.00 an acre, he said, and farmers in most years would gain more than that in increased yields or lower insecticide costs.

In some circumstances, Raney noted, scouting reports actually could lead farmers to use more pesticides. But he said the system should bring a reduction in the use of chemicals merely as "insurance" against possible problems.

A USDA spokesman, B. D. Blair, said scouting programs should mean more profits for farmers and should also be helpful in pest and plant-disease research across the country. He added that "most of us are convinced there also will be environmental gains."

Bob Abrams, a pest-management supervisor at Purdue University, said experimental scouting programs are being conducted on 55,000 acres in 20 counties in Indiana. No Southern Indiana counties are involved in the current effort, he said, but some are expected to be included next year.

A lot of farmers have been spending $6 to $8 an acre every year for soil insecticides, Abrams said. With scouting reports and advance planning, most farmers might have to make such applications only once every three years, he said.

"Economically and environmentally, it's the only way to go," Abrams said of the new pest-management approach.●

THE SITUATION IN CAMBODIA

● Mr. McGOVERN. Mr. President, in the last day or so a great deal of attention has been focused on my efforts to call attention to the ugly events which have been taking place in Cambodia, and to explore steps which might be taken to end these atrocities. In a few cases, ideas raised in the form of questions to State Department witnesses have been interpreted not as possibilities but as my recommendations. Therefore, I thought it might be useful to address the matter more fully.

Article 42 of the United Nations Charter authorizes the United Nations Security Council, in which the United States sits as a permanent member, to "take such action by air, sea, or land forces as may be necessary to maintain or restore international peace and security." That is the authority which I believe the Council should consider using with respect to Cambodia.

I have not recommended, nor would I support, any unilateral American intervention in Cambodia. Indeed, if the Security Council were to decide that a peacekeeping force could be useful, it would probably exclude forces from any of the major powers as it has done, for example, in the Middle East. Considering our own long and painful involvement in Indochina, as well as the risk of great power confrontation, I think that would be a prudent decision.

We cannot, however, claim leadership on the human rights issue without making a persistent effort to curb the monstrous activities of the Cambodian regime. We have recently had a widespread outcry in this country over the unjust prison terms that two Soviet dissidents will have to suffer. I have agreed with that protest and have taken part in it. But how much greater is the crime when an estimated 2 million innocent Cambodians are systematically slaughtered or starved by their own rulers. Certainly this genocidal conduct requires the attention of the world community. And certainly the United States, as a leading proponent of human rights, has an obligation to place it on the international agenda.

My thoughts on these matters are amplified in several documents which I will submit for the RECORD at the conclusion of my remarks. The first is a newsletter released on May 29 of this year in which I suggested that—

We must, at a minimum, speak out against these tragic events to demonstrate that our commitment to human rights is genuine. Beyond that, we should prevail upon international organizations such as the United Nations to exert themselves against Cambodia's conduct.

Subsequently, as an amendment to the State Department authorization bill, S. 3076, the Senate adopted language which I proposed—and which has been approved by the House-Senate conference, declaring in part that—

Congress urges the President to move aggressively to support multilateral action by the United Nations and other international

organizations, and to encourage bilateral action by countries having more extensive relations with Cambodia and Uganda, to bring about a lessening of such brutal and inhumane practices.

Finally, I have the transcript of an interview with Susan Spencer and Richard Threlkeld on the CBS Morning News program this morning, which amplifies my views on the concepts I raised in the Foreign Relations Committee meeting yesterday. In that interview I indicated:

What I am proposing is the same thing I proposed 15 years ago—that when there's a threat to the peace and security of an area, whether it's Southeast Asia or wherever, our obligation as a member of the United Nations is to bring that matter before the Security Council and call for appropriate action.

Mr. President, I ask that the materials I have described be printed in the RECORD.

The material follows:

THE NEW BARBARIANS: A CHALLENGE TO HUMAN RIGHTS

(By Senator GEORGE MCGOVERN)

Officials of the Carter Administration have frequently declared that human rights is the "centerpiece" of current American foreign policy. That is a commendable objective. It cannot be credible, however, unless special attention is paid to two regimes whose records on human rights are the most appalling in the world.

In human terms, it is clear that the costliest human rights violator is the present government of Cambodia under Pol Pot. Cambodia is a small country of only seven million people. Yet on the basis of refugee accounts it is reliably estimated that a minimum of 500,000 people—one in fourteen Cambodians—have died since Pol Pot came to power a little more than three years ago. The numbers lost to execution, starvation, and disease could range as high as two million.

Much of the slaughter of Cambodian innocents came during the forced evacuation of the capital city of Phnom Penh, which has shrunk from two million people down to about 20,000. People of every age, and regardless of health or capacity, were ordered to leave their belongings and migrate to the countryside in what has become known as a massive "death march." Those who refused, or who could not keep pace, were routinely killed—often beaten to death with hoes or shovels, presumably to avoid the "waste" of ammunition.

Pol Pot and his henchmen have attempted to hide these grisly events from the outside world. Only nine countries have been allowed to maintain embassies in Phnom Penh, and even those diplomats are literally kept prisoner in their missions. And while it declares itself "Marxist", the Cambodian government carries out a brutality which knows no ideology. While wiping out its own citizens, it has also launched a war against neighboring Vietnam.

The United States has no direct influence over Cambodia. There is no American aid or trade or diplomacy to cut off. But obviously we must, at a minimum, speak out against these tragic events to demonstrate that our commitment to human rights is genuine. Beyond that, we should prevail upon international organizations such as the United Nations to exert themselves against Cambodia's conduct. And we should also urge appropriate action by countries, such as the People's Republic of China, which could bring direct pressure to bear by virtue of their aid to Cambodia.

The other most blatant human rights offender—Uganda's Idi Amin—does not share the shyness about publicity practiced by Cambodia's rulers. Last year he actually boasted before the Organization of African Unity that "I have eaten my enemies before they could eat me." He was not speaking figuratively. While claiming to be a Moslem, Amin carries out animistic beliefs which include a practice of eating the organs or flesh of their victims in the conviction that they thereby acquire the power of those they kill. That is the basic, twisted religious philosophy of cannibalism.

Since Amin took over, an estimated 300,000 of Uganda's ten million people have been murdered. Many of those have suffered mutilation or ritual killings. Executions have been ordered on such grounds as that the victims wore glasses or had tin roofs on their houses—signs, in Amin's diseased mind, that they were agents of Western imperialism. It is beyond any doubt that Uganda is ruled by a genocidal madman.

In this case there is direct action which might well have an effect. American purchases of Ugandan coffee amount to over a third of Uganda's export earnings. Ordinarily we have to think twice about using economic boycotts as a weapon for enforcing human rights because it can have the effect of compounding the plight of the victims—adding an economic penalty to the physical danger they must already endure. But in this case a trade boycott is entirely appropriate. The poor Ugandan farmers do not see the returns from the coffee we buy; rather, Idi Amin uses the money to pay his hired killers. I have, therefore, joined with Senators Hatfield, Weicker and others in sponsoring a complete ban on American purchases of Ugandan coffee.

Beyond this, the Foreign Relations Committee has approved my amendment noting in both Uganda and Cambodia—

". . . governmental practices of such systematic and extensive brutality as to require special notice and continuing condemnation by outside observers."

The amendment also calls upon the President to "move aggressively" to support multilateral action against Cambodia and Uganda and to encourage bilateral action by countries that have more extensive relations with these gross violators of human rights. I am confident that the full Senate and the House will agree to these provisions.

Albert Einstein once observed that it is a dangerous world we live in, not so much because of those who would do evil, but because of those who would do nothing about them. In the 1930s and 1940s that was true about Hitler. I am convinced that it is also true of the monstrous governments in Cambodia and Uganda today.

FOREIGN RELATIONS AUTHORIZATION ACT, FISCAL YEAR 1979 (S. 3076)

ATROCITIES IN CAMBODIA AND UGANDA

SEC. 417. (a) Congress finds that reliable reports of events in Cambodia and Uganda attest to the existence of governmental practices in those countries of such systematic and extensive brutality as to require special notice and continuing condemnation by outside observers.

(b) Recognizing the limited direct influence of the United States in each such country, Congress urges the President to move aggressively to support multilateral action by the United Nations and other international organizations, and to encourage bilateral action by countries having more extensive relations with Cambodia and Uganda, to bring about a lessening of such brutal and inhumane practices.

(c) Not later than January 20, 1979, the Secretary of State shall transmit to the Speaker of the House of Representatives and the chairman of the Senate Committee on Foreign Relations a report describing fully and completely actions taken pursuant to subsection (b).

(d) It is the sense of the Senate that the President should—

(1) prohibit the export of military, paramilitary, and police equipment to Uganda;

(2) declare that the appropriate consular officer may not approve any visa application of any official or employee of the Government of Uganda for the purpose of military, paramilitary, and police training within the United States without the review of the appropriate official of the Department of State in Washington to determine that the Government of Uganda has demonstrated a proper respect for the ruel of law and for internationally recognized human rights; and

(3) instruct the permanent representative of the United States to the United Nations to submit to the United Nations General Assembly for its consideration a resolution imposing a mandatory arms embargo on Uganda by all members of the United Nations.

CBS MORNING NEWS (EXCERPT), AUGUST 22, 1978

SUSAN SPENCER. It's estimated that during the three years of Communist rule in Cambodia as many as two-and-a-half million people have starved to death or been executed. To the surprise of many, Senator George McGovern, a long-time dove, yesterday suggested that the only way to deal with the Cambodian sit—situation may be through military intervention. Senator McGovern is with us this morning, and I suppose the first thing that we need to find out is a little bit more of what you mean by that.

Senator GEORGE MCGOVERN [D-South Dakota]. Well, first of all, let me say I was opposed to sending in American troops to Southeast Asia in the 1960's. I'm still opposed to any kind of a repetition of that operation. It was a disastrous mistake in the '60's; it would be a disastrous mistake again. What I am proposing is the same thing I proposed 15 years ago—that when there's a threat to the peace and security of an area, whether it's Southeast Asia or wherever, our obligation as a member of the United Nations is to bring that matter before the Security Council and call for appropriate action. Here you have a situation where in a country of seven million people, possibly as many as a third of them have been systematically slaughtered by their own government. This wasn't done by the Vietnamese, by Ho Chi Minh or by anybody else; it was done by a band of murderers that's taken over that government. What I'm suggesting is that the United Nations has an obligation to respond in some way. We at least ought to raise the issue. Maybe nothing can be done, but even raising the query, forcing a debate before the Security Council, would indicate to the government in Cambodia, and others so inclined, that the international community has an interest in these matters.

SPENCER. You said, in the middle of your answer, maybe nothing can be done. What would make you think that any kind of international military operation would be successful?

Senator MCGOVERN. Well, there are various things that we ought to consider. I introduced a resolution earlier this year, which was passed into law, that calls on our government to explore, both through multilateral channels (that's shorthand for the United Nations) or through other nations that have influence in Cambodia, meaning China and other countries——

SPENCER. There aren't too many that have much influence——

Senator McGOVERN. We don't know to what extent any nation can influence events in Cambodia, but we're not going to know until we try. We've seen, over the last few months, an enormous hue and cry about the mistrial given to two citizens in the Soviet Union. I think it was proper that we spoke out against that. But we did that in the name of human rights. Now, if we're going to be consistent about our concern over human rights, how does one explain the fact that there has been an enormous outcry against two men's being sentenced, we think wrongly, for criticizing their government in the Soviet Union, and then we stand by idly with very little comment when two million people are slaughtered by their government in Cambodia?

SPENCER. How do you explain it?

Senator McGOVERN. I think we've tried to put that part of the world out of our minds. We had such a disastrous experience in Vietnam, I think it's very painful for Americans to think about this part of the world. I'm very encouraged that Congressman Montgomery's mission which is now in Vietnam is exploring with them the possibility of opening up trade and diplomatic and cultural exchange. I think that's all to the good. But meanwhile, in Cambodia, a few miles away, you have this horrible slaughter going on, and the tendency is just to close our eyes to it. It's that double standard that concerns me.

SPENCER. I know we have——[crosstalk]

THRELKELD. Senator, this is Dick Threlkeld in New York. The wires and the newspapers tended to pounce on your at least suggestion or inquiry yesterday about some kind of military intervention, I suppose because they—they saw some inconsistency with—with your being remembered as a peace candidate. Do you see an inconsistency there?

Senator McGOVERN. No, I don't see any inconsistency at all. First of all, let me say I have never been a pacifist. When Hitler was on the rampage, thirty or forty years ago, I was one of the first ones to volunteer. But I'm not suggesting that we send in American troops to Cambodia, any more than I favored that action in Vietnam fifteen years ago. Under Article 42 of the United Nations Charter, however, that body does have an obligation to deal with threats to the security, the peace of the world.

And here's a case where it seems to me the United Nations, at a time when Third World countries are in the majority, has an obligation to deal with one of their own members, one of their own states. I'm talking about a small underdeveloped country that has gotten out of control and is systematically slaughtering its own citizens. That's quite a different situation than we faced in Vietnam in the 1960's.

SPENCER. You mentioned that we should apply pressure. It seems, though, that the Vietnamese, who periodically are at war with Cambodia, have found that the Cambodian citizens, at least the villagers, seem to support the government. What lever do we have to break in—to break that?

Senator McGOVERN. I find it hard to believe that there's mass support for the Cambodian government.

SPENCER. I was—I was kind of going by Mr. Pike's testimony yesterday.

Senator McGOVERN. We really don't know an awful lot about it. Our intelligence sources aren't very good there. We've been cut off from contact. We're pretty much dependent on reports of foreign journalists and other dipjlomats in the area. But the evidence is that about nine men are controlling that government in Cambodia; that they don't have the loyal infrastructure out across the country that was true of Ho Chi Minh in Vietnam, where the late President Eisenhower said eighty percent of the people would have voted for him. Even in a free election, I can't believe that a government that has systematically killed off a third of its citizens is a government with strong support out in the countryside. In any event, let me stress that what I'm calling for here is an evaluation of this matter by the United Nations. Let's look into it, collect the intelligence that's available and then make a judgment whether it's feasible to send in an international peacekeeping force.

SPENCER. I'm sorry, we're out of time. Thank you very much for coming in this morning.

Senator McGOVERN. Thank you.●

LOW VISION NEED NOT MEAN DEPENDENCE

● Mr. CHURCH. Mr. President, the Senate Committee on Aging recently conducted a hearing on vision impairment among older Americans.

As I indicated in my opening statement, there is evidence of startling increases in vision loss among older Americans, who already account for more than the majority of such cases today. Witnesses testified that from four of the five leading causes of blindness—diabetic retinopathy, cataracts, senile mecular degenerations, and glaucoma—the chances of becoming blind increase dramatically with age.

This, coupled with the timing of the increase in our population of older citizens, means that in just about 20 years the population of severely vision-impaired older persons will be larger than the National Center for Health Statistics current count of severely vision-impaired persons of all age categories.

This means that we must start now to take a close look at existing and potential programs which serve our vision-impaired population. It also means that we must come to understand that low vision and even total loss of vision do not necessarily mean dependence.

In fact, one of the most heartening aspects of this hearing was the testimony given on just that point: Dr. Gerald Friedman, associate director of the Low Vision Rehabilitation Center in Boston, said:

One particular case is worth mentioning. It is an 87-year-old gentleman from rural Vermont. He has lived on his farm for 87 years. This man was referred to me for a low vision problem. He has about 20/200 vision.

When I was talking with this man he said, "Doctor, I want you to save my life." I was taken back slightly by this remark because in reviewing the medical history there was no life threatening disease present.

He said, I have lost my functional vision. I can't maintain my farm any more and I can't take care of my wife. His wife has severe arthritis and also has a visual problem.

By the way, the alternative they had for this man was to move them to a major city and place them in a nursing home.

With the low vision aid this man now can walk into town and do the shopping, pick up the mail, walk back to his little farm. He can do the cooking chores, he can read to his wife. He even drives around in a small tractor taking care of the farm. So the financial implications of this are also driven home. This aid was under $100. I don't think we have to think too much about what the cost would have been to maintain him and his wife in a nursing home for the rest of their lives.

Donald Wedewer, director of the Division of Blind Services in Florida, described a group from the retired senior volunteer program which works hand in hand with the State rehabilitation agency in providing group training in a community too small to have its own rehabilitation office.

It is clear that we must closely examine the priorities of present programs, because it is a fact that less than 10 percent of the total resources for help to vision-impaired persons is directed to the elderly. It is also clear that we should not repeat the previous errors of the "blindness system"—so well outlined in the classic "The Making of Blind Men"—that is, the creation of a new bureaucracy, more responsive to its own needs than to its clients.

The examples I relate, to my way of thinking, tell us that what we do need to create are innovative ways of helping people maintain their independence, and that whatever new programs we undertake should be keynoted not just by the program budget but by the ways in which their clients can make the program responsive to their needs and accountable for its performance.

Traditional patterns of service delivery are not marked by these characteristics. Perhaps this is why we have a maze rather than a service delivery system. Our witnesses gave us many examples of what happens to an older vision-impaired person lost in this maze. The director of the Center for Independent Living in New York, told us, for example, that there is usualy a 5-year span between the onset of vision impairment and referral to a rehabilitation system.

The committee was also told that much must be accomplished in the professional education of rehabilitation specialists, ophthalmologists, and optometrists. Many doctors feel that their duty is done when the case is diagnosed and treated. Fortunately, many others in this field know that this is not the case, and many low-vision clinics now have their own rehabilitation units.

