SENATE—*Tuesday, July 14, 1981*

(Legislative day of Wednesday, July 8, 1981)

The Senate met at 11 a.m., on the expiration of the recess, and was called to order by the Honorable NANCY LANDON KASSEBAUM, a Senator from the State of Kansas.

PRAYER

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

Let us pray.

O God: Your justice is like rock, and Your mercy like pure flowing water. Judge and forgive us. If we have turned from you, return us to Your way; for without You we are lost people.

From brassy patriotism and blind trust in power; deliver us, O God. From public deception that weakens trust; from self-seeking in high political places; deliver us, O God. From divisions among us of class or race; from wealth that will not share, and poverty that feeds on bitterness; deliver us, O God. From neglecting rights, from overlooking the hurt, the imprisoned, and the needy among us; deliver us, O God. From lack of concern for other lands and peoples; from narrowness of national purpose; from failure to welcome the peace You promise on Earth; deliver us, O God.

We pray this in the name of Him who received all who came to Him, who responded with compassion to whatever need they suffered, who gave His life as a sacrifice of love for all. 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. THURMOND).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., July 14, 1981.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable NANCY LANDON KASSEBAUM, a Senator from the State of Kansas, to perform the duties of the Chair.

STROM THURMOND,
President pro tempore.

Mrs. KASSEBAUM thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the majority leader is recognized.

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

THE JOURNAL

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

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

ORDER OF PROCEDURE

Mr. BAKER. Madam President, I announced earlier that I would hope that sometime today, after we dispose of S. 1204, the noise bill, we might turn to the consideration of the cash discount bill conference report on H.R. 31.

Might I inquire of the distinguished minority leader if he would be agreeable to a request to put that conference report in place at this time?

Mr. ROBERT C. BYRD. Madam President, yes, I think it would be quite all right to do that.

Mr. BAKER. Madam President, I thank the minority leader.

CONFERENCE REPORT ON CASH DISCOUNT BILL (H.R. 31)

Madam President, I ask unanimous consent that upon the disposition of S. 1204, the noise bill, the Senate turn immediately to the consideration of the conference report on H.R. 31, the cash discount bill.

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

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

Mr. BAKER. Yes.

Mr. ROBERT C. BYRD. Madam President, I am advised that Senator PROXMIRE is expecting to proceed with the conference report at that time and I think he wants to speak on it. So I want to say that for the record.

Mr. BAKER. I thank the minority leader. Of course, we will arrange the schedule so that Senator PROXMIRE can be present and I am sure will be present in order to speak on that subject.

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

Mr. BAKER. Madam President, under the order previously entered, after consulting with the minority leader, the majority leader is authorized to call up the tax bill. It is my intention to do that tomorrow. I will consult further with the minority leader during the course of this day. However, in anticipation of that action, I would like now to get orders for the convening of the Senate for the remainder of this week.

I expect that the tax bill will require our sustained and diligent effort for all of this week, including, perhaps, Saturday.

DAILY TIME OF CONVENING THROUGH MONDAY, JULY 20, 1981

Mr. BAKER. Madam President, I now ask unanimous consent that, when the Senate completes its business today, it stand in recess until the hour of 10:30 a.m. on tomorrow; that when the Senate completes its business on tomorrow, it stand in recess until the hour of 10 a.m. on Thursday; that when the Senate completes its business on Thursday, it stand in recess until the hour of 10 a.m. on Friday, and that, when the Senate completes its business on Friday, it stand in recess until the hour of 10 a.m. on Saturday.

Mr. ROBERT C. BYRD. Madam President, will the distinguished majority leader also get an order for Monday just in the event the Senate is in Saturday and has to go out for the lack of a quorum?

Mr. BAKER. Madam President, I am distressed even to contemplate the possibility that that would occur, but I think that is a wise precaution to take.

Madam President, I also ask unanimous consent that, when the Senate stands in recess on Saturday, it do so until the hour of 12 noon on Monday.

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

ORDER OF PROCEDURE

Mr. BAKER. Madam President, might I inquire of the minority leader if he would be in a position at this time to enter an order to provide that the Senate would proceed to the consideration of House Joint Resolution 266, the tax bill, at not later than 11 a.m. tomorrow, recalling, as I am sure he does, that we now have an order for the Senate to convene at 10:30 a.m. tomorrow, and that 30 minutes intervening would provide, I believe, ample time for the recognition of the two leaders under the standing order plus other housekeeping details and arrangements that might be necessary.

If the minority leader does not wish to accede to that request at this time, I will be glad to confer with him further on the subject, but if he is prepared to do so, I am in a position to make that request at this point.

Mr. ROBERT C. BYRD. Madam President, at the moment I see no reason why we should not be able to begin debate on the tax bill at 11 a.m. tomorrow. If the majority leader would withhold that until a little later, I would like to ascertain whether or not the manager on my side of the aisle will be available at 11 o'clock tomorrow.

Second, I assume that the leader intends to put over the vote on the Johns-

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

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ton cloture motion until after action on the tax bill.

Mr. BAKER. Yes. I am perfectly happy to withhold the request, Madam President. The minority leader is correct. I advised the Senator from Louisiana on yesterday that, in view of the fact that we should anticipate a late session on Thursday and perhaps a Saturday session, I thought we ought not to go ahead with the cloture vote on the Johnston amendment until after we have disposed with the tax bill.

The answer to the distinguished minority leader's question is yes, that is my intention. I would point out, however, that under the order entered, as soon as we dispose of the tax bill the Department of Justice authorization bill will automatically be placed before the Senate. At that time the cloture vote on the Helms-Johnston amendment would be eligible and I would assume would be laid before the Senate by the Chair.

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

FLY INFESTATION

Mr. BAKER. Madam President, I wish to take a few moments this morning to commend the Secretary of Agriculture John Block, for his responsible and expeditious efforts concerning the "Medfly" crisis in California.

If mighty oaks from tiny acorns grow, then it is also often true that enormous problems have minute origins. The distance from Washington to California does not prevent us from appreciating the dilemma that the State finds itself in. California's crops are an integral part of the Nation's food supply; if the fields in the Santa Clara Valley fell victim to insect strife, the results would be devastating for the entire country.

It is hardly Earth shattering to observe that almost no one cares for the now infamous Medfly. Not since the Killer Bee has there been a more unpopular insect. To be perfectly honest, the Medfly is a pesty little creature which does not do anyone any good, and creates a terrible time for farmers, crops, and consumers.

I cannot recall attending a reception honoring a Medfly, nor can I remember being approached by a Medfly lobbyist. They obviously have no concerns; their purpose is destructive at best.

I suggest that instead of sitting around and blaming the Peruvian Fruit Fly for not being sterile, we should support the Secretary of Agriculture in his positive steps to rid the Nation of this bizarre invasion.

I hope that the aerial spraying which begins today in Palo Alto will curtail the obnoxious and damaging path that those bantam beasts have embarked on.

ORDER OF BUSINESS

Mr. BAKER. Madam President, I have no further requirements of my time under the standing order. I am prepared to yield back the remaining time or yield it to the minority leader, if he has a requirement for the time.

Mr. ROBERT C. BYRD. I thank the distinguished majority leader. I would like to have the time.

Mr. BAKER. Madam President, I assign my remaining time under the standing order to the minority leader.

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

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. Under the standing order, the minority leader is recognized.

Mr. ROBERT C. BYRD. Madam President, I suggest the absence of a quorum to be charged to the time which is under my control.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

REVISION OF ORDER FOR RECESS

Mr. BAKER. Madam President, is there an order for the recess of the Senate at 11:30 a.m. until 1:40 p.m.?

The ACTING PRESIDENT pro tempore. The majority leader is correct.

Mr. BAKER. Madam President, I foresee at least a possibility of a problem with that. I am going to change that order now, if the Senate will permit.

Madam President, I ask unanimous consent that, at 11:30 a.m. or at the conclusion of the time utilized by the distinguished Senator from Texas (Mr. BENTSEN) under the special order, the Senate stand in recess until the hour of 1:40 p.m.; and that if the time for the recess under this order extends beyond 11:30, the Chair recess the Senate on its own motion at the conclusion of the remarks of the Senator from Texas.

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

Mr. BAKER. I thank the Chair.

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

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

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BENTSEN. Madam 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.

The Senator from Texas is recognized.

INTERNATIONAL TERRORISM

Mr. BENTSEN. Madam President, last month the Central Intelligence Agency released a research paper, Patterns of International Terrorism: 1980. The study provides compelling evidence of startling growth in international terrorist activity. I commend this paper to the attention of my colleagues in the Senate. I suggest that one of the most disturbing elements of the report is the fact that established governments are increasingly inclined to carry out deadly acts of terrorism.

Unfortunately, Madam President, U.S. citizens, American property, and our diplomatic installations abroad are the primary targets of terrorists around the world. Forty percent, or two out of every five, international terrorist incidents, are aimed at America. This country has a vital, legitimate, and undeniable interest in combatting terrorism with every means at our disposal.

In 1980, according to the CIA report, there were 287 attacks on Americans. Ninety-four of our people were wounded in these attacks, and 10 Americans were brutally murdered: 6 in El Salvador, 2 in Turkey, 1 in the Philippines, and 1 on the West Bank of the Jordan. In the course of these attacks, the property of American citizens was damaged in 97 incidents.

Especially alarming is the fact that there were 112 attacks on U.S. citizens serving abroad in various diplomatic missions during 1980. Clearly, this country is no longer prepared to look the other way when the safety of our diplomatic representatives is in such jeopardy.

Another alarming conclusion of the CIA report is that terrorist attacks are becoming more lethal and less discriminate, thereby claiming the lives of many innocent bystanders. Between 1968 when we first kept statistics, and 1972, there were 1,435 incidents of terrorism that resulted in at least one casualty. That works out to an attack with a casualty once every 3 days.

The increasingly deadly nature of international terrorism may be attributable to the fact that established governments, with the Soviet Union, Libya, and Cuba in the forefront, have turned their hand to terrorism, with an emphasis on assassination.

According to the report, the CIA files "contain almost a hundred terrorist attacks conducted directly by national governments. They occurred every year since 1972, but the majority of them took place in 1980. Almost half were assassinations or attempted assassinations. These state-sponsored attacks were more lethal than other terrorist incidents, with over 42 percent resulting in casualties."

The prime example of state-supported terrorism, Madam President, is almost certainly the seizure of our Embassy and 52 American hostages, with the support of the Government of Iran. When governments are prepared to act outside the law, when they are prepared to embrace terrorism as a weapon, law-abiding governments must be prepared to respond. The United States, as the No. 1 target

of terrorists throughout the world, has an obligation to provide leadership in the international effort to combat terrorism.