It is also clear that we must, ourselves, be better informed about low vision and blindness. Chances are that, after age 40, we wear glasses. If we approach anything near our expected lifespan, we can expect some deterioration and, as an ever-increasing number of us move into our seventies and eighties, we may encounter a loss sufficient enough to need some training and low-vision aids to permit us to continue our independence.

The Senate Committee on Aging will soon publish a special health care status report which will comprehensively treat the issues I have outlined. Mr. President, I ask that my opening statement be printed in the RECORD.

The statement follows:

OPENING STATEMENT BY FRANK CHURCH, CHAIRMAN, U.S. SENATE SPECIAL COMMITTEE ON AGING, AT A HEARING ON VISION IMPAIRMENT AMONG OLDER AMERICANS

Today, the Senate Committee on Aging will take testimony on many issues related to vision problems and care for older Americans.

Our immediate goal is to examine issues related in one way or another to legislation intended to help visually impaired persons

to cope better with everyday life or to receive desperately needed care or devices.

But our additional goal is to draw from today's hearing and from other sources the information needed to put this one need of older persons into proper perspective, now and in the future.

We will, in the next few months, issue a "Health Care Status Report" on the subjects before us today.

We believe that this document will have direct relevance to all forthcoming discussions of a national health care plan for all age groups.

We also believe that it will be valuable in preparations for the 1981 White House Conference on Aging authorized in the 1978 Older Americans Act Amendments which the House and Senate have approved.

One of the issues which will certainly receive our careful attention is the limited role that Medicare has in helping older persons with vision problems.

Medicare is often called a leaky umbrella, providing important protection in many respects, but leaving big holes where other protection may be desperately needed.

I have gone further. I have called Medicare a program better designed to meet the needs of the young than the old, since it does a good job in providing protection against costly institutional charges and medical bills for short-term illness.

But when it comes to the widespread and sustained need of older persons for dentures, eyeglasses, hearing aids, and in-home services, Medicare falls short.

And so, we will ask questions about Medicare and vision loss.

But our purposes is much broader.

We will hear, during this morning's session, predictions about the startling increases which will soon occur in blindness and vision loss among older persons in this Nation, particularly among the very old.

A soon-to-be-released study by the Division of Social and Demographic Research of the American Foundation for the Blind states that there will be about 1.5 million older Americans with severe vision impairment by the year 2000, 80 percent of whom will be 75 years of age and older.

This means that in just about 20 years the population of severely visually impaired older persons will be larger than the National Center for Health Statistics 1971 count of severely vision impaired persons of all age categories.

Within recent months, we have seen much written about the "graying" of our population.

We talk about its impact on retirement income systems, work force projections, and even our educational system.

This hearing may help us make the additional point, rather emphatically, that we must also gear up to meet—far better than we are now doing—the special needs of those whose sight becomes less dependable with passing years, even to the extent of total loss.

And it will also help us make or explore other points:

Whether the many special programs to help the visually impaired fall into categorical traps, often producing despair or frustration, rather than assistance.

If the goal is to prevent dependency, what use is being made of models already provided, including the stimulating and heartening work to be described by one of our witnesses today, the Director of the New York Infirmary's Center for Independent Living?

Why has there been, as reported to this Committee, a 5-year gap between the onset of disability and the linking with any rehabilitation services?

What linkages should there be between existing therapy and rehabilitation opportunities and area agencies on aging under the Older Americans Act?

Whether, as in so many other "age-ist" attitudes toward older persons, there may be a tendency to "write-off" the older victim of vision problems as beyond help or concern.

Whether institutionalized patients are receiving adequate vision care. There is good reason to believe that many are not, and we want to know why.

I will close this brief statement by thanking the American Foundation for the Blind, the National Federation of the Blind, and the American Optometric Association for agreeing to provide this Committee, not only with additional background material, but with specific recommendations for legislative action.

I would also like to thank Senator Harrison Williams, Chairman of the Senate Committee on Human Resources, for expressing his personal interest in these proceedings and for taking such effective action. Senator Williams has introduced a bill to provide Medicare coverage for low vision services. The same is true of Senator Jennings Randolph, Chairman of the Subcommittee on the Handicapped and—like Senator Williams—a former member of the Senate Committee on Aging. The Senate today is scheduled to act on Senator Randolph's amendments to the Rehabilitation Act, which would provide rehabilitation services for older persons.

Our witnesses today are: Mr. August Colenbrander, Professor of Ophthalmology and Medical Director of the Pacific Medical Center's Low Vision Clinic; Dr. Gerald Friedman, Optometrist and Director of Retina Associates Low Vision Clinic in Boston; Dr. Douglas Inkster, Director of the New York Infirmary's Center for Independent Living; and Donald Wedewer, Director of the State of Florida's Division of Blind Services.

Before we begin, I want to take note of the special arrangement of the room. As you can see, this is not the usual formal hearing setting. I have asked for this arrangement because the problems of vision impairment are so linked that I want to encourage as much informal exchange among our witnesses as possible.

We are going to begin with Dr. Colenbrander who will help us set the scene by describing the leading causes of vision impairment. Then I would like to ask Dr. Friedman to let us use his low vision simulators so that we can more fully understand what these vision impairments mean on a very personal level.●

COMPLETION OF ESSENTIAL INTERSTATE HIGHWAYS

● Mr. DOLE. Mr. President, the directive of S. 3073 is to expedite the completion of the Interstate Highway System by placing a time limitation on construction and providing funds for replacement and maintenance of existing highway. The Senator from Kansas agrees with the need to complete this remaining highway system due to spiraling inflation costs and public demand for safer transportation roadway. But there exists in this proposal, Mr. President, a section that deals unfairly with 16 States, including the District of Columbia. This section is aimed at the so-called essential gap.

DESIGNATION AS "ESSENTIAL GAP"

An "essential gap," according to the Department of Transportation, is that section of highway that must be completed to provide a connected intercity system and therefore under this proposal will receive priority funding and the highest priority in the bill for completion. However, this bill makes a change in the present apportionment formula as to provide that 50 percent of the apportionment to be distributed to States based upon the cost to complete the "essential gaps" in each State. With this formula, 34 States will gain moneys to complete these sections of roadway with 16 States, including the District of Columbia, suffering losses. Kansas is one of those States that will suffer a loss and also one of those States with an "essential gap," although not designated as such by the Department of Transportation, located in its largest metropolitan area—Kansas City.

I–435 was projected by the Kansas Department of Transportation many years ago to serve as a major artery for the Kansas City Metropolitan Area. Kansas City International Airport was built accordingly. However, because Kansas, like many other States, has exhausted its funds for the fiscal year of 1978, this needed roadway cannot be finished.

In addition to lack of funding, the Department of Transportation have refused to designate the roadway as an "essential gap" because they believe that it does not constitute a vital connection to an intercity system.

RESULT IS ECONOMIC LOSSES

Mr. President, Kansas City has experienced a high growth rate in the past decade. As a consequence in all developing metropolitan areas, not only does physical radius of the area increase, but economic and social aspects of the city expand. This growth naturally allows growth of its services, therein transportational means in delivering those services must also grow. At this time, however, the transportation system of I–435 is incapable of accommodating the thousands that have not only decided to make Kansas City their home, but also those who occasionally visit and serve the city.

Mr. President, with delay in completion of this roadway, undoubtedly, delay will occur in delivery of these services to the metropolitan area. And the longer we wait to complete these spans of highway the more inflationary their costs will become. Economic loss will occur not only to those providing services to the citizens of the area but economic loss will be inflicted upon the taxpayer due to higher and higher construction costs for each year the project is delayed.

DEFINITION IRRELEVANT

In actuality, Mr. President, the definition of such an area is irrelevant. What is of importance here, as in many other metropolitan areas across the Nation, is the completion of such roadway that has been planned for so long, as in the case of Kansas City. For many areas, future building, such as airports, has been based on transportation ability, and as in the case of Kansas City, there is no alternative. The present apportionment formula would expedite completion of these vital links rather than subject them to inflation's constant rise.

The Senator from Kansas realizes that this may be a particular case in point. Nevertheless, there still remains many areas across the United States like that of Kansas City. I urge the Senate and

House conferees to reconsider the apportionment formula in this section of the proposal and to retain the present formula.●

GENOCIDE IN PARAGUAY

● Mr. ABOUREZK. Mr. President, the genocide of the Ache Indians of Paraguay is continuing, although recently we have heard little in the press about this tragic situation. Now Prof. Richard Arens and Survival International, a London-based organization concerned with the survival of tribal peoples, have issued a report on the untimely death of a Paraguayan priest who worked closely with the Ache Indians, Rev. Nicholaus d'Acunha. The manner of his death has raised some questions in light of his concern for the Ache Indians and the perseverance and zeal with which the Paraguayan authorities have been carrying out their program against these Indians. The Senate has already demonstrated its displeasure at Paraguay's human rights situation by cutting military aid, but we should note with care these firsthand reports about the continuing genocide practices against the Ache Indians who live in the forests of Paraguay. I ask that the report be printed in the RECORD.

The report follows:

REPORT

Survival International, which is a registered charity and based at 36 Craven Street, London WC2, have many people "in the field" who report regularly on the ways in which tribal peoples, particularly in South America, are being treated by various Governments.

One of their associates in Prof. Richard Arens, who is the Professor of Law at Temple University, Philadelphia, Pennsylvania 19122.

Survival International has received the following communication from Richard Arens. We thought you may find it of interest.

Bruce George, Member of Parliament, is actively engaged in raising the problems of the Indians, and wishes to be associated with Professor Arens' comments. He has already approached Mrs. Judith Hart, MP, to stop all British Government Aid to Paraguay.

(Priest who provided sanctuary to escaped Indian slaves and who sought to communicate further information on atrocities in Paraguay dies mysteriously.)

In a terse note, devoid even of a cursory expression of regret, the US State Department replied recently to the inquiry of Congressman Donald Fraser concerning the Rev. Nicholas d'Acunha, Roman Catholic priest in charge of the Mission of St. Augustine near Laurel in Paraguay. There was nothing mysterious about the disappearance of the priest said the State Department. He had died in October of 1977 "of natural causes", specifically a heart attack. A replacement priest, the note continued, had assumed the duties of Father d'Acunda.

Whatever the cause, the death of Father d'Acunha was most convenient to the Paraguayan government. It would seem that it was convenient to the executive branch of the US Government as well. Father d'Acunda was on a list of six witnesses submitted to the Congressional Committee presided over by Congressman Donald Fraser in hearings contemplated this spring but never held—on conditions of human rights in Paraguay.

Father d'Acunda had been called in to conduct burial services for some 30 Indians, shot down in a premeditated ambush in a Paraguan forest in 1974. This he explicitly told Professor Richard Arens in late August, 1977.

This information was essentially confirmed by the State Department in its letter to Congressman Fraser of a week ago although at the time in question (1974) the State Department was vigorously denying the existence of any man-hunts whatever in Paraguay. Father d'Acunha had reported that mass murder to the Paraguayan authorities. But there were no prosecutions although promises were made that man-hunts would be curbed.

Since that time, Father d'Acunda, who ran the only Indian Reservation that Professor Arens saw both with respect for the Indianness of its residents and with unremitting and effective concern for their physical welfare, would traverse the nearby countryside to tell those who would listen that the Church condemned as murderers those who killed Indians and that in fact any wilful mistreatment of an Indian was a mortal sin.

He did more. His enclave was a sanctuary to Indians from far and near who had escaped slavery and it was on his reservation that Professor Arens interviewed a number of former slaves who displayed the scars of their mistreatment.

Little of all this had passed unnoticed. On several occasions Father d'Acunha was threatened if he talked and threatened with his life. He told Professor Arens in late August 1977 that he anticipated the imminent resumption of man-hunts and that there were numerous other matters of flagrant Indian mistreatment that he wished to present in sworn form in a setting in which he was less likely to be overheard. Arens and Father d'Acunha then discussed the ways and means of contacting the US Embassy.

Arens recalls him as he left, a tall, vigorous and dedicated man, apparently in his early forties at the height of both his intellectual and physical powers. Within weeks, Survival International was informed that Father d'Acunha was dying of a heart attack. It was also informed that Father d'Acunha told the members of the Peace Corps who were present that he wished to sign a sworn statement as to atrocities committed against Indians. The ostensible representatives of the Peace Corps strongly counseled him against such action. Nor did they seek removal of the ailing Father d'Acunha to a hospital by helicopter which could easily have been made available through the intercession of the Embassy.

Mere incompetence or foul play?

When asked this question in Philadelphia, Professor Arens replied that of course he could not tell, "but that given the circumstances, one possibility was at least as likely as the other. What is clear," he continued, "is that men and women of good will throughout the world have been diminished by this death. The effort to aid Indians in Paraguay has been discouraged. And those most directly and tragically affected by Father d'Acunha's death are of course the dwindling forest Indians near Laurel, Paraguay, for whom Father d'Acunha literally gave his life."●

EMPLOYEE EDUCATION ASSISTANCE BILL—S. 2388

● Mr. BAYH. Mr. President, I am happy to cosponsor the employee education assistance bill, S. 2388, introduced by the Senator from Oregon (Mr. PACKWOOD) and the Senator from New York (Mr. JAVITS). This bill would amend the IRS Code to permit employees to exclude certain educational assistance programs from their gross incomes.

Mr. President, I am concerned about reports by eminent national organizations, such as the Carnegie Commission, that have pointed to a glaring blindspot in the financing of higher education in America; namely, that no support is being given to students, mostly adults, who participate in recurring or lifelong education. Even though college attendance among people 35 and older increased 50 percent between 1973 and 1975, existing Federal grant and loan programs have not been modified to assist these types of students. The Federal Government has not even made it easier for the private sector to provide assistance. At present, IRS rulings require employees to pay income tax on any educational support received from their employers which advances their careers or prepares them for a new position. Moreover, employers must withhold taxes from the salary of an employee when he or she does provide such continuing education opportunities. As a result, thousands of people are being denied the opportunity to advance—not because they are less able or less motivated, but because they cannot afford to.

Well, Mr. President, we cannot afford to continue our policy of downgrading the efforts of employees who wish to update their knowledge. America is becoming increasingly challenged, intimidated, and even frustrated by the ever-increasing complexity and enormity of the public policy problems that we, as a nation, are called upon to address. We live at a time, as well, where the speed of events and explosion of knowledge, sparked by enormous advances in technology, only additionally compound our domestic difficulties and toughen the competition for technical superiority abroad. These circumstances have created a demand for people with advanced training, and we must help to meet this demand if we are to meet our critical challenges.

Mr. President, continual access to higher education is not only a source of benefit to our society as a whole. It is also a form of personal opportunity and enrichment. The unfinished task of drawing millions of people—many from ethnic minorities—into the prevailing current of our society can only be fulfilled by providing equal access to our institutions. This idea of equal access underlay, in particular, the founding of hundreds of private colleges, the land grant movement, the establishment of public urban institutions, the GI bill, and the community college movement in the United States.

If the American dream of advancement through equality of opportunity is to be nothing but a cruel hoax on humanity, we must expand the tradition of educational opportunity. We should continue to create steppingstones to help those people who have been brought into the mainstream of American life in their efforts to forge ahead.

Finally, Mr. President, I believe it is counterproductive for the Federal Government to provide companies with the incentives it does for the ongoing research and development of technologies and systems while at the same time it restricts incentives for the continuing

education of those who undertake such projects. Encouraging steady capital investment is meaningless if we do not also contribute to the correctly conducted development of human skills.

Though measures such as the tuition tax credit for higher education, which I was pleased to support, will be helpful to some of these "new" students, we have to develop other ways to aid in the finance of lifelong and recurring education. It is our responsibility to insure that the Nation has the best educated citizenry possible; it is essential for our material progress, national security, cultural and intellectual advancement, and for the maintenance of our democratic institutions.

S. 2388 would reverse recent interpretations of IRS regulations that restrict employers from providing education assistance to their employees. It would allow employees to use employer-provided education assistance without the burden of having to pay tax on the tuition aid they receive. Any tax revenue loss would be made up by the additional earnings of those members of our workforce who take advantage of this legislation to enrich themselves. I urge my colleagues to support this important legislation.●

NATIONAL WATER RESOURCES POLICY

● Mr. WALLOP. Mr. President, a sound, comprehensive, and workable national water resources policy is a priority. However, the formulation and implementation of such a policy cannot be unilateral. To do so is a recipe for confrontation. The States, the Executive, and the Congress must all interact if such a policy is to be successful.

Soon I will introduce a Senate joint resolution to provide for State notification and congressional review of regulations which would implement certain new national water resources policies. Through the procedures which we seek to establish here, certain water policies initiated by the Executive will be channeled through Congress and the States to insure the interaction that is absolutely necessary to the successful implementation of any such policy of national scope and importance.

A brief review of the recent history of development of a Federal water resources policy will highlight the need for this procedure. For well over a year now, the Executive has been engaged in a comprehensive review of Federal water resources policy. The first few months of that study, conducted without participation by the public, the States, or Congress, resulted in the publication of July 15 and 25, 1977, of option papers in the Federal Register. The scope of these water policy option papers was well beyond the proper scope of an exclusively Federal policy study. They dramatically pointed to the need for increased State and congressional participation in the development of a national water resources policy.

The controversy which ensued was productive in that it fostered an increased level of necessary participation. However, the forum for policy development was still exclusively Federal, while the possible ramifications of the study would likely be felt most heavily by States and the individual water users.

Concerned with this disparity, the Senate, on October 5, 1977, agreed to Senate Resolution 284, which expressed the sense of the Senate that no new national water policy be implemented without congressional concurrence and review by the States.