In this regard, Madam President, I would like to call attention to legislation I have drafted, the omnibus antiterrorism bill of 1981, which provides for the creation of a list of countries that support or abet international terrorism. My legislation is intended to make it clear to governments that any government engaging in terrorism can expect the United States of America to exact a price in return and respond with appropriate action.

Once it is determined that a government sanctions or engages in terrorism, the visas of students from that country studying in America would be canceled. The President could also stop or withdraw all foreign aid directed to that country and halt any pending or existing sales or guarantees related to defense materials. Current or future export licenses for commodities or technical data with military potential could also be stopped and duty-free GSP treatment could be withdrawn.

Over the years, we have seen that many terrorist attacks take place in or originate from airports lacking proper security standards. The omnibus antiterrorism bill of 1981 would require the DOT to survey foreign airport security facilities and report to Congress.

Countries with inadequate security at their airports would have 60 days in which to make necessary improvements, and DOT would be authorized to provide technical assistance on a reimbursable basis.

If the countries in question refuse to upgrade airport security, the Secretary of Transportation would have the option to decide if the cause were serious enough to withdraw operating authority for U.S. airlines to that airport.

My legislation also provides for a thorough, ongoing review of policies and programs established by our Government for dealing with terrorism. Every time an incident of terrorism occurs, the President would be charged with reporting to Congress on the adequacy of our response and any recommendations he might have for legislation to stop similar incidents in the future.

The President is also encouraged to place the highest priority on the negotiation of international agreements to assure more effective cooperation in the battle to halt terrorism. My bill would also require the President to develop standards and programs to insure full implementation of the provisions of the Montreal Convention dealing with aircraft hijacking.

I do not pretend, Madam President, that there is some simple or magical cure to the plague of terrorism. I am, however, suggesting that there is much more we can do to put terrorists and governments that support them on notice that they stand to lose much more than they gain by flaunting international codes of conduct.

The legislation I have proposed will help demonstrate to the world that the United States will not bend to the will of senseless violence and will not tolerate officially sanctioned terrorism.

I sincerely hope the Senate will take positive action on this legislation and help us send this message around the world, because it is a message consistent with the policy of the administration and with accepted principles of international conduct.

I thank the Chair, and I suggest the absence of a quorum.

Mr. BAKER. Madam President, will the Senator withhold his request for a quorum call?

Mr. BENTSEN. I will.

ORDER OF PROCEDURE

Mr. BAKER. Madam President, it is now 11:22 a.m. There is an order for the recessing of the Senate over at 11:30 a.m.

I might say once again that the reasons for the recess are twofold:

First, there is a caucus on the part of one of the two parties in the Senate which begins at about 12 o'clock.

Second, there is another caucus and a meeting with the President of the United States beginning at 12 o'clock.

It appears that it is unlikely that the Senate would transact any meaningful business during that time and the better part of discretion would seem to suggest that we recess so that those two caucuses can occur.

RECESS UNTIL 1:40 P.M.

Mr. BAKER. Madam President, I ask unanimous consent that the Senate stand in recess from this moment until 1:40 p.m. this afternoon.

There being no objection, the Senate, at 11:22 a.m., recessed until 1:40 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. DENTON).

AMENDMENT OF NOISE CONTROL ACT

The PRESIDING OFFICER. Under the previous order, the hour of 1:40 p.m. having arrived, the Senate will now resume consideration of S. 1204, which the clerk will state by title.

The legislative clerk read as follows:

A bill (S. 1204) to amend the Noise Control Act of 1972, as amended by the Quiet Communities Act of 1978.

The Senate resumed consideration of the bill.

The PRESIDING OFFICER. There will be 20 minutes of debate overall on the Kasten amendment No. 483 to the bill to be equally divided and controlled by the Senator from Vermont (Mr. STAFFORD) and the Senator from West Virginia (Mr. RANDOLPH) or their designees, with back-to-back votes on this amendment, with final passage, to begin at 2 p.m.

AMENDMENT No. 483

Beginning on page 6, line 18, strike all through page 8, line 5, and insert in lieu thereof the following:

"MOTOR CARRIER AND MOTORCYCLE NOISE

"SEC. 18. (a)(1) Regulations of interstate motor carriers and equipment and of motorcycles and motorcycle exhaust systems in existence shall continue until specifically repealed or amended.

"(2) After the date of enactment of this section, the Administrator may promulgate additional regulations establishing standards and requirements for the design, construction, and maintenance of motor carrier equipment or devices or controls and regulations establishing restrictions on motor carrier operations and activities for the purpose of minimizing or eliminating the environmental noise emissions from such equipment or activities. Such standards, controls, limits, requirements, or regulations, if any, shall reflect the degree of noise reduction achievable through the application of the best available technology, taking into account the cost of compliance.

"(3) Within ninety days after the publication of such regulations as may be proposed under paragraph (1) of this subsection, and subject to the provisions of section 16 of this Act, the Administrator shall promulgate final regulations. Such regulations may be prescribed from time to time, in accordance with this subsection.

"(4) Any standard or regulation, or revision thereof, proposed under this subsection shall be promulgated only after consultation with the Secretary of Transportation in order to assure appropriate consideration for safety and technological availability.

"(5) Any new regulation or revision thereof promulgated after enactment of this section shall take effect after such period as the Administrator finds necessary, after consultation with the Secretary of Transportation, to permit the development and application of the requisite technology, giving appropriate consideration the cost of compliance within such period.

"(b) The Secretary of Transportation, after consultation with the Administrator shall promulgate regulations to assure compliance with all standards for motor carrier equipment and operations promulgated by the Adminis-".

Mr. BAKER addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. BAKER. Mr. President, on behalf of the Senator from Vermont (Mr. STAFFORD) I yield control of the time in opposition to the amendment to the distinguished Senator from Washington (Mr. GORTON).

The PRESIDING OFFICER. The Chair recognizes the Senator from Washington.

Mr. LUGAR. Will the Senator from Washington (Mr. GORTON) yield for a question?

Mr. GORTON. I yield.

Mr. LUGAR. Section 15 of S. 1204 creates a new section 18. That section would contain a section 18(a)(1) which states:

Regulations of interstate motor carriers and equipment in existence shall continue until specifically repealed or amended.

The current EPA regulations relating to the noise emitted by trucks were promulgated under the authority of section 6 of the Noise Act of 1972. This bill will repeal that section. Is it the intention of the language in new section 18 to incorporate, continue and reauthorize the EPA noise standards for the manufacture of trucks which were promulgated under prior section 6?

Mr. GORTON. Yes.

As a holdover from the debate on Friday, I believe of the time of the majority on this side that approximately 6 minutes still remain to the Senator from Wisconsin (Mr. KASTEN).

The PRESIDING OFFICER. That agreement was superseded by the present agreement.

Mr. GORTON. Under those circumstances, I will simply yield 6 minutes to the Senator from Wisconsin.

The PRESIDING OFFICER. The Chair recognizes the Senator from Wisconsin.

Mr. KASTEN. During the debate on my amendment on Friday, considerable discussion concerned the scope of the already issued Federal standards for newly manufactured motorcycles, and whether the amendment would open some floodgate whereby all products sold nationwide could demand a Federal standard.

The regulations make it clear that they apply only to newly manufactured motorcycles and that the States and local authorities have the right to enact standards governing local motorcycle use.

We tried back and forth in discussions on Friday to make a difference, a point, between manufacturing standards and use standards. In no way is it our intention to affect use standards at the State or local level. The States and local authorities have the right, and they have it now, and we are not trying to change it, to enact standards governing local motorcycle use. Use includes the manner, time, and place of operation plus licensing controls. The only thing that the States and local authorities are preempted from is to establish the levels to which the motorcycles must be manufactured or sold.

That is far different from the authority that S. 1204 takes away from the States regarding railroad noise for example. The Federal standards for railroads preserved by S. 1204 are use standards. Thus, under the bill the States and local authorities will have no right to enact standards for railroads which are not identical to those Federal use standards retained by the bill.

The purpose of the administration's deregulation program and the scope of S. 1204 is to minimize the burden of regulation and reduce the cost of regulation. Retaining the already issued Federal standard for newly manufactured motorcycles will minimize that burden without diminishing the rights of the States and local authorities under present law to control local motorcycle noise problems.

No floodgate will be opened. Federal noise standards have not been issued by the EPA for lawnmowers, jackhammers, or snowmobiles or other examples that were brought up in the debate on Friday as they have, in fact, been issued on motorcycles. S. 1204 repeals section 6 of the Noise Control Act of 1972 thereby depriving the EPA of the authority to issue noise standards for additional products. So we are not opening any floodgates; we are simply retaining a standard which has already been issued at expense to the Government and the motorcycle industry.

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

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

Mr. KASTEN. I yield to the Senator from Pennsylvania.

Mr. HEINZ. Mr. President, I commend the Senator from Wisconsin on his amendment, and I am pleased to join with Senator KASTEN as a cosponsor of this amendment, the purpose of which is to retain the Federal noise standard for newly manufactured motorcycles.

Passage of this amendment is essential because in its present form, S. 1204—in the name of regulatory reform—would actually increase the regulatory burden on domestic manufacturers of motorcycles, of which there is only one, Harley-Davidson. Otherwise motorcycle manufacturers might face a myriad of regulations promulgated at the State and local level, increasing costs needlessly.

I do not want to see the last domestic manufacturer of motorcycles, which has a plant in my State in York, Pa., be put at a further competitive disadvantage by Government regulations. That is the issue right here and now, and it is the provisions of the Kasten amendment which are already, I might add, reflected in the House counterpart to this legislation, which will correct this problem.

I understand, as the distinguished Senator from Wisconsin has said, that this amendment will not require any increased Federal outlays, and I urge its adoption today. I thank the Chair.

Mr. PROXMIRE. Mr. President, will the Senator from Wisconsin yield?

Mr. KASTEN. I am pleased to yield to the Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, before we vote on the Kasten amendment, I want to make sure all of my colleagues understand what we are not trying to do.

We are not trying to put controls on the way motorcycles are operated. Neither do we seek to control the time of day in which they may be operated.

We are not regulating the places where they may be operated, nor the number which may be operated together.

Neither do we want to control noise emissions from the property on which the products are used, nor licensing of motorcycles, nor environmental noise levels.

All we seek with this amendment is to insure that motorcycles, as they are manufactured, in compliance with Federal standards, will be acceptable products for sale in the various States.

Thus the amendment would not disturb the right of the States and localities to enact many different kinds of standards to protect against noise pollution.

I urge my colleagues to support the Kasten amendment.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, I welcome the statement of each of the Senators from Wisconsin which, as I interpret those statements, indicate that they do not believe this amendment will restrict the right of any State to govern the noise emissions from motorcycles used within their borders.

That statement, I must say, does differ somewhat from the import of the "Dear Colleague" letter from the Senator from Wisconsin (Mr. KASTEN) and of the floor statement of the Senator from Wisconsin (Mr. PROXMIRE) on Friday, in which the States were to be left only with the ability to control noise emissions other than those for which the motorcycle was originally manufactured.

In any event, I am sure my State, and every other State, would find relatively minor impact from preemption which did not in any way restrict their right to control noise emissions from motorcycles used within their respective States.

That, however, does not much lessen the reasons for voting against this amendment. If all this amendment does is allow the manufacture and sale of motorcycles in a given State which will not be able to be operated legally on the roads of other States unless their noise emissions were reduced, it is simply useless. The State of Washington at the present time, the State of Montana, cannot conceivably regulate manufacturing operations in the State of Wisconsin or in the State of Pennsylvania.

If, however, a State can regulate noise emissions on motorcycles on its roads, it can effectively prohibit the sale of motorcycles within its borders of their own State. Under this interpretation the amendment is of no meaning and of no particular use.

The issue here is not that there will be no further preemption by the Federal noise controls over refrigerators and over air conditioners and the like. The bill itself is designed to see to it that that kind of noise regulation no longer reposes in the arms of the Federal Government and of the EPA. The real point to be debated here, the real point to which the proponents of this amendment have not addressed themselves at all, is why one single consumer product, among the millions of such products produced in the United States of America, should be subject to Federal controls and Federal preemptions when none of these other products are.

The only exemptions in S. 1204 are exemptions for the interstate commerce operations of rail carriers and motor carriers and there is simply no reason to exempt from complete State regulation a particular consumer item which probably annoys more people than any other single one.

The PRESIDING OFFICER. The Chair must note that all time allotted to the Senator from Washington has expired.

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Montana for 10 minutes.

Mr. BAUCUS. Mr. President, I yield 2 minutes to the Senator from Washington.

Mr. GORTON. I thank the Senator from Montana. I will complete my remarks in a shorter period of time than that.

The absence of justification for this amendment is in its very unique nature. There is simply no reason to tell States that they can control noise emissions from every other consumer product sold within their States but that they are somehow limited as to their control over noise emissions from motorcycles. This is true whether the current interpretation of the Senators from Wisconsin is correct or the earlier one is correct. We are dealing with the single item that communities and States are most likely to wish to control because of the annoyance it provides to people within those States. Of all the areas in which we should permit full and complete local control, this stands out No. 1.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I yield 1 minute to the Senator from Pennsylvania (Mr. SPECTER).

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SPECTER. Mr. President, I thank the Senator very much.

Mr. President, I rise in support of the amendment because of the undue burden which would be placed upon the manufacturers of motorcycles, some of which are located in the State of Pennsylvania, for each State to be able to put on individual noise requirements. I think, in the interest of national uniformity, this amendment would solve a very realistic problem and would not create any significant impediment on a noise problem.

Mr. President, I would like to emphasize that the retention of already promulgated noise standards for newly manufactured motorcycles, similar to those provided for trucks and railroads, is entirely consistent with the goals of S. 1204. First, such retention will not add to the Federal budget. The money has already been expended to develop the regulations, which were issued last December. Also, no Federal funds will be required after September 1981 as the Environmental Protection Agency is revising the standards so that they will be self certifying, that is, the manufacturers must provide proof of compliance.

Second, local political subdivisions will be free to solve any local noise problem at the local level through the authority to issue standards for motorcycle use. In addition, local governments and even private citizens under section 12 of the Noise Control Act have the power to bring suit against manufacturers who fail to comply with the noise standard for newly manufactured motorcycles.

Finally, the regulatory burden on motorcycle manufacturers will be less with one Federal standard than with a myriad of local rules for newly manufactured motorcycles. The motorcycle industry supports Federal regulation. It would be an immense task to design a product which would conform to a variety of rules and still be marketable nationwide. This concept has been recognized by S. 1204 for railroads and interstate carriers. The amendment offered by Mr. KASTEN affording motorcycles the same recognition should be adopted.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, in opposition to this amendment, I wish to make two or three very simple points.

First of all, we could all agree that the regulation of noise generally is a matter of local concern. It is not a matter that the Federal Government should get involved in, whether we are talking about lawnmowers, air conditioners, powerboats, snowmobiles, appliances, and also motorcycles.

I think there is something very basic about motorcycles, something essentially local about motorcycles, and I think that the American people would much rather that motorcycle noise be regulated at home, not far away in Washington, D.C.

Second, I am amused and amazed that the sponsors of this amendment would come in and ask for more Federal regulation. That is what they are doing. They want Uncle Sam and they want Washington, D.C., to regulate motorcycles. As I interpret the last election, the American people wanted less Federal regulation and they wanted more State control, more local control. I am a bit surprised, frankly, that the proponents of this amendment would come in with an amendment which asks for more Federal regulation.

Third, if by some strange reason—and it would be very strange—if by some quirk, we were to adopt this amendment, every other appliance manufacturer would come in here and ask for an exemption based upon the same reason.

It seems to me that this amendment, first, is ill conceived—it does not make sense—but, second, that we are about to adopt such a very, very pernicious precedent.

For those reasons, Mr. President, I think we should oppose this amendment. We should keep local authorities in control of local noise and not let Uncle Sam and the Federal Government—Washington, D.C.—get involved in the regulation of local noise.

We have two exemptions, the motor carriers and the railroads, which, by their very nature, are interstate in their operation. Motorcycles do not often cross State lines. Once in a while they will, I grant you. But so do powerboats once in a while cross State lines. The motorcycles are essentially a local concern and they should be regulated by State and by local areas, not by the Federal Government.

Mr. STAFFORD. Mr. President, will the distinguished Senator yield me a couple of minutes?

Mr. BAUCUS. Mr. President, I am delighted to yield 2 minutes to the Senator from Vermont.

Mr. STAFFORD. Mr. President, first let me say that the Senator from Vermont not only likes motorcycles but owns one and rides it, notwithstanding his wife's occasional admonitions. But I do believe that the States ought to determine how much noise they make, and the one I have is a quiet motorcycle.

Mr. President, I with regret, will vote against the Kasten amendment and hope that my colleagues will do the same. I say this for the following reasons:

First, although I have the utmost respect for the Senator from Wisconsin, I believe his amendment goes beyond what he believes. His amendment would, in fact, do more for the motorcycle industry than the committee bill does for the interstate railroad and motor carrier industries. Because interstate rail and motor carriers transport goods from State to State, the committee bill permits a Federal noise regulatory program to continue for them. But this program is discretionary. The Administrator of the Environmental Protection Agency may choose to exercise it and she may choose not to exercise it.

As the distinguished colleague, Senator BAUCUS, has said, Senator KASTEN's amendment, however, mandates a Federal regulatory program for motorcycles. The Administrator would have no choice. This Senator cannot support such a mandatory requirement, nor can the current administration. I would quote the administration's position on S. 1204 and possible amendments to it. These views are contained in a letter dated July 10, 1981:

> We initially proposed elimination of the noise regulatory program, but consider the limited authorities of S. 1204 acceptable. However, we would oppose expansion of the regulatory scope of S. 1204 or the reduction of discretion in its implementation by the Administrator of EPA.

The Kasten amendment proposes to not only expand the regulatory program but to reduce the Administrator's discretion, both of which are objectionable to the administration of President Reagan. Even if that were not the case, however, I would urge my colleagues to reject the proposal.

The sponsors of this proposal are seeking to protect the last remaining manufacturer of motorcycles. I can understand why they are doing this. But forcing the Federal Government into a program of protective regulation for an entire industry and tying the hands of the States is not the way to do it.

States have a legitimate interest here, and there is no good reason for the Federal Government to infringe on their rights. The suggestion that the system of State control which was livable 10 years ago has for some reason become unlivable today, makes no sense and should be rejected. The way to reject it is to vote against Senator KASTEN's amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I have no request for time on my side and understand that time on the other side has already expired. That being the case, I yield back the remainder of my time and I am prepared, if it is not contrary to the agreement, to vote on the amendment.

The PRESIDING OFFICER. The vote is scheduled to occur at 2 o'clock, and we have about 1 minute.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded. I yield any time allotted to me by the Senator from West Virginia (Mr. RANDOLPH).

The PRESIDING OFFICER. Without objection, the quorum call is dispensed with, but all time on the amendment has expired and we are to vote at 2 o'clock.

Mr. RANDOLPH. Mr. President, I certainly want to be within the rules. We have been in the Democratic Conference, and I thought I was arriving here before 2. But I can well understand. Of course, I shall vote against the Kasten amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Wisconsin. The yeas and nays have been ordered. The clerk will call the role.

The assistant legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Colorado (Mr. ARMSTRONG), the Senator from Arizona (Mr. GOLDWATER) and the Senator from California (Mr. HAYAKAWA) are necessarily absent.

Mr. CRANSTON. I announce that the Senator from Colorado (Mr. HART) and the Senator from Massachusetts (Mr. TSONGAS) are necessarily absent.

The PRESIDING OFFICER (Mr. ABDNOR). Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 40, nays 55, as follows:

[Rollcall Vote No. 186 Leg.]

YEAS—40

Andrews	Glenn	Percy
Bentsen	Hawkins	Pressler
Boren	Heflin	Proxmire
Boschwitz	Heinz	Pryor
Bumpers	Helms	Riegle
Burdick	Huddleston	Sasser
Cannon	Kassebaum	Schmitt
Cochran	Kasten	Specter
D'Amato	Long	Stevens
DeConcini	Matsunaga	Tower
Dodd	Mattingly	Williams
East	McClure	Zorinsky
Exon	Murkowski	
Ford	Pell	

NAYS—55

Abdnor	Garn	Mitchell
Baker	Gorton	Moynihan
Baucus	Grassley	Nickles
Biden	Hatch	Nunn
Bradley	Hatfield	Packwood
Byrd, Harry F., Jr.	Hollings	Quayle
Byrd, Robert C.	Humphrey	Randolph
Chafee	Inouye	Roth
Chiles	Jackson	Rudman
Cohen	Jepsen	Sarbanes
Cranston	Johnston	Simpson
Danforth	Kennedy	Stafford
Denton	Lavalt	Stennis
Dixon	Leahy	Symms
Dole	Levin	Thurmond
Domenici	Lugar	Wallop
Durenberger	Mathias	Warner
Eagleton	Melcher	Weicker
	Metzenbaum	

NOT VOTING—5

Armstrong	Hart	Tsongas
Goldwater	Hayakawa	

So the amendment of the Senator from Wisconsin (No. 483) was rejected.