The water resources policy study culminated in the President's announcement of a National Water Resources Policy on June 6, 1978. That policy basically contained only broad policy statements. However, it was generally conceded that the policy reflected the increased degree of public, State, and congressional participation in the process. It represented significant improvement over what had appeared to be the policy's initial direction a year before.

The President's general policy statement of June 6, was followed on July 12, 1978, by a series of more specific Executive memoranda to the heads of Federal agencies and departments. In most cases, these Executive memoranda directed agencies and departments to improve internal procedures, prepare legislative proposals for submission to Congress, and to further study particular areas of water policy which had been identified as posing special problems. However, in a few cases, the memoranda directed the immediate implementation of policies which would directly impact upon the American people. In these cases, the directives are directly contrary to the sense of the Senate as expressed in Senate Resolution 284.

The resolution will speak only to this last type of directive. It will not seek to block their implementation en bloc, but only to provide State and congressional review so that their implementation will have the benefit of comprehensive review, or will be quickly identified as a policy for which there is no concensus.

The potential impact of these policies is unknown. On July 10, 1978, the Subcommittee on Water Resources of the Committee on Environment and Public Works held hearings on national water policy. At that hearing, those in the executive branch charged with the implementation of those policies could not explain the meaning of the directives which they were charged with immediately implementing. Yet the implementation process goes forward.

Under the terms of our resolution, two specific types of policies would be subject to rule and regulation review and State notification. First, those which would impose additional burdens on those who contract for municipal, agricultural, and industrial water supply from Federal projects. Second, those which would impose additional burdens on those who receive or seek Federal grant or loan assistance for water supply and treatment works. The resolution would also require congressional and State notification of Federal legal actions which might extinguish or diminish rights to the use of water under the reservation doctrine.

Specifically, Congress would be provided 60 days in which to disapprove any rule or regulation which would implement the policies described above. If either House passed a resolution stating in substance that the House did not approve of the rule or regulation, it would cease to be effective. The provisions of section 1017 of the Impoundment Control Act of 1974, 31 U.S.C. 1407, would apply to the procedural requirements of such a resolution in either House.

The States would be provided with not less than 60 days notification before regulations to implement this limited portion of the policy could be promulgated.

Finally, our resolution would require the heads of Federal agencies or departments to notify Congress before instituting legal action which might extinguish or diminish rights to the use of water which have been perfected under State laws through the use of the doctrines of Federal or Indian reserved water rights. This does not represent a congressional affirmation of either doctrine or reserved rights. It does not seek to limit the powers of the Federal Government to claim or protect any of its property rights. It only seeks at this time to insure that Congress and the affected States will be informed of how the process of "inventory and quantification," which has been ordered, is progressing, and of the conflicts which may be generated by its implementation.

Mr. President, I wish to reemphasize that this resolution is not intended to put us at loggerheads with the executive branch on water policy. On the contrary, it seeks to establish a procedure through which policy on a limited number of issues will be implemented with full review so as to identify conflicts early. In this way we can insure that those policies which are implemented have had the benefit of wide review and consideration, and hopefully of concensus as well.●

SOLAR POWER SATELLITE DEVELOPMENT PREMATURE

● Mr. ABOUREZK. Mr. President, I recently received a letter from the National Taxpayers Union urging all Senators to oppose S. 2860, a bill that would commit the United States to the development and demonstration of solar power satellites. Although the bill only calls for $25 million this year, it is clearly the first step toward a program which could end up costing the taxpayer trillions of dollars. This mind-boggling amount would be spent to develop an energy system controlled by a massive industry-government coalition, which would be prone to all the bureaucratic and monopolistic abuses inherent in such systems. The satellites themselves would be very vulnerable to attack, and would need to be defended at great cost. They would also use dangerous microwaves to beam their energy to the Earth. Finally, and most disturbingly, their development would inevitably freeze money that would otherwise be available to small scale solar applications already available on Earth, and just waiting for a Government push to make them commercially feasible.

I ask that the letter be printed in the RECORD, and urge my colleagues to consider its contents carefully.

The letter follows:

NATIONAL TAXPAYERS UNION,
Washington, D.C., June 30, 1978.

Hon. JAMES ABOUREZK,
Energy and Natural Resources Committee, Senate Office Building, Washington, D.C.

DEAR MR. ABOUREZK: The National Taxpayers Union in behalf of its 60,000 members and affiliated state and local groups with a combined membership in excess of taxpayers, would like to take this opportunity to express our views on the House passed bill H.R. 12505 and the bill pending in the Senate, S. 2860

Passage of this bill would commit the nation's taxpayers to a $25 million tab in fiscal year 1979. Conservative estimates indicate capital investment reaching a staggering price tag of $2.5 trillion! It is unclear exactly what this bill is authorizing. The proponents of this legislation indicate that passage would commit the nation to a program plan to study the feasibility of utilizing solar energy to generate electricity for domestic purposes. This is not the first phase of this study. We respectfully point out that such a program has already been underway for some time by the Department of Energy and NASA. This program has already cost the nation more than $15 million since 1973, while the House voted recently to appropriate another $7.6 million to DOE and NASA for fiscal year 1979.

On the basis of the above figures alone it is obvious that this bill amounts to yet another attempt at allowing the aerospace industry to feed its voracious appetite from the federal trough. It is also obvious that once such a program gets started with taxpayers dollars it is virtually impossible to stop regardless of the results drawn from research studies. This conclusion can easily be drawn since we have already undertaken and funded such a program and are now being asked for another massive transfusion of taxpayer dollars to underwrite yet another program without seeing the results of the first study.

From a purely fiscal point of veiw, perhaps the most alarming facet of H.R. 12505 and S. 2860 is the commitment to the demonstration solar power satellite. This despite the fact, that no results from the previous ongoing study would warrant this gigantic outlay of taxpayer dollars. The green light to proceed with the construction of the satellite has been given in the language of the House bill and this simply cannot be justified without first seeing the results of the R and D studies.

The proponents have also been too quick to reach the conclusion that a solar powered satellite can substantially contribute to our questionable need for electricity before seeing any results from those studies that are already in progress. So it is obvious that some of those House members who favor H.R. 12505 are already committed to the construction of this satellite. The premature decision to build such a satellite would ultimately prove to be a giant boondoogle for the aerospace industry. H.R. 12505 comes at a time of a slow down in space programs and that industry has been desperately seeking new wells to slake its thirst. We will be irretrievably committed to gargantuan federal expeditures in the future. For once we buy the hardware connected with this research and have people working on it we will find the valve to the federal treasury permanently stuck in the "open" position.

The costs connected with this bill are truly mindboggling. Boeing estimates that the cost of a single launch vehicle would be $10 billion alone while the cost per satellite is in the oppulenet $26.5 billion neighborhood. These are just a sampling of the costs in terms of dollars; they do not reflect the potential dangers to the environment that are inherent in this program. While the use of solar energy is always viewed as benign, this bill would spawn a monstrous malignancy on the nation's already fiscally ill taxpayers.

We urge you to take a long hard look at this bill when it comes before you in this Committee.

Sincerely,

JILL GREENBAUM,
Legislative Representative.

SOVIET INVASION OF CZECHOSLOVAKIA IN 1968

Mr. THURMOND. Mr. President, 10 years ago this week Warsaw Pact forces led by the Red Army of the Soviet Union moved into Czechoslovakia to end the process of political independence which was taking place under the leadership of Alexander Dubcek.

Communism, which cannot stand the light of freedom and liberty, had to crush the program offered by Dubcek or see Czechoslovakia return to the days of pre-World War II. Thus, the Soviet Union moved its military forces in and also enginered the removal of Dubcek from power.

Mr. President, today the occupation continues because the Soviets know the Czech people still yearn for the rights they enjoyed many decades ago. The Soviets remain as colonial overlords to make sure Czechoslovakia does not break free from the Moscow style brand of communism.

It is important that we here in the Congress take public note of this situation although it may be ignored by the United Nations and ignored by the Communist states which signed the Helsinki accord. While the pressure of public opinion has never swayed the Communists such warnings may help prevent other states from falling prey to their message. The Czech people have not yielded, and I do not believe they will ever yield.

Mr. President, this is not merely a Czech tragedy, but one for the free world. We must continue to raise our voices until this tyranny ends.

THE COSMETIC WAR ON INFLATION

Mr. THURMOND. Mr. President, I commend to the attention of my colleagues an excellent article which appeared in the August 18, 1978, Wall Street Journal by Paul W. McCracken, titled, "The Cosmetic War on Inflation."

This article details the pressures underlying the critical problem of inflation in our complex society. It provides a perspective that can be tremendously helpful for us here in the Congress as we attempt to understand the act appropriately in dealing with this problem.

Particular concerns are expressed for the lack of needed gains in productivity to offset the impact of wage increases on costs, for profit margins that in real terms are down, and for the higher and higher prices that American consumers are paying each day for goods and services.

If we are to gain any ground against inflation, we must face up to the need to look very hard at excessive wage increases, to exercise some rational control over Government spending, and to enact that kind of legislation that will serve to improve the private sector business climate in order to achieve the required gains in productivity.

Certainly, these and other related economic matters should be in the forefront of our thinking and actions in the days and months ahead.

Mr. President, I ask unanimous consent that the attached article from the Wall Street Journal be printed at this point in the RECORD.

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

THE COSMETIC WAR ON INFLATION

(By Paul W. McCracken)

Barry Bosworth's basic trouble is that he has been right. And the rewards in our Babylon on the Potomac for those who insist on speaking the obvious about such unpleasant matters as inflation are not much different from those in ancient times who were disengaged from their heads for bringing to the King bad news from the wars. In Washington, success in Fighting Inflation apparently consist not in such quaint and straightforward things as reducing inflation but in producing pyrotechnics and cosmetics which will persuade the citizenry that there is progress where none in fact is really occurring. Indeed, the danger is not so much that the citizenry will be confused, having themselves demonstrated a considerable capacity for clear-headedness, as that managers of policy will mislead themselves.

The fact is that we are not gaining ground against inflation. While the monthly figures will bounce one way or the other, and we might have a few good readings now, there are persuasive reasons for expecting the basic rate of inflation to continue rising. For one thing the underlying trend since the beginning of 1976 has been upward. It is, of course, true that speaking about a "trend" during a 2½-year period will make the careful statistician wince, and food prices have given the CPI a bad upward push. But a 2½-year period contains 30 monthly observations, and some subgroup of prices (about half of them, in fact) will always be rising more rapidly than the average.

UPWARD, EVER UPWARD

Moreover, the underlying "trend" in labor costs per unit of output during the last two years has also been upward. Apart from erratic quarter-to-quarter wobbles, the underlying rate of increase in unit labor costs has itself been rising about a half a percent per quarter—a track which would bring us to double digit rates by 1979.

And it is not easy to make a persuasive case that labor costs will be rising less rapidly. For one thing we are not getting anything like the gains in productivity, to offset the impact of wage increases on costs, that the economy has historically delivered. Quarterly gains in output per man hour (annualized) have averaged a 1.6 percent annual rate in 1976, 1977, and thus far in 1978, and even with the strong second-quarter gain in real output, productivity in the nonfarm private sector rose at the rate of only 0.6 percent per year. In fact, these sluggish gains in productivity now extend back for a decade, strongly indicating that a fundamentally unfavorable structural problem has emerged in the economy.

If there were reason to expect a moderating

trend in the rate of wage increases during the year ahead, that would provide some reason for optimism about the price level. This trend is more apt also to be perverse. Next year will give us a heavy schedule of collective bargaining, and this means a disproportionate share of wage increases will be the large first-year, front-loaded adjustments. And the probability that the average size of the overall packages negotiated will be enlarged further is also uncomfortably high.

All of this might, of course, be consistent with a declining rate of inflation. Some major items that consumers buy might experience a sharp decline in their prices—though if this were food, while one part of government tried to take credit for progress against inflation another part would be busy viewing with alarm the low level of farm prices.

Rising labor costs also might not fully express themselves in the price level if profit margins were to be squeezed further. Reported profits are now double those of a decade ago, and they have increased almost 50% in the last five years. Here is, however, an illustration of the extent to which inflation itself can confuse facts. With a proper accounting for current costs, which conventional procedures fail to do, true profits after taxes are up only one-third from those of a decade ago, which means that in real terms they are down. While some businessmen prefer the comfort of the misleading conventional figures on profits, they could be expected to keep a short leash on their capital budgets if profit margins were to decline further.

After all of the rhetoric about inflation's being the dominant economic problem, a view which surveys show consumers share emphatically, we are losing ground.

What is the problem?

The problem is that our strategy for reducing the rate of inflation is, to borrow an apt phrase from D. H. Robertson, "a grin without a cat."

While there is plenty for the profession to be humble about when it comes to the economics of inflation, there is one conclusion that is supported both by logic and the facts of historical experience. The rate of inflation will not come down so long as pressures of demand pushing on supplies are strong enough so that higher prices and higher wages have no adverse effect on sales volume and employment. Indeed, holding prices and wages below these market-clearing levels by some sort of brute force or ad hoc process would produce the queue-line economy.

The rate of inflation will embark on a downward trend when the result of posting inflationary price increases or extracting excessive wage increases is a painful loss of sales and employment. Ours is the only major industrial country that has not yet mustered the will to face this basic fact of economic life. And the OECD secretariat now projects the 1978 rise in U.S. labor costs per unit of output in manufacturing to be above the average for the "Big Seven" countries, and significantly lower than the increases projected only for the U.K. and Italy.

That we have not really been willing to bite this bullet is indicated by the demand management (fiscal and monetary) policies that have been deployed. The upward pressure the budget (fiscal policy) exerts on the economy is equal to the rise in expenditures plus the revenue value of any net reduction in tax rates (which indirectly has an expansive effect by increasing after tax incomes). In the period from 1958 to 1965, when the price level was quite stable, this measure of "fiscal pressure" averaged about 1% of GNP. Since 1965 it has been 2% to 3%, and would be close to 3% in 1978–79.

This same fear of facing fundamentals seems to be evident for monetary policy. With the emergence of rates of monetary expansion during the first quarter consistent, if sustained, with more discipline on the price-cost level, nervous protests were heard about the adverse effects on the economy. Those protesting presumably were calling for more rapid rates of monetary expansion (which is the only way the Federal Reserve could relieve pressures on interest rates), which would set the stage for a more rapid and inflationary expansion, which would in the end produce the even higher interest rates that are always the accompaniment of higher rates of inflation.

ANOTHER PART OF THE PROBLEM

A part of our problem is that we have also been reluctant to be realistic about how high the economy's operating rate could be pushed before pressures would begin to build. With the unemployment rate at 6% and the operating rate in manufacturing at only 84% of capacity (according to the Federal Reserve), plenty of slack seemingly remains available to assure that more demand would translate into employment and output rather than higher prices and costs.

This is far too simplistic. After a decade in which the economy's operating rate has been low, the capacity situation and labor markets are uneven, and bottlenecks are bound to develop at lower average operating rates than after a sustained period adjusted to performing closer to overall capacity. This is particularly evident in the labor market, where lack of skilled and experienced labor may impede that expansion of output which provide jobs to those who are unemployed.

There is empirical evidence that the economy is in the pressure zone now. The proportion of companies reporting slower deliveries is now in the range reached in late 1972, or 1969, or 1965–66. And the incidence of help-wanted advertising is now higher relative to the labor force than at all cyclical peaks during the last decade (including, even, 1969).

When we are unwilling to face the fundamental realities of the economy and prefer to deal with symptoms and cosmetics, we should not be surprised that we are losing ground against inflation. Washington should not be confused about this. The citizenry is not.

THE TRAGEDY IN CAMBODIA

Mr. HELMS. Mr. President, I was pleased to read in this morning's Washington Post of the remarks of the distinguished Senator from South Dakota (Mr. McGOVERN), on the tragedy of Cambodia.

According to the Post, our distinguished colleague at hearings yesterday called for an international military force "to knock this regime out of power."

Mr. President, I wish to associate myself with the remarks attributed to Senator McGOVERN, as reported in this morning's paper. As long ago as March 1977, the Reader's Digest reported that 1.2 million men, women, and children in Cambodia were murdered by the new Communist regime in an effort to eliminate from Cambodian society any trace of freedom. Even today, millions of Cambodians are living in so-called new villages, after having been uprooted from cities and towns and even from their ancestral villages.

Perhaps at last a new consensus is developing in Congress that will recognize the outrages against human rights that have resulted from our failures in Vietnam. For even though Communist Vietnam may have avoided the stark horror of the mass genocide which has taken place in Cambodia, the construction of the new Communist society in South Vietnam has snuffed out the daily freedoms of the whole population, and thousands of innocent citizens have been likewise murdered or sent to "reeducation" camps from which they have never returned.

It is perhaps an irony that Cambodia and Vietnam are at war today, the one backed by the Chinese and the other backed by the Soviets. But there is little to choose from between the two societies. The mental anguish and suffering, the deliberate deprivation of basic human rights and family rights, the loss of freedom of religion, the confiscation of private property, the totalitarian control of thinking and ideology—all of these differ only in degree, not in kind.

If the United Nations is going to consider the problem of Cambodia, the U.N. should also consider the problem of Vietnam. I would hope, too, that the distinguished Senator from South Dakota would also turn his attention in that direction. Certainly everything that he said about Cambodia, would also apply to Vietnam. The Senator's deep concern for human rights in that part of the world has been evident for some time, and I know that his concern for freedom will compel him to express his concerns broadly.

Mr. President, once again I commend Senator McGOVERN for his remarks, and I ask unanimous consent that the article from the 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:

STATE DEPARTMENT AGAINST INTERVENTION—McGOVERN BACKS ANTI-CAMBODIA ACTION

(By Don Oberdorfer)

Sen. George McGovern (D-S.D.) tangled with the State Department once again yesterday over military intervention in Indochina. But in a startling reversal of their roles from the past, this time McGovern advocated intervention and the State Department argued against it.