Mr. BAUCUS. Mr. President, I move to reconsider the vote by which the amendment was rejected.

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

The motion to lay on the table was agreed to.

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

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

The PRESIDING OFFICER. The question is on final passage. Without objection, the bill is passed.

The text of the bill (S. 1204) is as follows:

S. 1204

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Noise Control Act of 1972 is amended as follows:

(1) Sections 6 and 8 are hereby repealed.

(2) Section 1 is amended to read as follows:

"SHORT TITLE

"SECTION 1. This Act may be cited as the 'Quiet Comunities Act'.".

(3) Section 2(a)(3) is amended by striking out "deal with major noise sources" and all that follows, through the period at the end thereof and substituting: "promote effective State and local programs and provide Federal research, demonstration, planning, technical, and other assistance for such programs.".

(4) Section 2(b) is amended by striking "to authorize the establishment of Federal noise emission standards for products distributed in commerce, and", changing the period at the end of said sentence to a comma and adding "and to assure that railroad and motor carrier equipment and operational noise emissions are controlled adequately by either State or Federal regulation.".

(5) Section 3(2) is amended by striking out "sections 11(e) and" and substituting "section".

(6) Section 3 is amended by striking paragraphs (3) through (8).

(7) The second sentence of section 4(b) is amended by striking "6," and ", other than for those products referred to in section 3(3)(B) of this Act".

(8) Section 12(f) is amended by striking out "paragraph" and all that follows down through "section 611" and substituting "a standard, rule, or regulation under section 17 or 18 of this Act or section 611".

(9) Section 10 is amended by striking subsections (a) and (b) and substituting the following: "The failure or refusal of any person to comply with any requirement of regulations prescribed under sections 13, 17, or 18 is prohibited.".

(10) Section 11 is amended by—

in subsection (a), striking "paragraphs (1), (3), (5), or (6) of subsection (a) of" each place it appears;

in subsection (b) striking "any paragraph of section 10(a)" and substituting "section 10" each place it appears;

in subsections (c) and (d), striking "10 (a)" and substituting "10".

(11) Section 18(a) is amended by striking "6 or section 8" and substituting "17 or section 18".

(12) Section 14(b)(2) is amended by striking "subject to possible regulation under sections 6, 7, and 8 of this Act".

(13) Section 16(a) is amended by striking "6, 17, or 18 of this Act or any labeling regulation under section 8" and substituting "17 or 18".

(14) Section 17 is repealed, and the following new section enacted in lieu thereof:

"RAILROAD NOISE

"SEC. 17. (a)(1) Regulations of interstate railroads and equipment in existence shall continue until specifically repealed or amended.

"(2) After the enactment of this section, the Administrator may promulgate additional regulations establishing standards and requirements for the design, construction, and maintenance of rail equipment or devices or controls and regulations establishing restrictions on interstate railroad operations and activities along specific rail lines or specific centers of activity, including, but not limited to, switching and marshaling yards, for the purpose of minimizing or eliminating the environmental noise emissions from such equipment or activities. Such standards, controls, limits, requirements, or regulations, if any, shall reflect the degree of noise reduction available through the application of best available technology, taking into account the costs of compliance.

"(3) Within ninety days after the publication of such regulations as may be proposed under paragraph (1) of this subsection, and subject to the provisions of section 16 of this Act, the Administrator shall promulgate final regulations. Such regulations may be revised, from time to time, in accordance with this subsection.

"(4) Any standard or regulation, or revision thereof, proposed under this subsection shall be promulgated only after consultation with the Secretary of Transportation in order to assure appropriate consideration for safety and technological availability.

"(5) Any regulation or revision thereof promulgated under this subsection shall take effect after such period as the Administrator finds necessary, after consultation with the Secretary of Transportation, to permit the development and application of the requisite technology, giving appropriate consideration to the cost of compliance within such period.

"(b) The Secretary of Transportation, after consultation with the Administrator, shall promulgate regulations to assure compliance with all standards promulgated by the Administrator under this section. The Secretary of Transportation shall carry out such regulations through the use of the powers and duties of enforcement and inspection authorized by the Safety Appliances Acts, the Interstate Commerce Act, and the Department of Transportation Act. Regulations promulgated under this section shall be subject to the provisions of sections 10, 11, 12, and 16 of this Act.

"(c)(1) Nothing in this section shall diminish the right of a State or political subdivision thereof to establish and enforce standards, controls, limits, restrictions, or other requirements on environmental noise, including those from rail equipment and operations, in the absence of a Federal requirement pursuant to this section, or a Federal decision that no Federal, State, or local requirement is appropriate, on a specific class of equipment or operations.

"(2) Nothing contained herein shall preclude a State or political subdivision thereof from adopting and enforcing a Federal standard, control, limit, restriction, or other requirement promulgated under this section.

"(3) Any person adversely affected by a State or local requirement, or the Administrator, may demonstrate by a preponderance of the evidence the existence of conflict between the requirement of a State or political subdivision thereof and that of the Federal Government.

"(d) The terms 'carrier' and 'railroad' as used in this section shall have the same meaning as such terms have under the first section of the Act of February 17, 1911 (45 U.S.C. 22).".

(15) Section 18 is hereby repealed and the following new section enacted in lieu thereof:

"MOTOR CARRIER NOISE

"SEC. 18. (a)(1) Regulations of interstate motor carriers and equipment in existence shall continue until specifically repealed or amended.

"(2) After the date of enactment of this section, the Administrator may promulgate additional regulations establishing standards and requirements for the design, construction, and maintenance of motor carrier equipment or devices or controls and regulations establishing restrictions on motor carrier operations and activities for the purpose of minimizing or eliminating the environmental noise emissions from such equipment or activities. Such standards, controls, limits, requirements, or regulations, if any, shall reflect the degree of noise reduction achievable through the application of the best available technology, taking into account the cost of compliance.

"(3) Within ninety days after the publication of such regulations as may be proposed under paragraph (1) of this subsection, and subject to the provisions of section 16 of this Act, the Administrator shall promulgate final regulations. Such regulations may be revised from time to time, in accordance with this subsection.

"(4) Any standard or regulations, or revision thereof, proposed under this subsection shall be promulgated only after consultation with the Secretary of Transportation in order to assure appropriate consideration for safety and technological availability.

"(5) Any new regulation or revision thereof of promulgated after enactment of this section shall take effect after such period as the Administrator finds necessary, after consultation with the Secretary of Transportation, to permit the development and application of the requisite technology, giving appropriate consideration the cost of compliance within such period.

"(b) The Secretary of Transportation, after consultation with the Administrator shall promulgate regulations to assure compliance with all standards promulgated by the Administrator under this section. The Secretary of Transportation shall carry out such regulations through the use of the powers and duties of enforcement and inspection authorized by the Interstate Commerce Act and the Department of Transportation Act. Regulations promulgated under this section shall be subject to the provisions of sections 10, 11, 12, and 16 of this Act.

"(c)(1) Nothing in this section shall diminish the right of a State or political subdivision thereof to establish and enforce standards, controls, limits, restrictions, or other requirements on environmental noise, including those from motor carrier equipment and operations, in the absence of a Federal requirement pursuant to this section, or a Federal decision that no Federal, State, or local requirement is appropriate, on a specific class of equipment or operations.

"(2) Nothing contained herein shall preclude a State or political subdivision thereof from adopting and enforcing a Federal standard, control, limit, restrictions, or other requirement promulgated under this section.

"(3) Any person adversely affected by a State or local requirement, or the Administrator, may demonstrate by a preponderance of the evidence the existence of an inconsistency between the requirement of a State or political subdivision thereof and that of the Federal Government.

"(d) For purposes of this section, the term 'motor carrier' includes a common carrier by motor vehicle, a contract carrier by motor vehicle, and a private carrier of property by motor vehicle as those terms are defined by paragraphs (14), (15), and (17) of section 203(a) of the Interstate Commerce Act (49 U.S.C. 303(a)).".

(16) Section 19 of the Noise Control Act of 1912 is amended by striking out "$15,000-000 for the fiscal year ending September 30, 1979" and substituting "$3,300,000 for fiscal year 1982".

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

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

The motion to lay on the table was agreed to.

Mr. GARN. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. ROBERT C. BYRD. Mr. President, I wish to express for the record my hope that, in the future, on a bill that is not otherwise cleared for passage by unanimous consent, the Chair will not state, upon final passage, "Without objection, the bill is passed."

I believe that Senators should have an opportunity, if they wish, to demand a rollcall vote. I presume they did not in this instance. Someone, at the very last second, may wish a rollcall vote on a bill, and I hope the Chair will give Senators the opportunity to ask for a rollcall vote.

There was a rollcall vote on the amendment, so it was not a minor bill. It was not a bill that was cleared for passage by unanimous consent. It had some controversy involved.

I do not say this with any criticism of the Chair. I know that the Chair acted in good faith.

In any event, I believe I should say this for the record, so that Senators, especially on a vote on which there is not much controversy, may ask for a voice vote on final passage, so that Senators, if they wish to have a division or if they wish to have a rollcall vote, may demand it.

However, when the Chair says, "Without objection, the bill is passed," it is over.

I say this with apologies to the Chair, because, certainly, no rancor is intended. However, I believe that if someone does not say it for the record now, it could create quite a controversy at some time in the future.

Mr. LONG. Mr. President, will the distinguished minority leader yield?

Mr. ROBERT C. BYRD. I yield.

Mr. LONG. Mr. President, I agree with the distinguished minority leader in this matter.

I know that the Chair was acting in good faith about this. However, sometimes Members are not present who would vote against a measure, and other times Senators are present who would vote against it. Since they did not see any point in insisting on a rollcall vote, they should be spared having to demand the yeas and nays in order to make clear that the bill was not passed unanimously.

So I believe that the minority leader is right about this. I hope the Parliamentarian will take due note and so advise the Chair.

Mr. ROBERT C. BYRD. I thank the distinguished Senator from Louisiana.

CASH DISCOUNT ACT—CONFERENCE REPORT

Mr. GARN. Mr. President, I submit a report of the committee of conference on H.R. 31 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 31) to amend the Truth in Lending Act to encourage cash discounts, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of June 23, 1981.)

Mr. GARN. Mr. President, I request that my colleagues act immediately to accept the conference report on the Cash Discount Act. The provisions of this report are exactly those that were passed by voice vote in the Senate on March 12, 1981. After much delay, the House conferees have receded to the entire content of the Senate amendment to H.R. 31. On June 24, 1981, the House adopted the conference report by a vote of 398 to 9.