The topic was Cambodia rather than Vietnam, and McGovern made clear that he wasn't proposing that the United States send in the Marines. Nonetheless, he said, the reported "genocide" of Cambodians at the hands of their government justifies consideration of an international military force to "knock this regime out of power."

Deputy Assistant Secretary of State Robert B. Oakley, testifying for the Carter administration, quickly told McGovern that the option of military intervention is not being considered anywhere, except possibly in Hanoi, whose armed forces have engaged in recent waves of warfare with Cambodia.

The United States ability to influence events in Indochina is very limited, Oakley said at another point. From the experience of the 1960s "we've learned a lot about the level of appropriate U.S. involvement" and now the government is being very cautious.

Douglas Pike, a Foreign Service officer who

was a prominent government analyst of Indochinese communism during the 1960s, cautioned McGovern that a "quick, surgical takeout" of the Cambodian regime is probably impossible. Pike said the Vietnamese tried a "quick judo chop" against the Cambodian regime with 60,000 troops a year ago, but this "failed abysmally."

The government of Cambodia, which now calls itself Democratic Kampuchea, consists of nine people at the top, no regional organization that is discernible, and a communal structure "in the style of the 14th century" in villages throughout the land, Pike said. An invading force would have to take control of every village, he added, and such an enterprise of uncertain prospects would be "stepping deeper into the swamp."

In the exchange of views before a Senate Foreign Relations subcommittee, McGovern said there is a "a vast difference" between the current situation in Cambodia, where extreme oppression is taking place, and the situation in which the United States intervened in Vietnam. He said military intervention is justified only in the most extreme circumstances but that Cambodia "is the most extreme I've ever heard of. . . . Based on the percentage of the population that appears to have died, this makes Hitler's operations look tame."

Oakley declined to give an official estimate of the death toll in Cambodia because of a lack of precise information and the likelihood that an "official" figure would become a source of controversy and debate. "The U.S. government is confident that scores, probably hundreds of thousands of people, have been killed" since the communist takeover in 1975, he said.

McGovern, according to aides, has been deeply concerned for many months about the Cambodian situation, believing that it is in part a legacy of the Vietnam war. Earlier this year he sponsored an amendment to the State Department authorization bill calling for unspecified "multilateral action" by the United Nations and bilateral action by those nations with influence to end "brutal and inhumane practices" in that Asian nation. Aides said yesterday's hearing was the first time he suggested military intervention.

Oakley said U.S. intelligence agencies report that "scores of thousands" of troops on each side are engaged in the current battles between Vietnam and Cambodia, with aircraft, artillery and other modern weapons being used, especially on the Vietnamese side. Calling it "a major conflict," he said that Cambodia continues to fight very fiercely.

THE NOMINATION OF GEN. HANS H. DRIESSNACK AND HIS ROLE IN THE FITZGERALD CASE

Mr. PROXMIRE. Mr. President, the nomination of Maj. Gen. Hans H. Driessnack to be lieutenant general and Comptroller of the Air Force has raised a number of questions about his role in the firing of A. Ernest Fitzgerald. Since Mr. Fitzgerald was fired after appearing before my Subcommittee on Priorities and Economy in Government of the Joint Economic Committee, I have followed these questions with great interest.

As summarized in a Federal Times article of July 10, 1978, there appears to have been a number of contradictory statements made by General Driessnack and other Fitzgerald case participants. Specifically, the Federal Times article suggests conflict of testimony between Driessnack and Eugene Kirschbaum; Driessnack and General Crow; Driessnack and Gen. Joseph Cappucci; Driessnack and Vincent Sullivan (the Office of Special Investigations Agent); and Driessnack and Mr. Badin. Mr. President, I ask unanimous consent that the Federal Times article be printed in the RECORD at this point.

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

DID HE SMEAR FITZGERALD—GENERAL'S THIRD STAR HANGS ON WHISTLEBLOWER CASE

(By Sheila Hershow)

Before Maj. Gen. Hans H. Driessnack wins his third star and a promotion to Air Force comptroller, unresolved questions about his role in the 1970 firing of whistleblower A. Ernest Fitzgerald must be answered, two senators have said.

Sen. William Proxmire, D-Wis., has asked Sen. John C. Stennis, D.-Miss., chairman of the Senate Armed Services Committee, and Senate majority leader Robert C. Byrd, D-W. Va., to delay Driessnack's confirmation as lieutenant general until an "open" FBI investigation has been completed, a Proxmire aide said.

And Sen. Patrick J. Leahy, D-Vt., has said she will "request a roll-call vote on Driessnack's nomination and call for extended debate to precede such a vote." In a June 27 letter to Stennis, Leahy, sponsor of a bill to protect whistleblowers, wrote that it is important for federal employees to "know that anyone involved in a reprisal effort taken against a whistleblower will be punished and not promoted."

Proxmire, Leahy and the FBI have seen documents indicating that in 1969 Driessnack may have deliberately leveled false and defamatory charges against Fitzgerald in an attempt to discredit and ruin the GS–17 cost analyst who months earlier had told Congress about the $2 billion cost overrun on the Lockheed C5A.

According to a May 17, 1969 report of an interview with Driessnack by Air Force Office of Special Investigations agent Vincent Sullivan, Driessnack accused Fitzgerald of "untrustworthiness" because of his "many peculiar ways of operating." He suggested that Fitzgerald had helped his former company, Performance Technology Corporation, win an Air Force Systems Command contract. Driessnack's allegation that Fitzgerald might still hold stock in PTC and his remark that PTC may have "paid (Fitzgerald) off" sparked an extensive coast-to-coast OSI investigation.

Driessnack's conflict of interest charges were found to be groundless. But the OSI file on Fitzgerald was later shown to Proxmire's Joint Economic Committee—after that file had been stripped of information clearing Fitzgerald.

In a 1974 affidavit, Driessnack said that Sullivan's report on the interview quoted him "out of context" and distorted the "actual tone" of his comments. Driessnack also swore that OSI agent Sullivan initiated the interview, coming to Driessnack's home with "no notice of the visit."

"Beyond my role as an OSI interviewee, I played no part in any OSI or other investigation of Fitzgerald. I had no knowledge of any events in this connection beyond my own interview," Driessnack said in his affidavit.

This sworn statement, however, directly conflicts with the versions of events given—in some cases under oath—by at least five other Air Force officials.

These discrepancies are revealed in documents that have come to light in connection with Fitzgerald's nine-year legal battle to regain his former Air Force duties. The legal fees for Fitzgerald's marathon lawsuit have soared above $400,000.

While the Fitzgerald case dragged through the Civil Service Commission and the courts, Driessnack has advanced rapidly from the rank of colonel to two-star general and Air Force budget director. At no time during the past nine years have the questions about his part in the Fitzgerald matter been laid to rest.

It took Fitzgerald's lawyers three years to discover that Driessnack was actually the OSI informant, identified by the Air Force only as "T–1." Fitzgerald then attempted to include Driessnack in a lawsuit he brought against Air Force and other Nixon administration officials for conspiring to deprive him of his job in retaliation for his congressional testimony on the C5A.

But in 1974 U.S. District Court Judge Gerhard A. Gesell ruled that it was no longer "timely" for Fitzgerald to sue Driessnack. "It would be anomalous and unjust to allow [Fitzgerald] to begin an action against lesser fry merely because their identity and participation were earlier unknown," Gesell wrote.

The Senate Armed Services Committee also received a 1974 request to examine Driessnack's role in the Fitzgerald firing. On February 6, 1974, then-Sen. Harold E. Hughes, D-Iowa, asked that Driessnack's nomination to brigadier general be deferred until the matter had been probed.

In response to the panel's request, Driessnack prepared an affidavit that is in conflict with the recollections of other Air Force officials. There is no other on-the-record evidence that the committee looked further into Driessnack's 1968 actions. John C. Roberts, the committee's current general counsel, refused a *Federal Times* request for a list of witnesses questioned by the committee staff in 1974.

Driessnack's affidavit was entered into the Congressional Record May 7, 1974 and Driessnack was awarded his first star. But questions about the veracity of that sworn statement set off the current FBI investigation of Driessnack.

Using Air Force documents first made available to them last fall, Fitzgerald's lawyers argued that Driessnack's affidavit was doctored to play down his role in the OSI investigation of Fitzgerald. A draft of that sworn statement found in the files of the Air Force general counsel contains a subsequently deleted paragraph in which Driessnack acknowledged naming two other Air Force officials—Eugene L. Kirschbaum and Lt. Col. John Badin—as possible informants.

Driessnack further said that he drove Badin to Badin's OSI interview, "briefly relating the story of my own interview as we went, and, once there, I introduced Sullivan to Badin, thereby identifying Sullivan as the man who had interviewed me." This information does not appear in the signed affidavit.

Federal Times contacted Driessnack to discuss apparent contradictions between the signed and unsigned affidavits. "That's so old. Why are you looking into that?" Driessnack said. He asked for time to refresh his memory, and then refused all further interviews.

Brig. Gen. Harry J. Dalton, director of information for the Air Force, told this newspaper that the deleted paragraph contained accurate information. He said it had been removed from the final affidavit "on the advice of counsel" because it was irrelevant."

Walter A. Wilson, a lawyer in the Air Force's general counsel's office who worked on the Air Force's defense in the Fitzgerald suit, described the missing paragraph as a "sort of innocuous little bit of material" and

"not inconsistent" with Driessnack's sworn statement that his role in the OSI investigation was limited to that of an "interviewee."

In an interview last week, Donald E. Campbell, assistant U.S. attorney in charge of the Justice Department's major crimes division, said that the FBI had conducted "cursory interviews with a number of people" on the Driessnack matter and had found "no basis for a full-fledged perjury investigation." "I have to admit I know zilch about it," Campbell added.

But Campbell decided there may be grounds for further FBI investigation after Peter D. H. Stockton, a congressional investigtor, called his attention to discrepancies between Driessnack's 1974 affidavit and the statements of other Air Force officials who were involved in the Fitzgerald affair. In 1969 Stockton, who was then on the staff of the Joint Economic Committee, looked into the circumstances surrounding the controversial OSI investigation.

Among the inconsistencies are:

Contradictory statements by Driessnack and Kirschbaum. Kirschbaum, the OSI informant who became known as "T-2" Fitzgerald's former company PTC and the Air Force System Command. In a June 6, 1974 deposition, Kirschbaum swore that months before the OSI investigation Driessnack raised the possibility of a conflict of interest by Fitzgerald and Kirschbaum told Driessnack there "would be no conflict."

Driessnack's affidavit, however, contains a description of a meeting with Brig. Gen. Harold Teubner that occurred between Driessnack's session with Kirschbaum and his intreview with OSI. "I told General Teubner that I had never personally connected Mr. Fitzgerald's frequent contact with PTC to a conflict of interest." Driessnack swore, in apparent conflict with the Kirschbaum deposition.

Contradictory statements by Driessnack and Lt. Gen. Duward L. Crow. In a March 8, 1974 "litigation report" on the Fitzgerald case. Col. Jack C. Dixon in the office of the Judge Advocate General pointed to a discrepancy between draft affidavits by Driessnack and Crow:

"According to General Crow, Driessnack came [to a meeting with Crow that preceded the OSI interview] to report a conflict of interest [by Fitzgerald]."

"According to Driessnack, he was acting to correct a faulty news item concerning a matter under his direction."

In Driessnack's final affidavit, he swore the meeting with Crow was arranged by Teubner after Teubner raised the conflict of interest charge against Fitzgerald.

Contradictory statements by Driessnack and Brig. Gen. Joseph J. Cappucci. During the CSC hearings on the Fitzgerald case, Cappucci, who was director of OSI during the 1969 Fitzgerald investigation, said that Driessnack volunteered derogatory information on Fitzgerald.

In a 1969 affidavit, then-Joint Economic Committee investigator Stockton said that Cappucci told him that allegations by informant T-1 [Driessnack] had triggered the OSI probe.

But in his affidavit, Driessnack said that he played only a passive role in the OSI investigation of Fitzgerald.

Contradictory statements by Driessnack and OSI agent Sullivan. Sullivan's and Driessnack's versions of the OSI interviews are in stark contrast. Sullivan is dead.

In interviews with Federal Times, Cappucci, Sullivan's former boss, and Michael Ross, an OSI agent who worked with Sullivan on the Fitzgerald probe but who was not present at the Driessnack interview, described Sullivan as an experienced and careful investigator.

Interview reports prepared by Sullivan after his sessions with Kirschbaum (T-2) and Badin (T-3) do not contain personal attacks against Fitzgerald's character. But Sullivan quotes Driessnack who is "arrogant, untrustworthy and . . . does not respect the Air Force."

Contradictory statements by Driessnack and Badin. In a recent interview with Stockton, Badin said that Driessnack, at that time his boss, drove him to his OSI interview and briefed him about Driessnack's own interview with OSI, Stockton told Federal Times. This version of events exactly coincides with the paragraph deleted from Driessnack's 1974 affidavit.

Federal Times left telephone messages for Badin but he was unavailable for comment.

Air Force lawyer Walter A. Willson told this newspaper that the contradictions listed above and others revealed in the court documents are "minor." He pointed out that Sullivan "is dead and certainly there is no way to get any additional information about that conversation."

Asked to explain why so many officials claimed that Driessnack started the conflict of interest allegation against Fitzgerald—an allegation Kirschbaum has sworn Driessnack knew was untrue—Willson said that although Driessnack "knew about the PTC contract, knew about Fitzgerald's job and what it entailed, he did not know about Mr. Fitzgerald's private financial matters."

"What Driessnack was doing was raising that issue through the proper channels," Willson said.

According to a Proxmire aide, Proxmire will keep the hold on the Driessnack nomination until "all factual question are resolved" and the U.S. Attorney's office has determined there is no need for further FBI investigation.

Fitzgerald declined to comment on the Driessnack controversy. "Because of threats from the Justice Department to put me under a gag order. I don't want to say anything," he told Federal Times.

Mr. PROXMIRE. Mr. President, due to the seriousness of these allegations, I wrote the Attorney General asking that the Justice Department determine the factual basis of the allegaions, the status of any inerest in General Driessnack as a participant in the Fitzgerald case and for such other information as would be relevant to this matter. Mr. President, I ask unanimous consent that my letter to the Justice Department be printed in the RECORD at this point.

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

WASHINGTON, D.C.,
July 5, 1978.

Hon. GRIFFIN B. BELL,
Attorney General,
Department of Justice,
Washington, D.C.

DEAR MR. BELL: The Senate has pending before it the nomination of Major General Hans H. Driessnack to be Lt. General and Comptroller of the Air Force. This nomination comes at a time when there are press reports and conflicting statements about General Driessnack's role in the controversy surrounding the firing of A. Ernest Fitzgerald.

Therefore, I am writing to you to determine the factual basis of the current allegations, the status of any interest in General Driessnack's prior statements or role in the Fitzgerald case and such other information you may find to be relevant to this general discussion.

I would be interested in having your answers to the following questions:

1. What is the current status of interest by the Justice Department, FBI and U.S. Attorney's Office in any matters relating to General Driessnack? Would you please provide a precise response as to whether or not an investigation or review of any matters relating to General Driessnack is currently underway or otherwise contemplated as well as the timetable for any such official review?

2. According to information contained in the July 10 issue of Federal Times, there is an apparent conflict in testimony and/or statements by General Driessnack and various other individuals associated with the Fitzgerald case. Is this apparent conflict of such interest to cause the Justice Department to undertake a review or investigation of possible perjury or other possible violations of the law?

3. In view of the Justice Department's role in defending individual's involved in the Fitzgerald case, how would you plan to insulate your Department against any internal conflicts in determining the responses to question number 2?

It is my hope that you will review the circumstances of these allegations carefully and respond in as conclusive and timely a fashion as possible. While I do not believe it would be fair to hold up General Driessnack's nomination for any substantial period of time without reason, I also believe that the Congress should be presented with a clear factual analysis of the intentions of the Department of Justice with regard to this matter. Some of the documents relating to the alleged conflicting testimony and alleged perjury are listed on an attachment.

Sincerely,

WILLIAM PROXMIRE,
U.S. Senator.

Mr. PROXMIRE. The Justice Department responded on August 3, 1978, declaring that the discrepancies noted in the Federal Times article were "more apparent than real." Each discrepancy lacked "prosecutive merit," according to Assistant Attorney General of the Criminal Division, Philip B. Heymann.

Mr. President, I ask unanimous consent that the response from the Justice Department be made a part of the RECORD at this point.

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

WASHINGTON, D.C.,
August 3, 1978.

Hon. WILLIAM PROXMIRE,
U.S. Senate, Committee on Appropriations,
Washington, D.C.

DEAR SENATOR PROXMIRE: The Attorney General has referred your letter of July 5, 1978 to this Division for review and response. Subsequent to our receipt of your correspondence, we have reviewed the documents listed in the attachment to your letter as well as other documents, including reports of interviews prepared by the Federal Bureau of Investigation in connection with its investigation of General Driessnack based upon the complaint of A. Ernest Fitzgerald. As you are probably aware, that investigation was concerned with whether General Driessnack may have committed perjury in the deletion of certain statements in affidavits filed in a civil case and before the Congress. In a letter of July 7, 1978, the United States Attorney for the District of the District of Columbia, Early J. Silbert, informed Senator Stennis that the investigation had disclosed no criminal conduct and was closed. A copy of that correspondence is attached. We find

Mr. Silbert's reasons to be convincing and dispositive of that aspect of this matter.