The extensive delays in the conference on this bill have been the result of the bifurcated nature of H.R. 31. The bill contains not only the provisions which deregulate cash discounts and extend the prohibition against surcharges until February 27, 1984, but also has an unrelated provision regarding certain specifications for the unrelated provision regarding certain specifications for the position of the Surgeon General of the United States. Because of the dual issues in this bill, conferees were appointed from both the Banking and Labor Committees, and were instructed to confer on only the issues within their respective jurisdictions.

Shortly after the conferees were appointed, the banking conferees met and the House receded to the provisions of the Senate amendment. Then we were forced to sit and wait for the conferees on the Surgeon General provision to resolve that issue. Close to 2 months passed before the House receded to the Senate on that remaining section of the bill.

Mr. President, I wish to tell my colleagues that I have never been involved in a conference with less controversy and as little debate as the conference on the banking provisions of this bill. I had no more than sat down at the conference table than the distinguished Congressman from Illinois, Mr. ANNUNZIO, made a motion to concur in the Senate amendment. It was readily accepted and we adjourned within less than 5 minutes of convening the conference. The expeditious fashion with which the banking conferees were able to dispense with our issue, is proof of the undisputed support for the provisions of this bill.

Since action on this bill should have taken place prior to February 27, so that the previous prohibition on surcharges would not have expired. I encourage the Senate to act without delay in agreeing to the conference report.

Mr. PROXMIRE addressed the Chair.

Mr. GARN. Mr. President, may we have order before the distinguished Senator from Wisconsin speaks?

The PRESIDING OFFICER. The Senate will be in order.

Mr. PROXMIRE. Mr. President, I oppose the conference report.

I believe that the Republican Party in the Senate and in the country deserves full credit for taking the strong position they have taken against excessive regulations. There is no question that this has caused a great burden on business and on consumers. But I am amazed that in its first legislative opportunity to strike a blow for deregulation, the administration has opted for more regulation.

All of us gain if we rely more on the freedom of the marketplace and less on the heavy hand of Government. Business will be more efficient and resources will be better allocated.

But here we have the spectacle of our new majority following through on a bill calling for increased restrictions—I repeat, increased restrictions, and that is what this bill does in the conference report—of the private enterprise system as one of the first orders of business when we come to regulatory matters before us.

Mr. President, the No. 1 domestic problem facing this country—and, I think the President is absolutely right—is inflation. One of the reasons why inflation is so serious is because there has been far too much borrowing and too little cash payment in this country by the Federal Government and in the private sector.

We are correct to criticize the Federal Government's excessive borrowing and spending. I think the Federal Government has to reduce its borrowings, has to run surpluses instead of deficits, has to stop bidding up interest rates.

Mr. President, we have a conference report on a bill here today which would continue to discourage people from paying cash and to encourage them to borrow on credit.

The Federal Government is a big factor. It is about a quarter of our economy. But almost two-thirds of our economy is in the private sector. If we are going to follow a policy of supporting regulations which discourage the payment of cash and encourage borrowing money, encourage driving up interest rates, encourage inflation by excessive credit, it seems to me we are following a most unwise course, economically, and a course which is not in the interest of consumers, a course which particularly contradicts the very essence of the position the Republicans have properly taken, that it is time we emphasized free enterprise.

This legislation is opposed by consumer groups, business groups, and free enterprise groups. I do not know any consumer group, not one, which has taken the position that this regulation is in the consumer interest. These consumer groups are ably staffed. They have won the admiration of us. We may disagree, but they won our admiration on the basis of their competence.

They say that consumers will be ill served if we pass this bill restricting the credit surcharges, that it will be against the interest of the consumer and it will mean that the consumer will have to pay more when he pays cash.

This legislation is opposed by the retail merchants, merchants such as Montgomery Ward and Zayre's. These merchants are on the line with consumers every day. They run the big discount houses. They feel they can give consumers a better break and increase sales if they stop subsidizing credit purchases and offer cash customers higher discounts.

This legislation is also opposed by free enterprise groups such as the National Taxpayers Union, the Council for a Competitive Economy and the Heritage Foundation, all of whom oppose continued regulation of surcharges.

According to the title this bill is concerned with cash discounts. Let us not kid ourselves.

Make no mistake about it, the heart and soul of this legislation is the demand of the credit card industry that the Congress extend the ban on credit card surcharges for another 3 years.

Talk about a special interest group. Last year, the credit card industry charged merchants $1.5 billion. Why did they get that from merchants? They got it because when people went in to use their credit cards the merchants, in turn, would be billed by the credit card company for the interest and the cost of processing that credit transaction.

Of course, the credit card companies enjoy very much getting that $1.5 billion, but does anybody really believe that that $1.5 billion did not result in higher prices for the merchandise that all of us buy? Of course, it did. It is translated simply into higher prices. That is why the consumer organizations unanimously, without exception, emphatically oppose the bill in its present form.

It is why they feel that merchants should be free. That is all we are asking. We are not asking that this be imposed. We are saying let the free enterprise system work. Why not let the merchants be free to make a surcharge if they wish to do so? What is wrong with free enterprise, Mr. President?

Back in 1975, the lines of battle on the surcharge question were far less clearly drawn. By a 4-to-3 vote, the Governors of the Federal Reserve Board came down in favor of the ban on surcharges. The Consumer Federation of America also opposed credit card surcharges at that time. The Consumer Affairs Subcommittee heard testimony from the Federal Reserve Board, the Consumer Federation of America, the Federal Trade Commission, the Comptroller of the Currency, and Consumers Union calling for an end to this unnecessary restriction of the free market system.

So not only do we have all the consumer organizations, not only do we have all the free enterprise organizations, every responsible, competent Government agency that has studied the situation and testified, testified that we should remove that ban. That is what this amendment does. They are unanimously for it. There is no competent testimony that does not have a clear special interest, such as the credit card companies themselves, that opposes this amendment.

On the other side of the coin, the credit card industry claims that the Government restriction of surcharges is somehow in the public interest.

Frankly, when we first began the debate on surcharges in 1974, I had no idea how inflationary the hidden merchant discount fees might become. For example the domestic operations of the three

major credit card issuers—Visa, Master Charge, and American Express—collectively earned in excess of $1.5 billion from these hidden fees in 1980 alone.

After listening to literally hundreds of bankers testify before the Banking Committee that every law and regulation eventually results in additional costs which are always passed along to consumers, there is certainly no doubt in my mind that the $1.5 billion hidden fee was likewise passed along to all consumers in the form of higher prices for goods and services. Nor, I might add, does there seem to be any doubt on the part of the Federal Reserve Board that these hidden fees are buried in the regular prices of goods and services of merchants who accept credit cards.

Of course, they are. We were not born yesterday. We know there is no way the merchants can assume this. They are going to go out of business if they do not pass along their costs. They have to. It is the first thing you learn in cost accounting. Every merchant who has enough sense to come in out of the rain is going to require that his costs be covered in the price he charges. They do that.

There is nothing wrong in that. It is proper, it is desirable, it is necessary. And they pass along that cost.

Unfortunately for cash purchasers, merchants have no way of knowing which customers will pay by cash and which will pay by credit card. Consequently, merchants must bury the $1.5 billion merchant fee in their regular price, with the result that both cash and credit card customers alike must shoulder this hidden fee.

Even if we conservatively assume that cash customers wind up paying only one-third of the merchant fee, that still amounted to a $500 million subsidy of credit card purchasers by cash customers in 1980.

Finally, let me say this to my Republican colleagues. If this conference report is adopted and is sent to the White House for signature it will be an embarrassment to President Reagan who speaks so eloquently of free enterprise.

The administration and the new majority have not put their money where their mouths are on this legislation.

Mr. GARN. Mr. President, I am not aware that anyone else desires to speak on this issue. As I said, it passed the Senate overwhelmingly, and also the House of Representatives, and it was debated at that time.

If there is no one else who desires to speak, I am also unaware of any request for a rollcall vote, and I am prepared to vote by voice vote.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

(Putting the question.)

The PRESIDING OFFICER. The Chair is in doubt and asks for a division. All those in favor will stand and be counted.

(Senators rising.)

The PRESIDING OFFICER. All those opposed will stand and be counted.

(Senators rising.)

The PRESIDING OFFICER. The ayes appear to have it, the ayes have it, and the conference report is agreed to.

Mr. GARN. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

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

The motion to lay on the table was agreed to.

ORDER OF BUSINESS

Mr. BAKER. Mr. President, is there an order for the next item of business?

DEPARTMENT OF JUSTICE AUTHORIZATIONS, 1982

The PRESIDING OFFICER. The clerk will report the pending business and will state the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 951) to authorize appropriations for the purpose of carrying out the activities of the Department of Justice for fiscal year 1982, and for other purposes.

The Senate resumed consideration of the bill.

SENATE RESOLUTION ON SOCIAL SECURITY

Mr. BAKER. Mr. President, it is my hope that this afternoon we can turn to the consideration of the sense-of-the-Senate resolution in respect to social security which I identified on yesterday.

Negotiations have been under way with the hope that we can obtain a time agreement on that measure. I think the prospects are good that we can. But for the moment we are not prepared to proceed. Therefore, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

UNANIMOUS-CONSENT AGREEMENT—SENATE RESOLUTION 87

Mr. BAKER. Mr. President, as I indicated earlier, there is a desire on the part of some Members to proceed to the consideration of Calendar Order No. 167, Senate Resolution 87, a sense-of-the-Senate resolution expressing concern regarding social security benefits.

I understand that all parties to that measure will be ready to proceed to the consideration of that resolution at 4 o'clock this afternoon. I have a time agreement that I am about to propound, Mr. President, with respect to the consideration of that measure that I believe has been cleared on the minority side.

Mr. President, I ask unanimous consent that when the Senate turns to the consideration of Calendar Order No. 167, Senate Resolution 87, a resolution expressing the sense of the Senate regarding social security benefits, it be considered under the following time agreement:

One hour total time of debate on the resolution, to be equally divided between the distinguished Senator from Pennsylvania, Mr. HEINZ, and the distinguished minority leader or his designee, with the proviso that no motions, amendments, appeals, or points of order be in order to the resolution and that the agreement be in the usual form.

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

RECESS UNTIL 4 P.M.

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate stand in recess until the hour of 4 p.m. and that when it reconvenes at 4 p.m. the Chair lay before the Senate, Senate Resolution 87 under the terms and the provisions of the order just entered.

There being no objection, the Senate, at 2:44 p.m., recessed until 4 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. DANFORTH).

QUORUM CALL

The PRESIDING OFFICER. The Chair, in his capacity as a Senator from the State of Missouri, suggests the absence of a quorum.