We have, however, examined the documentary evidence listed above in relation to the article from the Federal Times by Sheila Hershow which accompanied your letter. That article sets out five alleged inconsistencies between the affidavits of General Driessnack and statements of various other Air Force officials. These discrepancies have been examined, and it is our opinion that most are more apparent than real, and that each lacks such substance as to possess any prosecutive merit. The following discussion is offered to explain the lack of prosecutive potential in each of the inconsistencies alleged in the Federal Times:

I. CONTRADICTORY STATEMENTS BY GENERAL DRIESSNACK AND EUGENE KIRSCHBAUM

The article quotes a Kirschbaum deposition of June 6, 1974 as stating that months before the Air Force Office of Special Investigations inquiry, General Driessnack raised the possibility of a conflict of interest by Mr. Fitzgerald to which Mr. Kirschbaum responded that there would be no such conflict.

General Driessnack's affidavit states, however, that after this meeting Driessnack told General Harold Teubner that he had never personally connected Mr. Fitzgerald's frequent contacts with his former employer to a conflict of interest.

These statements are not at all contradictory since Driessnack neither denies the Kirschbaum meeting nor attests, under oath, the accuracy of his statements to General Teubner. Moreover, an examination of the Teubner affidavit leads reasonably to the conclusion that the first discussion between Kirschbaum and Driessnack concerned the initial letting of the Air Force's contract with PTC (Fitzgerald's former corporation) at which time Fitzgerald's former employment with that corporation was discussed with respect to the possibility of a conflict of interest. Driessnack's later conversation with Teubner, however, apparently concerned Fitzgerald's activities after the contractual relationship existed. Thus, a reasonable explanation for the discrepancy would be a separation in Driessnack's mind of the potential conflict of interest before the contract between PTC and the Air Force from the allegation that Fitzgerald acted in a manner consistent with the existence of a conflict of interest after the contract was formed.

II. CONTRADICTORY STATEMENTS BY GENERAL DRIESSNACK AND GENERAL CROW

This contradiction, as noted in the Federal Times, is contained in a March 8, 1974 litigation report prepared by Colonel Jack Dixon, JAGC citing the affidavit of General Crow as stating that General Driessnack came to a meeting with General Crow to report a conflict of interest by Mr. Fitzgerald. The report then says that Driessnack states that he was acting to correct a faulty news item concerning a matter under his direction. The article also points to Driessnack's final affidavit which states that the meeting was arranged by Teubner after Teubner raised the conflict of interest charge against Fitzgerald.

An examination of these three documents disclosed no discrepancy between the Driessnack affidavit and any other information. The confusion seems to lie in the cursory characterization of Driessnack's version of events contained in Colonel Dixon's litigation report.

That portion of the memo which discusses the meetings between Driessnack and Teubner and Driessnack and Crow appears to be an analysis of Driessnack's civil liability under alternative theories of Driessnack's purpose. That is, the discussion considers whether Driessnack would be acting within the scope of his duties whether he was reporting a conflict of interest or reporting an erroneous news item.

In fact, Driessnack's version is consistent with Crow's on this point. Both agree that Driessnack and Teubner did meet with Crow to report a possible conflict of interest. Driessnack's affidavit characterizes his initial meeting with Teubner as being for the purpose of correcting the news item. Perhaps the confusion may also be attributed to one version of Driessnack's draft affidavit, paragraph 4, which states: "I did not consider myself to be reporting a conflict of interest when I went to General Crow." This statement was changed to substitute "General Teubner" for "General Crow" in a subsequent draft and in the final signed affidavit. Moreover, the context of the entire affidavit makes it clear that the reference to General Crow in the first draft was simply a mistake, since Paragraph 9 of Dreissnack's affidavit clearly characterizes the purpose of the meeting with General Crow as being to report a possible conflict of interest.

III. CONTRADICTORY STATEMENTS BY GENERAL DRIESSNACK AND GENERAL JOSEPH CAPPUCCI

This alleged disagreement appears simply to consist of a difference in interpretation as to the meaning of "passive". General Cappucci is and was of the opinion, based entirely on the remarks of Agent Vincent Sullivan, who is now deceased, that the inquiry of Fitzgerald was begun based upon some information obtained from Driessnack. Nothing in Driessnack's affidavit contradicts this. In fact, his recitation of meetings with Generals Teubner and Crow appears to be consistent with General Cappucci's impressions. Nor does Driessnack deny volunteering derogatory information concerning Fitzgerald in his affidavit. It should also be noted that Cappucci's characterization of Driessnack's "volunteering" of derogatory information is solely his conclusion based upon agent Sullivan's report. Finally, the Federal Times conclusion that Driessnack "said that he played only a passive role in the OSI investigation of Fitzgerald," appears to be without basis. An examination of the affidavit revealed no such statement.

IV. CONTRADICTORY STATEMENTS BY DRIESSNACK AND OSI AGENT VINCENT SULLIVAN

Agent Sullivan's death, of course, would make it impossible to verify any alleged inconsistency and would necessarily preclude the possibility of proof of perjury. However, the Federal Times article points to no inconsistency. That item merely quotes Sullivan's report as containing certain derogatory statements by Driessnack about Fitzgerald. No denial of these remarks was made by Driessnack.

V. CONTRADICTORY STATEMENTS BY DRIESSNACK AND BADIN

Again, the article points to a non-existent contradiction. This allegation, concerning the deletion of the paragraph in Driessnack's affidavit, is the same as that considered and disposed of by the United States Attorney's office.

Additionally, the Federal Times article alleges that "Kirschbaum has sworn that Driessnack knew (the allegation of conflict of interest) was untrue." This appears to be a mischaracterization of the Kirschbaum deposition which states only that before the Air Force contracted with PTC, Kirschbaum advised Driessnack that in his opinion no conflict of interest would exist on the part of Fitzgerald.

Based upon the above, this Division has determined that there is insufficient basis upon which to investigate General Driessnack for possible violations of perjury or other federal statutes. We therefore consider this matter to be closed.

With respect to the specific inquiries contained in your letter of July 5, 1978, the following is submitted:

1. The investigation and subsequent review of General Driessnack's activities is closed.

2. A review of the information contained in the *Federal Times* which was attached to your letter has led to the conclusion that there is insufficient reason to conduct any further investigation into General Driessnack's activities or statements in connection with the Fitzgerald matter.

3. In light of the closed status of this matter no insulation against internal conflicts within this Department seems necessary. Please be assured however, that the criminal aspects of this matter were handled by the Criminal Division without consultation with the Civil Division.

Thank you for your interest in this matter. I hope this response sufficiently answers your inquiries.

Sincerely,

PHILIP B. HEYMANN,
Assistant Attorney General,
Criminal Division.

WASHINGTON, D.C., *July 7, 1978.*

Hon. JOHN C. STENNIS,
Chairman, Armed Services Committee, U.S. Senate, Russell Senate Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: This letter is in response to your request for the results of an investigation of an allegation of perjury against Major General Hans H. Driessnack, United States Air Force, conducted by the Federal Bureau of Investigation and this Office.

In April of this year, a complaint was made by a Mr. A. Ernest Fitzgerald to the FBI that General Driessnack had perjured himself in an affidavit of April 18, 1974, submitted in the civil matter of *A. Ernest Fitzgerald versus Robert C. Seamans, Jr., et al.** Mr. Fitzgerald provided the FBI with a copy of the April 18, 1974 affidavit signed by General Driessnack as well as an undated, unsigned draft affidavit by General Driessnack, obtained by Mr. Fitzgerald probably in September of 1977.** In particular, Mr. Fitzgerald complained that a statement in the signed affidavit amounted to perjury because it was contrary to facts set forth in the earlier unsigned affidavit. Specifically, Mr. Fitzgerald identified the false statement by General Driessnack in the signed affidavit as follows: "Beyond my role as an OSI interviewee, I played no part in any OSI or other investigation of Fitzgerald. *I had no knowledge of any events in this connection beyond my own interviews.*" (Emphasis added).

Paragraphs 14, 15, and 16 of the unsigned affidavit read as follows:

14. I did not discuss these matters again with General Crow, nor did I ever discuss them with the other defendants in this case. I was aware that two other sources, not defendants in this action, were also interviewed by the OSI. They were John Badin and Eugene Kirschbaum, the men I had named during my OSI interview as the persons most knowledgeable about the PTC/AFSC contract. In fact, about a month after my own interview, John Badin came to me and told me that an OSI agent named Sullivan was

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*Prior to April 1978, there had been no referral of this matter to this Office or the FBI even though the allegation was known by Fitzgerald's attorney and was brought to the attention of a federal district court judge as part of a motion for reconsideration which was denied.

**The affidavits dealt with matters occurring in 1968 and 1969.

waiting to interview him in the OSI office at Andrews Air Force Base. He said that Sullivan had indicated to him that I had given his name as a possible source in an inquiry into the PTC/AFSC contract. He asked me what this was about and whether I knew Sullivan and could confirm that he was from OSI. I drove Badin over to the OSI office, briefly relating the story of my own interview as we went, and, once there, I introduced Sullivan to Badin, thereby identifying Sullivan as the man who had interviewed me, and left. I never did discuss these interviews with Badin or Kirschbaum again until very recently. When the stories about the OSI broke in the newspapers in late 1969, I realized that OSI might have interviewed other people as well. I must add, however, that I did not connect the reports on T–1's information with my own interview until recently, because the memorandum distorted much of what I said.

15. I did not at any time fabricate or concoct reports concerning Fitzgerald and possible security violations or conflicts of interest. I never communicated any of my information to members of the Congress or of the White House staff, nor am I aware that any such communication was ever made.

16. Beyond my role as an OSI interviewee, I played no part in any OSI or other investigation of Fitzgerald. I had no knowledge of any events in this connection beyond my own interview. I was not and am not aware of any inquiry into Fitzgerald's personal life, nor did I ever knowingly misrepresent his character or background at any time. I had absolutely no connection with any effort to terminate Fitzgerald's position.

Paragraphs 14, 15 and 16 of the signed affidavit read as follows:

14. I did not discuss these matters again with General Crow, nor did I ever discuss them with the other defendants in this case after the OSI interview.

15. I did not at any time fabricate or concoct reports concerning Fitzgerald and possible security violations or conflicts of interest. I never communicated any of my information to members of the Congress or of the White House staff, nor am I aware that any such communication was ever made.

16. Beyond my role as an OSI interviewee, I played no part in any OSI or other investigation of Fitzgerald. I had no knowledge of any events in this connection beyond my own interview. I was not and am not aware of any inquiry into Fitzgerald's personal life, nor did I ever knowingly misrepresent his character or background at any time.

As can be seen from comparing the two documents, the information in the unsigned affidavit that General Driessnack was aware that John Badin was interviewed by an OSI agent approximately a month after his own interview and in fact drove Badin to the OSI office and introduced him to the OSI agent, was deleted from the final signed affidavit.*** It should also be noted that the statement in the second sentence of paragraph 16 complained about by Mr. Fitzgerald was contained in both the unsigned and signed affidavits.

Our investigation was limited to this specific complaint by Mr. Fitzgerald and we focused our investigation on determining whether General Driessnack was responsible for the deletion of the Badin information from the signed affidavit, and whether the second sentence of paragraph 16 was a false statement, and if so, whether General Driessnack made it consciously and willfully.

Our investigation revealed that General Driessnack was interviewed and debriefed by an attorney in the Air Force JAG Office who, based on this information, prepared the draft unsigned affidavit. A copy of this draft affidavit along with a litigation report was forwarded to the Department of Justice, Civil Division, on March 8, 1974. Subsequently, the JAG attorney, after consulting with an attorney at the Department of Justice and the General Counsel's Office of the Air Force, shortened the affidavit by deleting, among other items, the information about General Driessnack driving Badin to the OSI office for Badin's interview. Since the affidavit was drafted over four years ago, it was difficult for the attorneys involved to recall with certainty why the Badin information was deleted, although it was clear that the deletion was not made at the request of General Driessnack.

It appears from our investigation that no one, the attorneys or General Driessnack, focused on the alleged inconsistency of the second sentence of paragraph 16. Moreover, one of the attorneys interpreted the second sentence of paragraph 16 to mean that General Driessnack had no knowledge of the substance of any subsequent events, rather than no knowledge of subsequent procedural events such as other persons being interviewed by OSI. This interpretation appears consistent with the fact that included in the unsigned affidavit were the statements by General Driessnack that (1) he was aware that Badin and Kirschbaum were subsequently interviewed and (2) "I had no knowledge of any events in this connection beyond my own interview." In order to read these two statements consistently in the unsigned affidavit, it would seem that the second sentence of paragraph 16 was referring to something other than knowledge of subsequent OSI interviews.

In any event, our investigation has revealed no evidence to suggest that paragraph 16 of the signed affidavit represented a conscious or willful attempt on the part of General Driessnack to mislead or make a false statement. This is corroborated by the fact that the unsigned affidavit containing the Badin information was forwarded to the Department of Justice in March of 1974, thus making it quite clear that General Driessnack was not trying to hide the information.

Based on the above investigation, this matter has been closed by this Office.

Sincerely,

EARL J. SILBERT,
U.S. Attorney.

Mr. PROXMIRE. I might point out, Mr. President, that the Justice Department lawyers did not interview General Driessnack on any of these allegations. I find this procedure to be most unusual, particularly in light of some of the analysis from the Justice Department suggesting what General Driessnack's reasoning might be or what he might have argued under the circumstances. It would seem that the clearest and most direct way of obtaining such information would have been to interview General Driessnack. That the Justice Department did not, that they found it unnecessary, casts a good deal of doubt on the conclusions they reached.

When questioned by my staff on this matter, a Justice Department lawyer indicated that the Department does not seek testimony from principals in a case like this one and that it is not the purpose of the Justice Department to investigate to make a case—but only to review the record for evidence of perjury.

I find this attitude unresponsive to my letter request and not a valid technique to determine the truth.

Nonetheless, the Justice Department has closed this case, and I cannot in good conscience continue to oppose the nomination of General Driessnack in lieu of evidence of perjury or other wrongdoing.

Mr. President, President Carter twice has spoken of the Fitzgerald matter as a situation that "must never be repeated." But the Fitzgerald case remains to be settled. There have been four appeals court decisions, four district court decisions, and three Civil Service decisions involving the Fitzgerald matter. Mr. President, for those unfamiliar with the Fitzgerald controversy, I ask unanimous consent that a chronology be printed in the RECORD at this point.

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

PARTIAL CHRONOLOGY OF FITZGERALD LITIGATION

The following partial chronology highlights the key events in the eight years of litigation spawned by Mr. Fitzgerald's termination.

1. January 5, 1970.—Fitzgerald was terminated pursuant to an alleged "reduction in force."

2. January 20, 1970.—Fitzgerald submitted an appeal to the Civil Service Commission ("CSC").

3. May 4, 1971.—The CSC began closed hearings on the appeal and rejected Fitzgerald's request for open hearings. He sought and obtained an injunction againts the closed hearings, which was affirmed on appeal. *Fitzgerald* v. *Hampton*, 467 F.2d 755 (D.C. Cir. 1972).

4. September 18, 1973.—The CSC Chief Appeals Examiner issued a decision reinstating Fitzgerald with back pay, but denying him interest, costs, attorneys' fees and other damages.

5. December 10, 1973.—Fitzgerald was reinstated to the Air Force and simultaneously reassigned, over his protest, to a newly created position as Deputy for Productivity Management, which does not involve his area of specialty in cost analysis of major weapons systems acquisitions.

6. December 26, 1973.—Fitzgerald appealed his reassignment on the grounds that it was not in compliance with the CSC recommendation. The CSC denied the appeal without a hearing, and Fitzgerald appealed to the District Court, which remanded for hearings. *See Fitzgerald* v. *Hampton*. 383 F. Supp. 823 (D.D.C. 1974). The hearings were held in June, 1975.

7. January 25, 1974.—Fitzgerald filed suit for compensatory and punitive damages from various Air Force and Department of Defense officials and Alexander Butterfield.

8. October 9, 1974.—Judge Gesell granted summary judgment to defendants in Fitzgerald's damages action on the grounds that the statute of limitations had run. *Fitzgerald* v. *Seamans*, 384 F. Supp 688 (D.D.C. 1974). Fitzgerald appealed this decision in November, 1974.

9. June 18, 1976.—The CSC Chief Appeals Examiner found that Fitzgerald's 1973 reassignment was in compliance with the CSC recommendation.

10. August 10, 1976.—The June 18, 1976, decision was again appealed to the District Court (J. Bryant) and the appeal is currently awaiting disposition on cross-motions for summary judgment.

11. October 23, 1976.—Candidate Jimmy Carter pledged in Alexandria, Virginia, that "[t]he Fitzgerald case, where a dedicated civil servant was fired from the Defense Department for reporting cost overruns,

*** The unsigned affidavit also stated that General Driessnack was aware that Eugene Kirschbaum was subsequently interviewed by OSI.

must never be repeated." Quoted in Rushford, "The Perils of Bing A Whistle Blower," Washington Post at C 1 (November 27, 1977).

12. February 1, 1977.—Secretary of Defense Harold Brown advised Senator Proxmire during DOD appropriations hearings that he would consider Fitzgerald's case and then talk with Fitzgerald. Fitzgerald has received no communication from Secretary Brown to date.

13. February 23, 1977.—The Court of Appeals affirmed the summary judgment for Air Force and Department of Defense defendants, but remanded for further proceedings with respect to Butterfield and various unnamed White House ("John Doe") defendants on the grounds that Fitzgerald could not have known of White House involvement prior to the Watergate hearings in 1973. *Fitzgerald* v. *Seamans*, 553 F. 2d 220 (D.C. Cir. 1977). Mr. Fitzgerald promptly filed an amended complaint adding Haldeman as a defendant.