The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

TAXATION OF SOCIAL SECURITY BENEFITS

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of Senate Resolution 87, which will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 87) expressing the sense of the Senate that the Congress not enact legislation to tax social security benefits, and for other purposes.

The Senate proceeded to consider the resolution, which had been reported from the Committee on Finance, with amendments, as follows:

On page 2, line 4, strike "the", and insert "their"; and

On page 2, line 4, strike "of American workers".

The cosponsors of the resolution are:

Mr. Heinz, for himself, Mr. Chiles, Mr. Proxmire, Mr. Grassley, Mr. Pressler, Mr. Cohen, Mr. Percy, Mr. Melcher, Mr. Pryor, Mr. Glenn, Mr. Burdick, Mr. Bradley, Mr. Dodd, Mr. Packwood, Mr. Dole, Mr. Cannon, Mr. Williams, Mr. Moynihan, Mr. Mitchell, Mr. Sasser, Mr. Garn, Mr. Levin, Mr. Sarbanes, Mr. Roth, Mr. Simpson, Mr. Symms, Mr. Harry F. Byrd, Jr., Mr. Matsunaga, Mr. Bentsen, Mr. Riegle, Mr. Zorinsky, Mr. DeConcini, Mr. Goldwater, Mr. Bumpers, Mr. Randolph, Mr. Kennedy, Mrs. Hawkins, Mr. Weicker, Mr. Thurmond, Mr. Warner, and Mr. Robert C. Byrd.

Mr. HEINZ. Mr. President, it is my understanding that a time agreement has been entered into on this measure; that the time limitation is to be 1 hour, evenly divided between me and the minority manager of the bill, Senator MOYNIHAN. Will the Chair advise me if that is correct?

The PRESIDING OFFICER. The Senator is correct. The time is controlled by the Senator from Pennsylvania and the designee of the minority leader.

Mr. HEINZ. I thank the Chair.

Mr. President, the resolution before the Senate, Senate Resolution 87, has numerous cosponsors, including the following three cosponsors whose names I ask unanimous consent be added: The Senator from Massachusetts (Mr. KENNEDY), the Senator from Florida (Mrs. HAWKINS), and the Senator from Connecticut (Mr. WEICKER).

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

Mr. HEINZ. Mr. President, I submitted this resolution last March, and its purpose is, very simply, that of opposing the taxation of social security benefits.

When I submitted the resolution, in my remarks on the floor I referred to the continuing fear of social security recipients that their benefits will suddenly be subject to taxation. I also said that action on the resolution was needed to reassure those citizens that they would not face a sudden, unexpected loss of income.

Mr. President, since that time, older Americans have been bombarded on a daily basis, verbally and in print, with proposals that make sweeping, drastic changes in the social security system, changes far beyond taxation, which are causing a crisis of confidence, among our retired citizens and those who are about to retire, about our social security system.

I believe that today the Senate has an opportunity—at least, partially so—to allay those fears by strongly supporting Senate Resolution 87, by expressing the sense of the Senate that the 97th Congress will not enact legislation which would change the tax treatment of social security benefits. I urge my colleagues on both sides of the aisle, on a strong bipartisan basis—this should not be a partisan issue—to vote in favor of the resolution.

Mr. President, for many older Americans in every State, retirement income is less than adequate to meet the costs of basic necessities. That was true when we started the social security system more than 40 years ago. Regrettably, it is still true today.

The fact is that there are millions of elderly people who are struggling to keep up with inflation. Prices for food, utilities, fuel, and medical care have increased faster than the Consumer Price Index. Despite the indexing of social security benefits, the overall incomes of the elderly have not kept pace with inflation. Taking away in taxation what already has been given in benefits that have not kept up is, of course, a reduction of benefits, however we might try to disguise it.

Any decision to tax social security benefits would be grossly unfair to those who have planned their retirement with the expectation of a tax-free social security benefit.

Those already retired and people who are about to retire do not have the opportunity to change their future plans. They have already planned, and taxing their social security benefits would be pulling the rug right out from under them. It would be shredding their plan. It would be a human disaster.

We must not lose sight of the fact that social security is a vital source of income for older Americans. Over 90 percent of the families headed by an older person depend upon social security for at least a portion of their income and for two-thirds of those families social security is their major source of income.

Mr. President, our citizens are already burdened enough by heavy taxes. At the time when we are seeking to alleviate some of this tax burden, it is unwise and it is wholly inconsistent to increase taxes for those on limited incomes.

The elderly, even without taxes on social security, pay a substantial portion as it is of the total Federal income taxes collected by the Internal Revenue Service. Persons over age 65 who constitute about 11 percent of the total population pay 10 percent of all personal income taxes.

Social security, Mr. President, is the cornerstone of our Nation's retirement system. It is a system that has worked. It has worked well. It has worked well for more than 40 years.

While Congress can and must act now to restore fiscal stability to the program, and I trust we will do so this year, to spare people any further anxiety, taxation of benefits is not the solution. It is not the answer, as some would have us believe, to the problems of social security.

So, Mr. President, it is my view that approval by the Senate today of Senate resolution 87, the measure before us, will be proof to the Nation's elderly that we strongly support the past commitment that we reaffirm in today's present to their economic security and well being.

Mr. President, I yield to the Senator from New York.

Mr. MOYNIHAN. Mr. President, I thank the distinguished Senator from Pennsylvania. On behalf of the Democratic cosponsors of Senate Resolution 87 I rise to express solidarity with the views that the Senater from Pennsylvania has stated and to add simply to a position that the Democratic Members of this body have sustained through the nearly half-century since passage of the Social Security Act. This resolution to express our opposition to taxing social security benefits is particularly timely and particularly important at a moment when there has been in our view an unfortunate and unnecessary effort on the part of some members of the administration to suggest that the social security system is in some grave crisis that will require extraordinary reductions in benefits from persons entering the system.

On the 12th of May the administration proposed that for persons entering the system as of January 1 benefits be reduced 10 percent across the board. For persons retiring at 62, when the majority of persons do retire, that the overall reductions be 40 percent, leaving such persons who have no other income with an average retirement benefit that is 19 percent of their average earnings in years when paying into the social security system. This is a benefit that would keep them permanently below the Government's poverty line and would indeed leave them impoverished.

I think it important to recognize just how many people, as the Senator from Pennsylvania has said, depend utterly on social security. According to a 1976 study by the Department of Health, Education, and Welfare (as it was then called) 57 percent of the persons retiring at age 62 are ill. The evidence from the one survey taken in 1977 would have us understand that a majority of those persons have at the time of their retirement no other income. Some of them are unemployed. Many of them are ill. They entered a system which provides a source of income for when they will have none. I think it is clear that this body will not accept the administration proposals. Throughout the country there has has been a tremor of concern, particularly among older persons who do not follow the specifics and the details of the actuarial estimates of what will be the ratio of beneficiaries to contributors in the middle third of the 21st century.

All they hear, as they heard from Mr. Svahn on July 6, is "crisis, crisis, bankruptcy, crisis, crisis," four crises in 2 pages of a press statement.

The persons in the system now have the right to know that their benefits are secured and will not be reduced and will not be taxed.

It is certainly the view on this side of the aisle that this will not happen and I am happy to see the degree to which this is shared on both sides of the aisle. I wish to state our complete support for this resolution at this time.

Mr. HEINZ. Mr. President, I compliment and thank my distinguished colleague from New York, Senator MOYNIHAN, for his comments on behalf of this resolution.

He was one of the Senators who joined with me very early on when I introduced this legislation in the first place.

He, as a member of the Finance Committee, has taken a special interest in the problems of our social security system, and I publicly recognize his efforts and thank him for his remarks.

Mr. President, I ask unanimous consent that Senator THURMOND be added as a cosponsor.

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

Mr. COHEN. Mr. President, I support Senate Resolution 87, a resolution reaffirming the sense of the Senate that social security benefits should continue to be exempt from taxation.

In recent weeks we have all been made painfully aware that the economic viability of the social security system is severely threatened. There is very little dispute that the Congress must act immediately and responsibly in order to insure that the Nation's oldest and most popular social program is not allowed to

drift into the throes of bankruptcy. While the task will be difficult, we have no choice but to address the problem. The most irresponsible course of action would be to simply turn our back to the problem and do nothing.

While we face a number of difficult choices for restoring health to the social security system, I do not believe that the taxation of social security benefits is necessary in order to solve our immediate short-term financing problems. As a cosponsor of this resolution, and as a supporter of the social security system, I do not believe the wise choice will be to place further tax burdens on our older Americans, who already pay 10 percent of all personal income taxes and who are the hardest hit by inflation.

Older Americans on fixed incomes, nearly two-thirds of whom try to make ends meet on social security as their major source of income, cannot tolerate further taxation. Time after time, in hearing after hearing, and in letter after letter, I have heard from the elderly residents of my State and across the country that inflation, energy costs, and spiraling interest rates threaten their daily security. For some, nearly half of their income is devoted to necessities. Can we really afford to tax the hardest hit segment of our population further?

I believe the answer to that question is an unequivocal no. As a member of the Senate Special Committee on Aging, I am pleased that hearings have been held, witnesses have been heard, and suggestions have been considered for reforming the social security system. To my knowledge, no one has recommended the taxation of social security benefits as a method of relieving the system of its financial problems.

The American public deserves our reassurance that we will follow the wisest course of action possible, and that social security benefits will not be rashly and immediately cut by exposure to further taxation.

Mr. THURMOND. Mr. President, today I am pleased to rise, as a cosponsor, to support Senate Resolution 87, which expresses the sense of the Senate that social security benefits should not be subject to Federal income taxes. This resolution could not be considered at a more opportune time.

As Congress nears completion of its annual budget process, it is imperative that those Americans who now depend on social security be assured that we here in the Senate are sensitive to their needs. People who have retired are the people who deserve the security this system offers. They have worked hard to help make this country great, and they have contributed financially to the retirement system. Now, they have a reasonable expectation of receiving this retirement income. We have a solemn duty to insure that every effort is made to protect these retirement benefits.

Just as we owe these retired Americans our diligence in guarding their individual benefits, we owe them the greater duty of protecting the whole system. The social security system must remain sound. It is not enough that social security retirement checks be sent next month; they must be available next year and the years after that. We in Congress must take every step necessary to insure that the retirement system remains fiscally sound, no matter what the political cost.

Mr. President, I believe that this resolution is one sign of our dedication to protecting those who rely on social security. For those who believe that the Federal Government only has their best interests at heart, an attempt to tax social security benefits is a rude awakening. As we now reap the results of the excesses of past administrations and Congresses in both entitlements and a slowed economy, the dollar has weakened to the point that many of our elderly citizens are losing their fight against the ravages of inflation. On top of this, there are those who would further diminish the finances of these Americans by subjecting their social security income to Federal taxation.

Last year, I joined with Senator JEPSEN and others to oppose this proposal. I am glad that the full Senate now has the opportunity to indicate its strong opposition to such taxation. This resolution should indicate our commitment to the social security system—both in protecting the benefits of currently retired Americans and in insuring the long-term existence of the system. We must act to insure the soundness of the social security system. The situation demands it, and Americans deserve no less.

DO NOT TAX SOCIAL SECURITY BENEFITS

Mr. CHILES. Mr. President, I rise in support of Senate Resolution 87 expressing the sense of the Senate that social security benefits should not be subject to Federal taxation.

Senator HEINZ and I, as chairman and ranking minority member of the Special Committee on Aging, introduced this resolution along with many of our colleagues on March 5. I am pleased that the Finance Committee has taken such timely action on the resolution, and I urge all of my colleagues here today to vote favorably on the resolution.

During the past few weeks, millions of social security beneficiaries all across the Nation have had nothing but bad news about social security. They have heard that the trust funds are going broke and that their checks may stop coming or be delayed. Many older Americans are afraid. They have heard all the bad news—and I think it is unfortunate that they have not gotten much reassurance from us here in Congress.

This is a good time to remind all social security beneficiaries that we have already gone on record—with a 96-to-0 vote—that we will not make changes to social security any more than is absolutely necessary to make sure that the checks keep coming on time. And it is a good time to point out that we have already taken some action in the budget reconciliation bill which will help make sure that social security checks will not stop and will not be delayed.

This resolution gives us another opportunity to reassure social security beneficiaries that we will not be making cuts any more than is necessary to insure the solvency of the system. Taxing social security benefits is not necessary.

I do not think my colleagues need to be talked into voting favorably on this resolution, because I think you agree with me. But I would like to point out that we will soon be taking up a tax cut bill in the Senate. We certainly do not want to be telling social security beneficiaries that we are going to ask for additional taxes from them at the same time we are cutting taxes for everyone else.

Taxing social security benefits is not even part of the answer to solving social security's problems. Social security beneficiaries need all the reassurance we can give them now, and this resolution can help give them that reassurance.

Mr. BURDICK. Mr. President, during a period of some confusion in the country as to the strength of the Federal Government's commitment to the social security system, the Senate has an opportunity today to send a clear message to older Americans: There will be no taxation of social security benefits approved by this Congress.

At a time when those dependent on social security are justifiably concerned about what changes in the program will be approved by Congress in the effort to restore it to short-term and long-term financial solvency, we can at least make it clear that the designation of social security benefits as taxable income is not one of the changes being contemplated.

This sense of the Senate resolution was introduced in March in response to a recommendation by the President's Commission on Pension Policy that social security receive the same tax treatment as other retirement programs. Since then, with both the House and Senate including elimination of the minimum social security benefit in their budget reconciliation bills and long-terms cuts in benefits being considered by the appropriate committees, it has become even more apparent that taxation of social security benefits is an economic blow that millions of older Americans should not be asked to sustain.

It is estimated that the average annual tax increase for households receiving social security benefits would be $350. The deduction of that amount of money from the disposable income of those whose only income is derived from social security benefits could make a significant difference in their ability to purchase such necessities of life as food, medicine, and clothing.

Congress faces a number of difficult decisions in its deliberations on reform of the social security system, but the vote on this resolution is not one of them. Just as the Senate voted unanimously on May 20 to reject any precipitous and unfair reduction in early retirement benefits, so today we can act to assure social security recipients that they need not worry about taxation of their benefits. I urge the Senate to give its overwhelming approval to this important resolution.

SOCIAL SECURITY BENEFITS SHOULD NOT BE TAXED

● Mr. JEPSEN. Mr. President, I rise in support of the resolution offered by my distinguished colleague from Pennsylvania (Mr. HEINZ). I must say, however, that I do so reluctantly. Not because I do not agree with the intent of the res-

olution, but rather because I do not think it goes far enough. I believe the simplest and most straightforward thing to do would be to spell out our sentiments in law. A Senate resolution is not enough.

Contrary to conventional wisdom, public law does not provide for the tax-exempt status of social security benefits. It enjoys the much weaker and more uncertain protection of an Internal Revenue Service ruling, dating from 1941. This raises the frightening possibility that benefits could become subject to Federal income tax at any time and without the prior approval of any legislative body. This resolution would not prevent this.

In 1979 the Advisory Council on Social Security published an opinion that the 1941 IRS ruling was inequitable and argued for taxation of half of social security benefits. A recent book by Mickey Levy, "The Tax Treatment of Social Security," and a series of articles in leading publications have adopted similar positions.

Several months ago, the President's Commission on Pension Policy issued a recommendation along identical lines. I mention these references to underscore a serious threat confronting older Americans. For example, in the past many of the advisory's council's proposals have ultimately become legislation. This threat is not trivial. The need for legislative response is critical.

Three powerful arguments urge immediate consideration of this response.

First, the taxation of social security benefits would target one of the poorest sectors of our society. The incremental burden on our elderly population would amount to $36 billion by 1985. This averages $350 per year for every affected person over 65. Approximately 10.6 million of the 42.2 million benefit recipients would be impacted. Considering that almost 20 percent of retired persons—even with social security—live below the poverty level, it is difficult to comprehend why any proposal to tax program beneficiaries could enjoy even limited support. The idea bears frightening implications for the already depressed standard of living of America's older citizens.

Second, and this is extremely important, Mr. President, the apparent logic for taxing social security implies that the system is a welfare mechanism designed to redistribute income from the wealthy to the poor. This concept was forcefully articulated by the New York Times in an editorial last year. The paper's endorsement of the taxation of social security was based on the mistaken assumption that most beneficiaries would be unaffected because their income is so low: Only the privileged few, the article suggested, would be assessed. This line of thinking is wrong.

The social security program is a pension system to which one has a right based on the withholdings one pays into it throughout a working lifetime. It is neither a welfare mechanism nor a medium for redistributing society's assets. That is not interpretation, it is the language of the Social Security Act. I oppose any nonlegislative ruling which contradicts the original expressed purpose of Congress. I oppose turning social security into an instrument of political manipulation. The Wall Street Journal published an editorial responding to the statements that appeared in the New York Times and emphasizing the point I have just made, I urge my colleagues to read this article.

The third and final argument is one of integrity. At a time when confidence in the Federal Government is at an all-time low, I believe it would not be imprudent to aggravate that cynicism further by undermining the value and purpose of social security. Inflation and interest rate instability affects older Americans more than other groups. This makes it all the more important for Congress to guarantee, by statute, the integrity of the one social program which this sector of our society depends upon most.

In closing Mr. President, I applaud my distinguished colleagues leadership on this issue. I only hope that later this year we can give the Senate an opportunity to vote on a bill that will make the tax-exempt status of social security part of permanent law so that the retirees in this country will never have to worry about the possibility that their benefits might be taxed.●

● Mr. BENTSEN. Mr. President, as an original cosponsor of Senate Resolution 87, I am pleased to speak in support of this measure which expresses the sense of the Senate that social security benefits remain exempt from Federal taxation. Social security benefits are not explicitly precluded from taxation by statute, but have remained tax free because of administrative rulings dating back to 1938. A change in this policy of long standing would defeat the underlying purposes of the social security program and I do not believe that such a change is warranted at a time when our citizens are already overburdened by heavy taxes.

It would be unconscionable, particularly during a period of high inflation, to increase the tax burden for some of this Nation's most vulnerable citizens, elderly persons on fixed incomes. While the 1979 Advisory Council on Social Security and the President's Commission on Pension Policy Report released in February of this year recommend that benefits from social security receive the same tax treatment as other retirement programs, it is clear that the administrative problems associated with taxing such benefits would be extraordinarily complex and that the information available on the effects of such a change in policy is insufficient to justify implementing these recommendations.

Mr. President, the financial integrity of the social security system is of great concern to me and will be one of the most important issues before the 97th Congress. Adoption of this resolution will not delay examination of alternative funding sources for the payment of benefits under the Social Security Act, however, it will serve as a substantial commitment to the protection of benefits now being received. I urge my colleagues on both sides of the aisle to join with me in support of this resolution.●

● Mr. PRYOR. Mr. President, I join today with Senator HEINZ and other members of the Special Committee on Aging in supporting a sense of the Senate resolution expresing the view that social security benefits should remain exempt from Federal taxation.

During these times of uncertainty within the social security system, it is imperative that we continually reassure our elderly citizens that the social security program will fulfill its original promises to the American people.

With economic unrest and high inflation, our social security beneficiaries live in a constant fear that their benefits will become subject to taxation. At the present time 25 percent of our elderly citizens are near or below the poverty line and struggle with rising costs of fuel, food, medical care, and utilities. Prices for these basic necessities have escalated far above the Consumer Price Index.

To consider taxation for moneys that have been guaranteed as tax-exempt benefits would actually serve as a rereduction in benefits. Such a reduction through taxation would be detrimental to those people who live on fixed incomes and lack any other avenue of receiving additional benefits. Those who would be affected by such a tax already pay 10 percent of the total personal income tax paid to the IRS.

Many hearings by the Special Committee on Aging have sharpened our perception of the vital importance and extensive dependence that our elderly place on the social security program. Although there is definite need for reform in the social security system to insure its financial soundness, a tax on guaranteed benefits would prove to be an unfair and undermining factor toward the reformation of our system.

The taxation of the benefits enjoyed by 93 percent of Americans over 65, coupled with inflation, would be requiring the millions of Americans who have paid faithfully into the social security program to carry an undeserved burden for the American people.●

● Mr. GRASSLEY. Mr. President, social security owes its current tax-exempt status to Bureau of Internal Revenue bulings in 1938 and 1941, which held social security lump sum and monthly benefits to be nontaxable. The 1941 ruling was based, in part, upon the Bureau's conviction that subjecting benefit payments to income taxation would tend to defeat the underlying purposes of the Social Security Act, the most important of which is to attack the problems of insecurity by poviding safeguards designed to reduce future dependency.

This sense-of-the-Senate resolution is necessary for a number of reasons. Foremost among those reasons is the concern generated among current beneficiaries by recent Advisory Council on Social Security recommendations that one-half of social security benefits be made subject to taxation. This resolution, expressing the sense of the Senate that the current tax exempt status of social security

benefits not be changed, should help to assuage their fears.