14. April 13, 1977.—Court of Appeals reversed District Court's award of attorneys' fees to Fitzgerald because of the absence of authorization. Court noted that District Court might be "correct" when it found that denial of fees "would make a mockery and a sham" of federal employee appeal rights, but nevertheless emphasized that "appellee's redress must come from the Congress, not the courts." *Fitzgerald* v. *U.S.C.S.C.*, 554 F. 2d 1186, 1190 (D.C. Cir. 1977).

15. September 14, 1977.—Department of Justice attorneys representing Butterfield and Haldeman in the damages action advised Judge Gesell of their intent to seek substantial costs and possibly attorneys' fees from Fitzgerald, if the action is eventually dismissed.

16. June 2, 1978.—Court of Appeals affirmed denial of Fitzgerald's request for $13,812.94 in interest on his back pay. Court noted its "sympathy" for Fitzgerald's position, but stated that, "[t]hough Fitzgerald undoubtedly deserves to be 'made whole' by his government, he may not recover interest in the absence of an explicit authorization. 'Additional remedies of this kind are for the Congress to provide and not for the courts to construct.'" *Fitzgerald* v. *Staats*, (D.C. Civil 76–2112, June 2, 1978), slip op. at 10 (citation omitted).

17. July 5, 1978.—After many months of discovery of White House documents, Fitzgerald filed a proposed second amended complaint adding Richard Nixon, Bryce Harlow and former Deputy Secretary of Defense David Packard as defendants to his damages action and noting that some injurious actions against him continue to the present date. Judge Gesell has not yet ruled on the motion for leave to amend the complaint.

Mr. PROXMIRE. Now, Mr. President, just what do we do about this unsolved problem? Are we going to let a fine civil servant continue to waste his talents by being shut up in a corner of the Pentagon with marginal responsibilities? If ever there was a situation that cried out for correction, this is it. And the current administration has no ax to grind. They should be able to look at the facts dispassionately and objectively.

I think it is time that Mr. Fitzgerald was offered another job more fitting to his talents. It appears clear that the Pentagon hierarchy is not going to restore him to his old level of responsibility. Therefore, I call on the President to find a post within the administration where Mr. Fitzgerald can once again serve the American taxpayer.

Mr. President, I ask unanimous consent that a recent newspaper article in the Washington Post pointing out the continuing difficulties of Mr. Fitzgerald be printed in the RECORD at this point.

(See exhibit 5.)

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

EXHIBIT No. 5

[From the Washington Post, November 27, 1977]

THE PERILS OF BEING A WHISTLEBLOWER

(By Greg Rushford)

Despite the lofty rhetoric, the syndrome of punishing those who expose waste and abuse is being repeated under the Carter administration—and against the same A. Ernest Fitzgerald who was fired in 1969 after revealing $2 billion in cost overruns associated with the Lockheed C5–A cargo plane.

Fitzgerald, who sued successfully to get back his job as civilian cost-cutting expert for the Air Force, certainly has not been encouraged to "save the government money." Working under many of the same people—including Defense Secretary Harold Brown—who were embarrassed by the C5–A affair, Fitzgerald has been shunted aside, given a $47,500 salary to do trivial work, kept away from big spending programs. The one new example of scandalous behavior he has helped bring to light—mismanagement of part of an $800 million logistics project that the Air Force pursued in defiance of Congress—has only resulted in making him more of a Pentagon pariah. He has been taken off even that project—which is still continuing, under a new name, not only in disregard of Congress order to end it, but also in the face of an Air Force recommendation that it be stopped.

So Fitzgerald now is suing the Civil Service Commission to make it enforce its 1973 directive that the Air Force restore him to his old job or one of equal responsibility; he currently is deputy for productivity, which he says "is my old deputy's job." And, faced with $400,000 in legal bills, he also is suing present and past government officials for $3.5 million for allegedly conspiring to ruin his career.

WORKING UNDER A CLOUD

If the Fitzgerald case proves anything, it is that Adm. Hyman Rickover was only too right when he said, "If you must sin, sin against God, not against the bureaucracy. God may forgive you, but the bureaucracy never will."

After the Civil Service Commission ruling, Fitzgerald reported back to work in October, 1973, to Assistant Air Force Secretary William Woodruff—and immediately learned that the old guard had not forgotten him, let alone forgiven him. Woodruff had worked on the Defense Appropriations subcommittee for Sen. Richard B. Russell of Georgia, the state where the C5-A was built. It was a phone call from Russell that originally prompted Brown—then Secretary of the Air Force—to chastize Fitzgerald for his November, 1968, testimony on the C5-A before Democratic Sen. William Proxmire's Joint Economic Committee.

According to Woodruff's notes on the 1973 meeting, subpoenaed in Fitzgerald's $3.5 million suit, Woodruff told Fitzgerald he could not "erase the clouds" hanging over the cost-cutter, adding: "You have to be aware that there are people who do not feel you were a good employee." Woodruff told Fitzgerald he would not be allowed near major weapons systems until he had demonstrated he intended to be a "good" employee. If Fitzgerald joined the team, Woodruff's notes continue, they could have a "new relationship" and Fitzgerald would receive "fair treatment." While he wa: proving himself, Fitzgerald would report to Woodruff through his deputy, Thomas Moran.

Moran; Fitzgerald pointed out, had worked for Robert Moot, the Defense comptroller who had attempted to prevent Fitzgerald from testifying before Sen. Proxmire ("Moot told me if I testified there would be 'blood on the floor,'" Fitzgerald states. "I didn't realize it would be mine.") But this did not change Woodruff's mind.

In an interview, Woodruff said that he would "stand by anything that is in my notes," but added that the note don't mention that when Fitzgerald returned another person "was doing his old work and doing it perfectly well."

Instead of mending his ways, Fitzgerald filed his Civil Service Commission suit and meanwhile went off to bureaucratic Siberia. Even from there, however, he managed to discover strange doings.

PROJECT MAX

In early 1974, Fitzgerald began to analyze a contract for a new computerized accounting system called "Project Max," which cost $41 million, a modest sum by Pentagon standards. Project Max was part of the $800 million Advanced Logistics System (ALS) the Air Force wanted to install to keep track of its aircraft repair program.

Fitzgerald found that Project Max discouraged high productivity. As he put it, it was a program for "justifying costs rather than controlling them," similar to the one used in the Lockheed case.

Meanwhile, although $200 million already had been spent on the overall logistics system, it became apparent in 1975 that the system would not work, and in December Congress ordered it stopped.

The appropriations committees told the Air Force to prepare plans for a new system and to keep them apprised of developments. No spending was authorized in the meantime unless "essential" to Air Force depots' missions.

Just as Fitzgerald had fought against C5–A overruns for several years inside the Air Force, so he also kept his case against Project Max within the system for more than two years, making recommendations to his superiors.

Then, last April, public revelations about Project Max created a storm. A Washington Post story, based on Air Force documents obtained by Reps. John Moss (D-Calif.) and Charles Rose (D-N.C.), disclosed that the Air Force had continued to spend funds to develop the $800 million logistics system which Congress had "terminated." Development of Project Max, the most visible part of the system, had continued without approval for nearly a year.

Among the documents that most angered Moss and Rose were notes written by Maj. Gen. Robert I. Edge, who had told other Air Force officials, "I'm not overly concerned about 'unapproved' work on Max." Edge, who was responsible for Air Force computer policies, warned instead about misleading explanations being prepared for Congerss to suggest that what the service was working on was really a new system.

His concern was not with the chairmen of the Senate and House appropriations committees, John McClellan and George Mahon. "Unlikely that either chairman will read lengthy attachments or understand them if they do," he wrote. But if the committee staffs took time to pour over the material, Edge warned, "stand by for further questions." He pointed out that the new system

sounded much like the old discredited one, and concluded with a question: "How much egg can we stand on our faces?"

History suggests the Pentagon has a remarkable capacity to attract egg to its face, and the Max affair splattered its share. Edge had to apologize publicly to the appropriations committees. He also said his quotation marks around the word "unapproved" meant that approval—albeit, questionable and belated—really had been given. It turned out that Project Max spending had continued without authorization until three days after the November, 1976, elections, when lame duck Air Force Secretary Thomas Reed finally had approved the outlays as "essential" to the Air Force depots mission.

But, using what a Pentagon study team called a "disturbing anomaly, the service considered "all system originally planned under the old ALS as now 'mission-essential.'" In other words, with Orwellian illogic the service merely defied Congress' decision to stop the old system.

The Air Force ultimately accepted Fitzgerald's criticisms of Max, but it did not send him any bouquets. He had not been a "good" employee. After struggling to persuade his superiors about Max, Fitzgerald acknowledges, he "cooperated" with congressional investigators by giving them the access to his files which they had requested. He also had been quoted publicly as saying the service's continued work on Max was "apparently illegal," that it was "pretty dark" to spend taxpayers'money in defiance of Congress.

Nor, astoundingly, has the service's own acceptance of Fitzgerald's criticisms—atop Congress' determination to stop the old system—prevented the Air Force from doing as it wishes. Although the Senate cut out funds for Max last summer, Gen. Charles Buckingham, Air Force comptroller, who was heading another group studying the Max issue, persuaded House conferees to insist on leaving in the money until his team completed its work. The Buckingham team did this last August—also recommending that Max be ended.

But, as Fitzgerald remarks, it has not been ended. Rather it has been given another name—the Actual Hour Accounting System—and spending is proceeding apace, Fitzgerald says. Fitzgerald refers to the Actual Hour Accounting System as "Son of Max," explaining that it "looks like Max, talks like Max, quacks like Max." It is based on the same idea of paying for whatever "actual" time is spent on a job, rather than setting reasonable standards for completing work. As Fitzgerald puts it, the Air Force is "sucking the bullet" rather than biting it.

WINNERS AND LOSERS

The lessons of all this, whether under the Nixon administration or a Carter administration that prides itself on management ability, seem evident. The cost-cutter is ostracized rather than rewarded, while those embarrassed by his efforts prosper.

Harold Brown, put on the spot in 1968 by Fitzgerald's C5–A disclosures, has become head of a Pentagon that is still defying Congress on "Son of Max" spending. Former Air Force Secretary Reed, who, after a year of unauthorized spending on Max, approved the outlays right before leaving office, was called into the Carter White House by energy chief James Schlesinger to help fashion Carter's energy policies.

Gen. Hans Driessnack, who sent Congress the logistic system information which Gen. Edge warned was misleading—and who had started a secret 1969 investigation of Fitzgerald on conflict-of-interest grounds which both the Air Force and the Civil Service Commission deemed to be unfounded—has been promoted to Air Force budget director.

Arnold Bueter, who was deputy Air Force comptroller in 1968, sharing responsibility for, among other things, payment records to Lockheed on the C5–A, has been promoted to principal deputy assistant secretary of the Air Force for financial management. He is now Fitzgerald's immediate boss. That doesn't make for a comfortable relationship. In the book he wrote before his reinstatement, Fitzgerald accused Bueter of castigating him for trying to document suspicions about overpayments to Lockheed.

Today, according to Fitzgerald, Bueter not only has rejected Fitzgerald's recommendations to stop "unapproved" spending on Max, but has used a variety of ways, like "disinviting me to meetings, cutting me off from memo distributions, to isolate me from Max." Bueter, he says, still has refused to stop equipment purchases for "Son of Max" despite the Buckingham report recommendation that Max be terminated, regardless of what it is called.

In a telephone interview, Bueter said, "I have no disagreement with Fitzgerald, but, as Fitzgerald perfectly well knows, the office of the Secretary of Defense has published a handbook which has directed the purchase" of the computer equipment. "A team is being assembled to review this necessity," he added. Asked if he plans to reassign Fitzgerald to his old job of overseeing major weapons systems, Bueter said he knows of "no initiatives in that direction."

Fitzgerald says that he is not only blocked these days from projects like Max or from major weapons systems, but that he is the target of "an organized bad-mouthing campaign to keep me discredited and isolated."

As one modest example, he cites the experience of a CBS-TV crew that filmed Fitzgerald in his Pentagon attic office after the Max story broke. CBS producer Charles Thompson recalls with irritation "a lieutenant colonel from the Air Force information office who barged into Fitzgerald's office during the filming, although I had asked him not to when making arrangements the day before We even filmed this fellow taking notes of our interview."

What was in the notes became clearer later. In the course of his lawsuit for damages, Fitzgerald discovered a memorandum on his CBS interview written to Gen. Harry J. Dalton Jr., the Air Force information chief. The memo reported Fitzgerald had told CBS that "both administrations (Ford and Carter) hope that I am an example that you can't get away with telling the truth."

Not true, says producer Thompson. "Fitzgerald said he had great hopes for the Carter administration, despite the fact the last two administrations—and he clearly meant Ford's and Nixon's, not Carters and Ford's—had tried to make an example of him. Don't you think [CBS reporter] Bruce Morton and I are competent enough reporters to pick up on a Fitzgerald attack on Carter?"

When asked about this, the lieutenant colonel, Terry Hemeyer, said he had entered Fitzgerald's office with the CBS crew "to be helpful" and said the film crew "did not ask me to leave, and I would have left the room had I been asked. I couldn't have taken notes because I didn't even have a piece of paper and a pencil with me." When informed the CBS crew had filmed him taking notes, Hemeyer said, "Oh." Then he added, "I don't recall, but regret any inaccuracies" that may have appeared in the memorandum.

VIEW FROM THE WHITE HOUSE

Fitzgerald's hopes for the Carter administration so far appear to be unfounded. The Carter White House has either been unwilling or incapable of doing anything about what is happening in the Pentagon, regardless of rhetoric about rewarding cost-cutters and improving federal management.

A written request to the White House for documents relating to any consideration given to Fitzgerald has gone unanswered since Sept 1.

Last February, Sen. James Abourezk (D-S.D.) wrote to President Carter to complain about the Air Force handling of testimony he requested from Fitzgerald on productivity in the Military Airlift Command. When Abourezk asked the Air Force to make Fitzgerald available as a witness, Gen. Charles C. Blanton, Air Force congressional liaison director, responded that Fitzgerald could represent himself—but not the Air Force. When Abourezk complained to the White House, Frank Moore, Carter's liaison with Congress, replied with a non-response. "In addition to the President knowing of your views, I am taking the liberty of forwarding a copy of your letter to Harold Brown so he will know of the particular problem your subcommittee encountered."

White House speechwriter James Fallows would say only that, after learning of Fitzgerald's current predicament, "I sent a memo with some recommendations to some people on the personnel side here." He added that he has received no response.

White House press official James Purks, after checking on how the White House planned to handle the Fitzgerald situation, reported what he termed "moderate success" in his quest: "I can tell you we are awaiting anxiously for the Civil Service Commission to come back to us with a program to protect whistle blowers." Asked for the current White House attitude toward Carter's campaign statement on Fitzgerald, Purks replied, "But in that statement we didn't say we'd intervene."

FREE ENTERPRISE, TAXES AND INVESTMENT

Mr. PERCY. Mr. President, back in April the Senate approved Senate Joint Resolution 128, calling on the President to proclaim July 1, 1978, as "Free Enterprise Day." The House of Representatives subsequently approved the same resolution and the President signed it, but the special day was unfortunately largely ignored throughout the country.

California voters, however, unwittingly put real meaning into that day when they passed proposition 13, for the effective date of the tax-cutting measure was also July 1. And the message California taxpayers were sending to their government representatives was that they preferred economic growth to the government's reallocation of income in a stagnant economy.

It was accidental that these 2 days coincided as they did but it is fortunate that this point has been reemphasized in this way. The message of proposition 13 needs to be understood by public officials not only in California but throughout the country. Tax cuts that encourage growth—free enterprise if you will—are seen as essential to our own national economic health. Lying at the base of this sentiment is the commitment that individuals and businesses can better determine economic priorities than can the Government.

The California "tax revolt" is a departure from many of the actions of government over the past decade. On the Federal level, one of the most economically detrimental tax code changes occurred in 1969 when the Tax Reform Act increased the maximum tax on capital gains to nearly 50 percent. The effect of this tax increase has been to dry up capital needed for the creation of new firms. It has also meant that established firms have had to turn increasingly to the cap-

ital markets to finance expansions that, before 1969, could have been financed through sales of stock.

It is regrettable that the President has not acknowledged this shortage of capital and the direct relationship between the capital gains tax, economic growth, and job creation. On June 26 at his press conference, President Carter said:

The American people want tax relief from the heavy burden of taxation on their shoulders. But neither they nor I will tolerate a plan that provides huge tax windfalls for millionaires and two bits for the average American.

Following this press conference, I wrote President Carter urging him to reconsider his implied veto threat. I view the capital gains tax cut as essential to our long term recovery. A partial cut will not do. We should reduce the tax to a maximum rate of 25 percent, beyond what the House of Representatives has already accepted, and as the original Steiger and Hansen bills proposed. I ask unanimous consent to print the text of my letter at the close of these remarks.

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

(See exhibit 1.)

Mr. PERCY. Mr. President, since the President made his June 26 statement, there has been evidence that the White House is willing to accept a cut in the taxation of capital gains. For example, on July 20, President Carter stated:

I will have to wait until the final tax package is placed on my desk after it has been considered and complete action from both Houses of Congress is concluded. At that time, I will decide whether or not that tax bill is in the best interests of our country. If it is not, I will veto it.

Mr. President, this last statement is a far cry from the rigid position President Carter took in June and I commend him for his apparent recognition that there is a great deal of merit in enacting a capital gains tax cut. Such a tax cut will benefit all Americans in the long run because it will give us a sounder economy and will lower the rate of inflation. If enacted in conjunction with other investment tax incentives—like a reduction in the maximum corporate tax rate, a permanent investment tax credit, a full investment credit for pollution control facilities and a tax reduction for middle income taxpayers—it will invigorate the economy and strengthen the hand of free enterprise. In short, Mr. President, these cuts will, like proposition 13 before it, give meaning to the oft-used phrase "free enterprise."

EXHIBIT 1

U.S. SENATE,
Washington, D.C., June 30, 1978.

The PRESIDENT,
The White House,
Washington, D.C. 20522

DEAR MR. PRESIDENT: I want to share my thoughts with you about the vital domestic issues of inflation, taxation and legislation to stimulate investment through lowering the taxation of capital gains and other measures. The proposals, introduced by Rep. William Steiger in the House and Senator Clifford Hansen in the Senate, would set the taxation of capital gains at the same level as in 1969.

I strongly support passage of this measure and urge you to reconsider your position and lend your offices to help move the bill through Congress.

I think that as former businessmen, we both appreciate the importance of capital formation in starting new companies and in employing workers in the private sector. When I joined Bell & Howell in 1938, it was a small company of less than a thousand workers and it would probably still be one today if we had not had access to venture capital markets. There was always a great deal of competition for that capital, but there was a plentiful supply of it then. Before I left the company, our U.S. employment increased to more than 10,000. Now, there is a serious scarcity of the type of money that helped us get off the ground.

Perhaps it would be helpful if I used just one specific case. A company in Chicago today has encountered a great deal of trouble in raising capital for new firms. Heizer Corp. is a business development company that helps get new businesses on their feet and then stays with them until they are stable. They have found that the 1969 tax change has virtually dried up investor interest in financing new companies. A small computer firm which they were helping actually had to go to Japanese and West German investors recently because no American investors would participate. The new firm, an IBM competitor, has highly capable executives but investors preferred other approaches to heavily-taxed capital investment.

This case does not appear to be unique. The Securities Industry Association certifies that in 1969, companies with net worth under $5 million made 548 stock offerings totaling $1.5 billion. Six years later, though, only four such offerings were made and they raised a total of only $16 million. Clearly something is seriously wrong.

The Small Business Administration is alarmed about this and, in a January, 1977 report, expressed that concern:

"In the face of clearly emerging needs and the documented benefits to the United States economy, a set of impediments have developed that are preventing smaller businesses from attracting the capital without which they cannot perform their traditional function of infusing innovation and new competition into the economy . . . A public policy that discourages the public from investing $1 billion a year of its savings in economic innovation, growth and the creation of jobs while it encourages the public to risk $17 billion a year in Government-sponsored lotteries, requires close and serious reexamination."

Larger businesses have also felt this capital pinch and many—especially those with low profits to earnings ratios—have been forced to go into debt to finance their own expansions. The consequence has been additional pressure on interest rates, bidding them up out of the reach of some small businesses and making government financing far more expensive than ever before.

Most of our major trading partners—and especially our two greatest competitors, Germany and Japan—do not even tax capital gains on portfolio investment. The individual savings rate is also higher in these two countries. Japanese save at triple the rate of Americans and the West Germans save at more than twice our pace. Of all the major industrial countries, the U.S. put the smallest percentage of GNP back into manufacturing capacity between 1965 and 1976. The country next in line was England, hardly a model for investment strategy.

During the time that our venture and investment capital has been drying up, the Federal Government entered into a new phase of regulation of the economy. These effects have been most evident in the environmental and safety areas and, according to the Council on Environmental Quality, private capital outlays for pollution abatement were $3.8 billion higher in 1975 than they would have been in the absence of the Federal requirements. Similar estimates of annual costs to business have been made for safety and health regulations, non-productive capital investment requirements exceeding 28% in many industries.

Many of these regulations protect and safeguard the consumer and worker and I have supported these when they were before Congress. The Federal Government must recognize the economic costs of these vast investments, however, and act to make sure that we do not lose our ability to generate a growing economy.

The effect of a capital shortage is also seen in our productivity rate, which, according to your 1978 Economic Report, has dropped from annual increases of about 2½% between 1950–1968 to about 1½% over the past decade. As you know so well, productivity and investment are closely related and when our productivity begins to sag, inflationary pressures are increased.

Government estimates of the costs of the Steiger-Hansen proposal have failed to take into account the economic changes that would spin off from the tax change. A model prepared by Data Resources, Inc. and based on the passage of the proposal, forecasts a startling increase of $100 billion in GNP between 1979 and 1983 (The firm's predictions show increases over the Treasury's own estimates). Investment itself would of course rise—by an estimated $46 billion—because the proposal encourages the realization of capital gains. The subsequent rise in the stock market will lower the cost of obtaining funds through equity financing, thus leaving more for actual investment. DRI found the employment effects of this invigorated economic activity to be particularly encouraging: in 1982, 520,000 new jobs would be created over what the Treasury predicts for that year. Finally, and from our standpoint an important consideration, Federal revenues would actually increase. By 1983, revenues would have jumped by $12.3 billion.

This would undoubtedly be made up in part by increased revenues from the capital gains tax. As you know, these revenues fell precipitously in 1970, after the present tax was enacted, and have only just recovered their 1969 level, albeit in inflation dollars.

The experience of the company previously mentioned proves that this model is on the right track. Since 1969, they have helped 24 companies get started, with an initial investment of $80 million. The results of this investment are truly impressive. The 1978 sales of these 24 firms exceed $1 billion and their pre-tax profits stand at $152 million. These businesses contribute annually $75 million in taxes to the Federal Government alone. As of March, they employed 20,000 workers. All of this has been costly, however, as the investment required to create a new, permanent job is over $13,000. It was fortunate that Heizer obtained its initial capital prior to 1969. It would be virtually impossible to accumulate that type of investment capital today, due in large part to the confiscatory nature of our tax laws.

Those tax laws have turned many Americans away from investing and have penalized middle income families who sell their homes. According to the Treasury Department, the two largest items accounting for capital gains are stocks and bonds and the sale of residences. What is more, in 1976, 62 percent of total net capital gains were realized by taxpayers with less than $50,000 income. A revitalization of the stock market will benefit all investors, regardless of income.

Since the 1969 change in the treatment of capital gains, the number of stockholders has dropped steadily so that today many Americans do not hold the types of investments that will ultimately yield capital

gains. In fact, the number of stockholders has dropped from 31 million in 1969 to 25 million today. Despite this decline, the overwhelming majority of stockholders are not what we would ordinarily consider wealthy.

In 1975, nearly three-quarters of individual stockholders earned less than $25,000 a year. In the past decade, the number of institutional investors has increased dramatically to the point that they now account for over one-third of all stock investors. Although these are big investors, they often represent moderate income Americans in the form of pension and profit-sharing plans and stock option programs. These are the people who ultimately benefit from increased investments and we should be aware than Federal tax policy discriminates against them in the long-run.

The Council on Wage and Price Stability reported this spring that "inflation in the housing sector has been a persistent problem over the past few years and is unlikely to dissipate wholly in the near future." Rising housing prices and interest rates have put a strain on would-be homebuyers, but the present capital gains tax has put the bite on existing homeowners who may want to sell their home and move into a smaller house or apartment. The average price of an existing home has skyrocketed from just over $22,000 in 1968 to nearly $54,000 today. A family that bought ten years ago and sells their home today could realize tens of thousands in one-time capital gains, even if they were low or middle income. A simple change in tax policy will help these homeowners immensely.

You have properly focused the nation's attention in recent months on the problems of inflation. I support your efforts in this direction but feel that one of the strongest weapons we have against spiraling wages and prices is investment which leads to increases in our productivity. It lies at the heart of solving inflation and I feel the passage of this provision, together with other investment tax incentives like a reduction in the maximum corporate tax rate, a permanent investment tax credit, a full investment credit for pollution control facilities and a tax reduction for middle income taxpayers, is essential to the nation's economic health.

I would like to urge you again to give full consideration to supporting these important economic steps toward a sound economy. I look forward to working with you and your economic advisors in this program that can improve the economic well-being of every American in a relatively short time.

Sincerely,

CHARLES H. PERCY,
United States Senator.

CIVIL SERVICE REFORM

Mr. STEVENS. Mr. President, Senator MATHIAS and I have recommended changes to the President's civil service reform proposal during the last several months. Although some of these proposals were accepted by the Senate Governmental Affairs Committee, there are significant improvements which should be made on the Senate floor. Senator MATHIAS mentioned some ideas in a recent speech at the annual convention of the American Federation of Government Employees in Chicago. I believe his comments are important to all personnel in the civil service and I ask that his complete speech be printed in the RECORD.

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

THE DANGERS OF PROPOSITION 13 FEVER

(By Senator CHARLES McC. MATHIAS, Jr.)

I'm delighted to be here for the Annual Convention of the American Federation of Government Employees. As many of you know, I have a special place in my heart for federal workers. And for good reason. I think I have probably represented more federal employees for a longer time than any other member of the Congress.

Naturally then, I am concerned when the capabilities and the dedication of federal workers come under attack. And regrettably today there is a tendency to transform legitimate complaints about government regulation and waste into an indictment of the federal worker. This is as unfair as it is unsound.

But resounding through the corridors of the Capitol and across the land is the insistent chant of "Proposition 13." And a lot of people are swaying to its beat.

As you all know, Proposition 13 is a product of California's referendum system that gives voters a chance to express their views on various policy issues. Proposition 13 itself provides for a rollback of the real estate tax rate in California that will put pressure on government, at the state, county and local levels, to reduce costs. Its repercussions, however, go far beyond California.

When the voters of California opted for Proposition 13, they fired a modern day "shot heard round the world." Embattled taxpayers pricked up their ears and so did their representatives in the Congress.

Proposition 13 dramatizes a fact that has been apparent for some time now: taxpayers, faced by mounting inflation, are less and less willing to surrender their tax dollars. Last year Louis Harris and Assocites asked a group of taxpayers this question:

As far as you (and your family) are concerned do you feel you have reached the breaking point on the amount of taxes you pay?

The response was an overwhelming "Yes."

Seventy-two percent of those polled said they'd reached the end of their rope on taxes. Since then inflation has gotten worse and so has the situation. Proposition 13 may not actually herald a nationwide taxpayer revolt, but it's a clear danger signal. And members of Congress aren't going to ignore its implications.

As former Senator Norris Cotton used to say: "The boys are in such a mood that if someone introduced the Ten Commandments, they'd cut them down to eight."

I am as economy-minded as any of my colleagues, I think. Being careful with money is an inescapable state of mind for almost anyone who grew up during the Depression as I did. But I think we have to use some judgment about where and how we economize. If Proposition 13 fever leads to curtailing federal waste and upgrading federal efficiency, then I'm all for it. But if its brunt falls on the shoulders of government workers, if it means pay cuts and job cuts, if it translates into "last on, first off", then I think we'd better take another look at it.

It is simply unfair to use the argument of government inefficiency as an excuse to run roughshod over the basic rights of federal employees. But I'm afraid the trend is in that direction. Anti-government sentiment has been exploited to justify civil service reforms that jeopardize federal workers' rights and to put an unjust pay cap on federal workers' salaries. I am very concerned about both of these developments.

I don't quibble with the fact that the federal government is ripe for a major overhaul. But there's a right way and a wrong way to go about it. We had a great Marylander named H. L. Mencken who said that "for every problem there is a solution that is simple, easy and wrong." That is the kind of solution we want to avoid in responding to pressure for government economy.

Back in 1949, the first Hoover Commission found that:

. . . (t)he United States is paying heavily for a lack of order, a lack of clear lines of authority and responsibility, and a lack of effective organization in the executive branch. . . . We must reorganize the executive branch to give it the simplicity of structure, the unity of purpose and the clear line of executive authority that was originally intended under the Constitution.

To his credit, President Carter has recognized the need. But, in my opinion, many of the changes he proposes to make would endanger the impartiality of the civil service and hang a sword of Damocles over the head of every civil servant in the executive branch.

When the President announced his civil service reforms, he talked a lot about how difficult it is, under present law, to fire inadequate civil servants. In the name of reform, he went out of his way to create the most negative possible image of the civil servant.

In the process, President Carter's fancies outdistanced his facts. For example, he complained that in 1976 only 226 out of more than two million federal employees had been fired for incompetence and inefficiency. He said his plan would make it easier to prune the dead wood in the bureaucracy.

A couple of weeks later, thanks to some good investigative reporting by the *Washington Star*, Presidential Press Secretary Jody Powell had to recant for his boss. Powell acknowledged that the President's figure on firings had been way off the mark. In fact, there had been upwards of 17,000 dismissals for cause in 1976, said Powell, not just 226.

The President, it seems, "mis-spoke" a mouthful. And I can only wonder why, and worry about what motivated him to be so reckless with the image of the federal worker.

With all of this criticism of the Civil Service System, the pressure on the Congress to acquiesce in all the President's proposals has grown. To the extent that this campaign forces us to see and correct the flaws in our Civil Service System, it is healthy and I welcome it. But, to the extent that it stampedes us into hasty judgments that would prejudice basic job protections and legitimate employee rights, it is unhealthy and dangerous.

I've made no secret of my misgivings about the President's reform proposals and I'm not going to go into that in any detail. But I would like to say a few words about how this wave of anti-federal government feeling has made its way into the Senate.

When the Governmental Affairs Committee was considering the President's Civil Service Reform legislation, I asked the Committee to consider several changes in the bill—changes very like those recommended by AFGE. These included: the right of federal employees to have a hearing on the record before being taken off the payroll; placing the burden of proof on agencies in adverse action cases; applying basic elements of due process to the handling of career civil servants; awarding attorneys' fees to the prevailing party in adverse action cases; and the retention of grade and pay in reclassification and reduction in force cases.

Of all these proposed changes, only one—shifting the burden of proof on agencies—was incorporated into the legislation in Committee. None of my suggestions was radical or even new. But the temper of the Senate seems to be that anyone advocating even

these basic protections is simply soft on bureaucrats.

This attitude is dangerous. No one disputes that reform is necessary. But reform that smacks of a witch-hunt is worse than no reform at all. As a friend of mine remarked, "When Dr. Samuel Johnson said that 'patriotism was the last refuge of a scoundrel', he hadn't heard of reform."

Something that astounded me during the Committee's consideration of the "whistleblower" provisions of the bill was the Administration's apparent disregard of the employee's First Amendment rights. You may recall that this section provides protections to employees who expose illegalities or gross waste or mismanagement. Well, the Administration actually proposed that no protection be provided if an employee goes public within six months of his initial disclosure to a Specal Counsel. This provision would effectively silence the employee for the six-month period. Fortunately, Senator Muriel Humphrey and I did succeed in persuading the Committee to delete this section that was designed to place a "chilling effect" upon the employee's right of free speech.

The Civil Service Reform bill will be considered by the full Senate within the next several weeks. I have introduced amendments to the bill designed to protect the basic rights of federal employees which are inadequately safeguarded as the legislation now stands. I hope that I will be able to persuade my colleagues in the Senate that the protections I seek for federal workers will not infringe management's prerogatives, but rather will enhance the civil service by insuring that it can attract and keep the best talent available. I hope I will have your support in this.

I am equally disturbed by the pay cap and I voted against its extension to blue-collar workers. It seems to me the President and the Congress are guilty of forcing federal employees to bear the burden of the country's inflation problem unassisted.

In April when President Carter announced his plan to take the lead in breaking the wage-price spiral by holding federal pay increases to 5.5 percent, he simply turned his back on the comparability process. Instead, he decided to make federal workers the shock troops in the battle against inflaton. That might be all right if there were any reinforcements in sight. But I've scanned the horizon and as far as I can see the President's voluntary program of restraint in private sector wage adjustments hasn't even got any recruits.

Most principal settlements in the private sector have exceeded the 5.5 percent cap. The second quarter inflation rate, according to the Consumer Price Index, now stands at 11.4 percent. The short-term federal interest rate just climbed from 6.8 to 7.3. Before the end of the year it is expected to rise an additional percentage point. Home mortgage rates are at a whopping 9.4 percent and going up. Most private concerns are reporting record profits this year, but so far they've only given a polite nod to the voluntary program. Mr. Carter's example is just not working out.

To add insult to injury, in June the Senate extended the 5.5 percent pay cap to the federal blue-collar work force as well—which brings us back to the unfortunate side effects of Proposition 13.

Only 21 Senators voted against the pay cap. As I said, I was one of them and I don't regret my vote a single bit. What I do regret is that people either can't understand, or don't want to understand, that by holding the federal pay increase to 5.5 percent the President and the Congress are actually forcing federal workers to take a cut in pay. With inflation topping 11 percent, there's just no other way to read the situation.

One thing is certain: if we continue to take advantage of Federal workers; if we continue to expect them to make sacrifices for the public good; if we continue to heap abuse on their heads and if we persist in shortchanging them in relationship to the private sector, then pretty soon we simply won't be able to attract firstrate talent into government service as we have in the past.

And, when that day comes, all the reforms in the world won't amount to a hill of beans because there won't be anyone left in government with enough sense to carry them out.

In 1955, in the final days of the second Hoover Commission on Civil Service Reform, the late Herbert Hoover gave an interview in which he summed up his feelings about government. This is what he said:

Government cannot be any better than the men and women who make it function. Our greatest problem is to get the kind of men and women the government needs and to keep them in government . . .

We must make civil service so attractive, so secure, so free from frustrations, so dignified, that the right kind of men and women will make it a career. Then we can have the kind of government that the United States needs and should have.

To that I say, Amen.

We need efficient effective government. But we aren't going to get it by shortchanging the men and women who have devoted their lives to federal service. I vow to do all I can to reverse the trend of making a scapegoat of the Federal employee. I look forward to working with you in this effort.

AUTHORIZATION FOR TECHNICAL AND CLERICAL CORRECTIONS—S. 3375

Mr. STEVENS. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of S. 3375.

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

CIVIL SERVICE REFORM ACT

Mr. PERCY. Mr. President, while the majority leader is on the floor and so is the distinguished acting minority leader, because the Senator from Illinois wishes to protect every right of the distinguished Senator from Alaska, who has been extremely cooperative in moving us forward so that we could bring the Civil Service Reform Act to the floor, I should like to ask the majority leader what the proposed schedule might now be for civil service reform so a number of Senators involved in it can plan on being present. It is the understanding of the Senator from Illinois that the Senator from Alaska would prefer to have this legislation taken up around the 11th of September. Is that correct?

Mr. STEVENS. Yes. I have sent a letter to the distinguished majority leader and minority leader, pointing out that the days of the 7th, 8th, and 9th are involved in my State convention. I intend to be absent and I have a series of amendments, some of which have been agreed to and some of which have not. Though I am perfectly willing to enter into a time agreement, I hope the matter will not be completely disposed of on the days of my absence. I shall return on the 11th.

Mr. PERCY. For the information of the majority leader, the Senator from Illinois has a problem with the 11th in that he is addressing the State convention of the AFL–CIO and will not be returning until late that afternoon, on the 11th. The Senator from Illinois will be prepared to go ahead on the 12th, or will work it out with the chairman of the committee or the floor manager of the bill (Mr. RIBICOFF) to do it earlier if possible. I should like general advice from the majority leader as to when the majority leader feels we might aim for this. I know that he is anxious to move this forward expeditiously, taking into account that there are a number of Senators who have indicated an interest in the legislation and that it is a high priority item.

Mr. ROBERT C. BYRD. I am glad to have the information that both the Senator from Alaska and the Senator from Illinois have entered into the RECORD as to their own personal situations. I cannot give the Senators any statement at this time as to when the legislation will be taken up before the Senate. The dates which he has mentioned—to wit, 11th, 12th, 13th, and so on—are dates when I anticipate the Senate will have before it the natural gas conference report, which is a highly privileged matter and on which there will be some extended debate. I want that out so that the Senate will know it will not be an easy matter to schedule civil service reform at that particular point.

I am very eager to schedule the measure and want to dispose of it, but I have to point to the problem involved in the gas bill.

Mr. PERCY. I thank the distingushed majority leader.

ORDER TO RECESS UNTIL 9:30 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 9:30 a.m. tomorrow morning.

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

SPECIAL ORDER FOR TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow morning, after the two leaders have been recognized under the standing order, Senator PROXMIRE be recognized for not to exceed 15 minutes, after which the Senate will resume its consideration of the Elementary and Secondary Education Act.

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

PROGRAM

Mr. ROBERT C. BYRD, Mr. President, under the order previously entered, Mr. DOMENICI is to be recognized in the morning after opening statements to call up his amendments. On disposition of his amendments and other amendments, the Senate, no later than 2 p.m., will proceed to the consideration of certain bills that have been reported from the Committee on Finance.

Mr. President, I ask unanimous consent that I may be authorized at any time on tomorrow to proceed to the consideration of either the Elementary and Secondary Education Act or the CETA bill, or, at any time prior to the final disposition of any of the bills that have been reported out of the Finance Committee.

Mr. STEVENS. Reserving the right to object, it is my understanding that S. 1753 is the pending business. Is that not correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. STEVENS. Is the distinguished majority leader asking for consent to set that aside for any other finance bill on the Calendar?

Mr. ROBERT C. BYRD. It will be set aside at 2 p.m. tomorrow for any of those finance bills. I can perceive a possible situation in which action could be completed on that bill, say, at 2:30 p.m.; or I can conceive of the possibility that once the Senate gets on one of those finance bills, it could get stalled. In that event, if the matter would be impossible of resolution in a reasonably short time, I should like the authority to go back to the Elementary and Secondary Education Act and/or CETA before the week is out so the Senate can complete action on those two bills this week.

Mr. STEVENS. Reserving the right to object again, I certainly do not object to those two matters. I wonder if the majority leader can tell us which of the Finance Committee bills on the calendar he refers to in connection with this consent agreement?

Mr. ROBERT C. BYRD. Yes; the consent order has already been entered for the following Calendar Orders Nos. 721, 728, 849, 1024, 1025, 1032, and 1034, to be called up tomorrow.

Mr. STEVENS. Mr. President, the distinguished majority leader does not seek to expand that list with reference to the Finance Committee bills on the calendar?

Mr. ROBERT C. BYRD. Not at all.

Mr. STEVENS. I have no objection.

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

Mr. ROBERT C. BYRD. I thank the distinguished acting Republican leader. I do not anticipate having to use this authority. It is just to be used in the event the Senate should get stalled on one of those Finance Committee bills. I hope that, in that event, the Senate could complete action on the Elementary and Secondary Education Act and the CETA bill this week.

RECESS UNTIL TOMORROW AT 9:30 A.M.

Mr. ROBERT C. BYRD. Mr. President, I should like to have the Chair, which is presently being honored by the distinguished Senator from Arkansas, recess the Senate.

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 9:30 a.m. tomorrow morning.

Whereupon, at 7:39 p.m. the Senate recessed until tomorrow, August 23, 1978, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate August 22, 1978:

DEPARTMENT OF STATE

William H. Luers, of Illinois, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Venezuela.

CONFIRMATIONS

Executive nominations confirmed by the Senate August 22, 1978:

DEPARTMENT OF JUSTICE

William E. Pitt, of Utah, to be U.S. marshal for the district of Utah for the term of 4 years.

The above nomination was approved subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

IN THE AIR FORCE

The following-named officer under the provisions of title 10, United States Code, section 8066, to be assigned to a position of importance and responsibility, designated by the President under subsection (a) of section 8066, in grade as follows:

To be lieutenant general

Maj. Gen. Hans Helmuth Driessnack, [redacted], U.S. Air Force.

The following-named officer under the provisions of title 10, United States Code, section 8066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 8066, in grade as follows:

To be lieutenant general

Maj. Gen. Lloyd Richardson Leavitt, Jr., [redacted], U.S. Air Force.

The following-named officer under the provisions of title 10, United States Code, section 8066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 8066, in grade as follows:

To be lieutenant general

Maj. Gen. Winfield Wayne Scott, Jr., [redacted], U.S. Air Force.

Lt. Gen. John P. Flynn, U.S. Air Force (age 55), for appointment to the grade of lieutenant general on the retired list pursuant to the provisions of title 10, United States Code, section 8962.

Lt. Gen. Lee M. Paschall, U.S. Air Force (age 56), for appointment to the grade of lieutenant general on the retired list pursuant to the provisions of title 10, United States Code, section 8962.

Gen. William J. Evans, U.S. Air Force (age 54), for appointment to the grade of general on the retired list pursuant to the provisions of title 10, United States Code, section 8962.

IN THE ARMY

The following-named officer under the provisions of title 10, United States Code, section 3066, to be assigned to a position of importance and responsibility designed by the President under subsection (a) of section 3066, in grade as follows:

To be lieutenant general

Maj. Gen. Eugene Priest Forrester, [redacted], U.S. Army.

The following-named officer under the provisions of title 10, United States Code, section 3066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 3066, in grade as follows:

To be general

Lt. Gen. Robert Morin Shoemaker, [redacted], Army of the United States (major general, U.S. Army).

The following-named officer under the provisions of title 10, United States Code, section 3066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 3066, in grade as follows:

To be lieutenant general

Maj. Gen. John Adams Wickham, Jr., [redacted], Army of the United States (brigadier general, U.S. Army).

The following-named officer under the provisions of title 10, United States Code, section 3066, to be assigned to a position of importance and responsibility designed by the President under subsection (a) of section 3066, in grade as follows:

To be lieutenant general

Maj. Gen. Robert George Yerks, [redacted], Army of the United States (brigadier general, U.S. Army).

Maj. Gen. La Vern E. Weber, [redacted], Army National Guard of the United States, to be reappointed as Chief, National Guard Bureau, for a period of 4 years beginning August 16, 1978, under the provisions of section 3015, title 10 United States Code.

The following-named officers for appointment in the Regular Army of the United States to the grade indicated, under the provisions of title 10, United States Code, sections 3284 and 3306:

To be brigadier general

Brig. Gen. James M. Thompson, [redacted], Army of the United States (colonel, U.S. Army).

Brig. Gen. Clyde W. Spence, Jr., [redacted], Army of the United States (colonel, U.S. Army).

Brig. Gen. Grayson D. Tate, Jr., [redacted], Army of the United States (colonel, U.S. Army).

Brig. Gen. Mary E. Clarke, [redacted], Army of the United States (colonel, U.S. Army).

Brig. Gen. James C. Pennington, [redacted], Army of the United States (colonel, U.S. Army).

Brig. Gen. Edward B. Atkeson, [redacted], Army of the United States (colonel, U.S. Army).

Brig. Gen. Robert W. Sennewald, [redacted], Army of the United States (colonel, U.S. Army).

Maj. Gen. Thomas P. Lynch, [redacted], Army of the United States (colonel, U.S. Army).

Maj. Gen. Harold F. Hardin, Jr., [redacted], Army of the United States (colonel, U.S. Army).

Maj. Gen. James F. Cochran III, [redacted], Army of the United States (colonel, U.S. Army).

Brig. Gen. Thomas D. Ayers, [redacted], Army of the United States (colonel, U.S Army).

Brig. Gen. Walter F. Ulmer, Jr., [redacted], Army of the United States (colonel, U.S. Army).

Brig. Gen. Richard X. Larkin, [redacted], Army of the United States (colonel, U.S. Army).

Brig. Gen. Robert L. Wetzel, [redacted], Army of the United States (colonel, U.S. Army).

Maj. Gen. Joseph N. Jaggers, Jr., [redacted], Army of the United States (colonel, U.S. Army).

Brig. Gen. Edmund R. Thompson, [redacted], Army of the United States (colonel, U.S. Army).

Brig. Gen. Frank P. Ragano, [redacted], Army of the United States (colonel, U.S. Army).

Maj. Gen. William J. Livsey, Jr., [redacted], Army of the United States (colonel, U.S. Army).

Maj. Gen. Alan A. Nord, [redacted], Army of the United States (colonel, U.S. Army).

Brig. Gen. Robert C. Gaskill, [redacted], Army of the United States (colonel, U.S. Army).

Brig. Gen. Elton J. Delaune, Jr., [redacted], Army of the United States (colonel, U.S. Army).

Brig. Gen. Robert L. Moore, [redacted], Army of the United States (colonel, U.S. Army).

Brig. Gen. Robert B. Solomon, [redacted], Army of the United States (colonel, U.S. Army).

Brig. Gen. David K. Doyle, [redacted], Army of the United States (colonel, U.S. Army).

The following-named officers for temporary appointment in the Army of the United States to the grade indicated under the provisions of title 10, United States Code, sections 3442 and 3447:

To be major general

Brig. Gen. Thomas D. Ayers, [redacted], Army of the United States (colonel, U.S. Army).

Brig. Gen. Walter F. Ulmer, Jr., [redacted], Army of the United States (colonel, U.S. Army).

Brig. Gen. Robert L. Wetzel, [redacted], Army of the United States (colonel, U.S. Army).

Brig. Gen. Jerry R. Curry, [redacted], Army of the United States (colonel, U.S. Army).

Brig. Gen. Elton J. Delaune, Jr., [redacted], Army of the United States (colonel, U.S. Army).

Brig. Gen. Fred K. Mahaffey, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Brig. Gen. Robert B. Solomon, [redacted], Army of the United States (colonel, U.S. Army).

Brig. Gen. John D. Bruen, [redacted], Army of the United States (colonel, U.S. Army).

Brig. Gen. Robert W. Sennewald, [redacted], Army of the United States (colonel, U.S. Army).

Brig. Gen. Richard X Larkin, [redacted], Army of the United States (colonel, U.S. Army).

Brig. Gen. Joseph T. Palastra, Jr., [redacted], Army of the United States (colonel, U.S. Army).

Brig. Gen. Mary E. Clarke, [redacted], Army of the United States (colonel, U.S. Army).

Brig. Gen. Edward B. Atkeson, [redacted], Army of the United States (colonel, U.S. Army).

Brig. Gen. Elvin R. Heiberg III, [redacted], Army of the United States (colonel, U.S. Army).

Brig. Gen. Richard D. Lawrence, [redacted], Army of the United States (colonel, U.S. Army).

Brig. Gen. Grayson D. Tate, Jr., [redacted], Army of the United States (colonel, U.S. Army).

Brig. Gen. Clyde W. Spence, Jr., [redacted], Army of the United States (colonel, U.S. Army).

Brig. Gen. James C. Pennington, [redacted], Army of the United States (colonel, U.S. Army).

Brig. Gen. Robert L. Moore, [redacted], Army of the United States (colonel, U.S. Army).

Brig. Gen. Howard F. Stone, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Brig. Gen. James J. Lindsay, [redacted], Army of the United States (colonel, U.S. Army).

Brig. Gen. John C. Bard, [redacted], Army of the United States (colonel, U.S. Army).

Brig. Gen. Richard D. Boyle, [redacted], Army of the United States (colonel, U.S. Army).

Brig. Gen. Robert C. Gaskill, [redacted], Army of the United States (colonel, U.S. Army).

Brig. Gen. David K. Doyle, [redacted], Army of the United States (colonel, U.S. Army).

Brig. Gen. James M. Thompson, [redacted], Army of the United States (colonel, U.S. Army).

Brig. Gen. Frank P. Ragano, [redacted], Army of the United States (colonel, U.S. Army).

The following-named Army National Guard of the United States officer for appointment to the grade of major general as a Reserve commissioned officer of the Army and to the grade of major general, Army of the United States, under the provision of title 10, United States Code, sections 593a, 3385, 3442, and 3447:

To be major general

Brig. Gen. Emmett Hudson Walker, Jr., [redacted]

The U.S. Army Reserve officers named herein for appointment as Reserve commissioned officers of the Army, under the provisions of title 10, United States Code, sections 593(a), 3371, and 3384:

To be major general

Brig. Gen. Forrest Anderson Abbott, [redacted]

Brig. Gen. Wilbur James Bunting, [redacted]

Brig. Gen. John Quill Taylor King, [redacted]

Brig. Gen. Robert Lorenzo Lane, [redacted]

Brig. Gen. Frederick Hebel Lawson, [redacted]

Brig. Gen. Thomas Lee Merrill, [redacted]

Brig. Gen. Harry Hart Treadaway, [redacted]

To be brigadier general

Col. Louis Holmes Ginn III, [redacted].
Col. James Paul Harley, [redacted].
Col. Daniel Bruce Johnson, [redacted].
Col. Angelo David Juarez, [redacted].
Col. Donald Edward Lehman, [redacted].
Col. William Barton Merryman, [redacted].
Col. Harley Lester Pickens, [redacted].
Col. Theodore R. Sadler, Jr., [redacted].
Col. Manila Grant Shaver, [redacted].
Col. Charles Morris Sirhal, [redacted].

The Army National Guard of the United States officers named herein for appointment as Reserve commissioned officers of the Army, under the provisions of title 10, United States Code, sections 503(a) and 3385:

To be major general

Brig. Gen. Robert Darrell Weliver, [redacted]

To be brigadier general

Col. Raymond Davis Atkins, [redacted].
Col. Colin Charles Campbell, [redacted].
Col. Richard Francis Corcoran, [redacted].
Col. Robert Stuart Davis, [redacted].
Col. Richard Daniel Dean, [redacted].
Col. George Henry Gray, [redacted].
Col. Theodore Ernest Herman, [redacted].
Col. Curtis Arthur Jennings, [redacted].
Col. Vincent William Lanna, [redacted].
Col. James Bracken Lee, [redacted].
Col. Charles Rodney Painter, [redacted].
Col. Anthony Louis Palumbo, [redacted].
Col. Donald Harry Remick, [redacted].
Col. Patrick Martin Roach, [redacted].
Col. Elmer Lewis Stephens, [redacted].
Col. Ansel Martin Stroud, Jr., [redacted].
Col. Herbert Thomas Taylor, Jr., [redacted].
Col. Edward William Waldon, [redacted].
Col. John Burl Webb, Jr., [redacted].

The Army National Guard of the United States officers named herein for appointment as Reserve commissioned officers of the Army, under the provisions of title 10, United States Code, sections 593(a) and 3392:

To be brigadier general

Col. Joaquin Balaguer-Rivera, [redacted].
Col. Joe Edmund Burke, [redacted].
Col. Charles Edward Hupe, [redacted].
Col. William John Jefferds, [redacted].

IN THE NAVY

The following-named officer, having been designated for commands and other duties of great importance and responsibility in the grade of vice admiral within the contemplation of title 10, United States Code, section 5231, for appointment while so serving as follows:

To be vice admiral

Rear Adm. Ronald J. Hays, U.S. Navy.

Rear Adm. Edward P. Travers, U.S. Navy, to be Director of Budget and Reports in the Department of the Navy for a term of 3 years pursuant to title 10, United States Code, section 5064.

Rear Adm. Carlisle A. H. Trost, having been designated for commands and other duties of great importance and responsibility in the grade of vice admiral within the contemplation of title 10, United States Code, section 5231, for appointment as vice admiral while so serving.