This resolution is also justified on substantive grounds. It is highly likely that Congress will be forced to take actions to alleviate the short- and long-term funding difficulties in social security this year, which will probably entail limited benefit reform. Any action by Congress or the IRS to tax benefits—especially the benefits of current recipients—this year would be ill considered.

Mr. President, I submit that the underlying purposes of the Social Security Act have not changed substantially since 1941. Logic would dictate, then, that social benefits should continue to be accorded tax-exempt status.●

● Mr. DODD. Mr. President, I believe the Senate should act affirmatively on Senate Resolution 87, expressing the sense of the Senate that the Congress not enact legislation to tax social security benefits.

On May 20, by a vote of 96 to 0, the Senate passed an amendment to the omnibus supplemental appropriations bill expressing its sense that Congress not reduce social security benefits. The Senate agreed to consider only those reforms necessary to insure the social security system remains financially sound.

Taxing social security benefits is merely a back-door means of slashing benefit payments. Whether social security benefits are taxed or cut outright, the end result remains the same: benefits are reduced.

Reducing social security benefits would break a promise made not only to senior citizens who contributed to the fund in the past but to wage earners who contribute in the present. Thus, taxing social security benefits would seriously weaken the faith all Americans have in the integrity of the social security program and its ability to protect them from the sharp drop in income which often accompanies retirement, disability, and death of a spouse.

Today, one of every nine Americans is a senior citizen. These older Americans helped make this country what it is. They have fought wars, grown our food, worked as laborers and managers in our factories, built our roads, diiscovered cures for our diseases, and educated us and our children. They contributed part of their wages to the social security system during their most productive working years, confident that they would receive benefits when they needed them after retirement. Our senior citizens retired in good faith, believing that they could count upon governmental assistance if they needed it.

We cannot change the rules in the middle of the game for these seniors. They abided by the rules all their working lives, paying into social security funds year after year. How can we now decide not to pay back those who contributed to the social security program, thereby refusing to abide by the same rules we held them to?

Many of our elderly constituents made the decision to retire based upon the premise that the social security benefits due them would be paid. We cannot back out on them now without dangerously undermining not only their confidence in Congress but also the confidence of their children and their children's children.

Mr. President, this year the Congress is in the business of figuring out how best to limit, not increase, the tax burden on the American people. A number of tax reduction proposals have been floated by members of both parties, and I do not agree with all of them. For example, multiyear rate reductions of the sort proposed by the administration will probably prove inflationary and may lock us in to longer term policies without the flexibility needed to address rapidly changing economic circumstances. However, it is clear that stemming the tax burden in a manner consistent with our national economic objectives is of high priority. It is clear that imposing taxes on social security benefits not only is unfair for beneficiaries, but runs directly counter to the expressed wishes of the American people and Members of Congress of both parties. We should not inflict a double whammy on our senior citizens by simultaneously increasing taxes for them while cutting taxes for others, and imposing an arbitrary new standard which can only complicate and undermine their financial planning.

Mr. President, I urge that the Senate adopt Senate Resolution 87.●

TAX-FREE STATUS OF SOCIAL SECURITY BENEFITS

Mr. DOLE. Mr. President, I am pleased to support this resolution. I trust that there will be no opposition to this measure. It is virtually identical to Senate Resolution 432, passed by the Senate last August 4.

The resolution is very simple. It merely states that it is the sense of the Senate that social security benefits not be taxed. Recommendations by the 1979 Advisory Council on Social Security and the President's Commission on Pension Policy that social security benefits be taxed, in part, may have alarmed many Americans. This resolution will put their fears to rest. The Senate, to my knowledge, has never considered taxing social security benefits and will not start now. The amendments made, in committee, to the resolution originally referred to us are minor language changes and modifications of factual statements. There were no objections to the changes or the measure itself in committee.

This resolution may be the least controversial item regarding social security we will see for quite awhile. This Congress must face very difficult decisions regarding the social security system this year. The taxation of benefits, however, will not be one of them.

KEEPING SOCIAL SECURITY BENEFITS EXEMPT FROM FEDERAL TAXATION

Mr. ROBERT C. BYRD. Mr. President, I rise in support of the resolution before the Senate today, which reaffirms our longstanding policy that social security benefits should not be taxed by the Federal Government

In recent weeks, we have heard a great deal of talk about reducing the size of social security benefits to help reduce the cost of the retirement system. Taxing benefits would certainly be one means of reducing benefit levels. And, a decision to tax current benefits would constitute a precipitious and unfair benefit cut for elderly Americans who have planned for their retirement with the full expectation of tax-free benefits.

The resolution before the Senate today states that the 97th Congress will not adopt any social security financing plan which would immediately subject social security benefits to Federal taxation.

The purpose of the resolution is simply to reassure the elderly community. It seems clear that the circumstances and events of recent months call for the Congress to reassure our Nation's social security retirees, and workers.

The integrity of the social security system depends upon the essential qualities of trust, confidence, and predictability. This year, there have already been too many surprises—shocks, in many instances—regarding proposed social security benefit cuts for Americans approaching retirement age, and for Americans who are already retired. These shocks have greatly disturbed the Nation's elderly and the Nation's workers. They have worked to undermine the integrity of the social security system.

The administration would like everyone to believe that it has not supported cuts in social security benefits for current beneficiaries, but that has not been the case. The administration called for a variety of such cuts, through the budget process. Its budget proposals drastically reduce disability coverage. Its budget proposals reduce and then eliminate benefits for dependents and survivors, between the ages of 18 to 21, who are attending school fulltime. Its budget proposals permanently eliminate the minimum benefit payment for both current and future retirees.

More than 500,000 Americans, age 80 or older, have been receiving the minimum payment for 15 years or longer. The administration would tell these elderly Americans, many of them widows, that they are no longer entitled to the benefits promised to them by the social security system when they made their retirement plans and that, if they need assistance, they should apply for welfare.

Many of us fought to preserve the minimum benefit payment for retired Americans. Senator RIEGLE twice offered amendments to preserve the payment for those already retired; both attempts resulted in rollcall votes, but were unsuccessful.

Reducing and eliminating social security benefits for retired Americans—through the budget process, not even a separate piece of legislation—sends a chilling message to Americans who believe in the social security system.

In May, when the administration called for major and immediate cuts in social security retirement benefits, the Senate unanimously went on record to reject the plan. At that time, I had many concerns. I was afraid that the President's advisers were misinterpreting his personal popularity as a license to unravel the social security system. I was afraid that the plan, accompanied by dire administration predictions of the social security system's imminent col-

lapse, was causing unnecessary fear and extreme distress among Americans—both young and old.

The depth of benefit cuts in that plan went beyond what might be necessary to insure adequate future financing of retirement benefits. The plan sent rapid shock waves through the elderly community because it was completely unexpected.

In accepting the Republican nomination for the Presidency, Mr. Reagan quoted Franklin D. Roosevelt, telling the American people, "It is essential that the integrity of all aspects of social security be preserved."

Mr. Reagan continued to strongly support social security throughout his campaign and just 2 months before he was elected he said:

> This strategy for (economic) growth does not require altering or taking back necessary entitlements already granted to the American people. The integrity of the Social Security system will be defended by my administration.

The only benefit changes that I remember President Reagan discussing in his campaign for the Presidency were ones which would raise the cost of the system, because at that time, he supported raising the benefit levels for women.

When the President came before Congress to argue the merits of his budget plan, he said that no budget savings would be made by cutting social security retirement benefits. He said that those benefits would be preserved as part of the Nation's "safety net."

It is time for realism on social security; it is time for calm deliberation and no more surprises. The Congress should provide reassurance to our Nation's retirees and workers. The administration must also contribute to a restoration of confidence, and its officials must not prey upon our most vulnerable fears.

When OMB Director Stockman defended the administration's social security "reform" plan, he testified before a congressional committee:

> The question before the Congress is whether the 36 million Americans who currently depend on the Social Security system can count on any check at all less than two years hence. . . . The most devastating bankruptcy in history will occur on or about Nov. 3, 1982.

Mr. Stockman said this to defend $88 billion in social security cuts over the next 5 years which would grow into a 23-percent cut in total social security benefit protection. The $88 billion in cuts would have destroyed the essential qualities of trust, confidence, and dependability in the system. The plan would have destroyed the system's integrity because the plan was cruel and inhumane. According to the administration's own economic forecasts, more than $80 billion of the "savings" in social security, proposed over the next 5 years, would not be needed to pay for benefits during this time.

In the Senate resolution disapproving the administration's social security plan, the Senate made it clear that we will oppose social security cuts designed to balance the Federal budget, rather than to restore financial solvency to the trust funds.

Let us now have some realism from the administration. Exaggerated statements do not contribute to debate, they distort it.

I support the social security resolution before the Senate today. It is a sensible statement of the sense of the Senate regarding Federal taxation of social security benefits. It is a positive declaration intended to reassure our Nation's elderly citizens. I am proud to be a cosponsor of the resolution, and I commend Senator HEINZ, chairman, and Senator CHILES, ranking minority member, of the Special Committee on Aging, for their bipartisan cooperation on the resolution.

Mr. HEINZ. Mr. President, I wish to ask for the yeas and nays on the resolution, unless they have been previously ordered. I do not recollect that part of the order.

The PRESIDING OFFICER. The yeas and nays have not been ordered.

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

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

The yeas and nays were ordered.

Mr. HEINZ. Mr. President, I am prepared to yield back the remainder of the time.

Mr. MOYNIHAN. Mr. President, I am prepared to yield back the remainder of the time on this side of the aisle.

The PRESIDING OFFICER. All time having been yielded back, the question first is on agreeing to the amendments in the body of the resolution.

Mr. CHILES. Mr. President, I wish to join with my colleagues and say I congratulate them on the introduction of this resolution.

I think it is very important, and it is a signal that we should be sending to the retired and disabled people of this country. With all of the shocks that have occurred in regard to the social security so far, with people told that the system is going to go broke, or that benefits are going to be cut precipitously, it is important to assure people that we are not going to put a tax on social security benefits on top of all the program benefit reductions reported by the Finance Committee, and I am delighted to be a cosponsor of the legislation.

The PRESIDING OFFICER. The question is on agreeing en bloc to the amendments to the resolution.

The amendments were agreed to en bloc.

Mr. HEINZ. Mr. President, we asked for the yeas and nays.

Mr. MOYNIHAN. We asked for the yeas and nays on the resolution as amended.

The PRESIDING OFFICER. The question is on agreeing to the resolution, as amended. The yeas and nays have been ordered.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

The question is on agreeing to the resolution, as amended. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from California (Mr. HAYAKAWA) is necessarily absent.

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

The PRESIDING OFFICER. Are there any other Senators in the Chamber who have not voted and who wish to do so?

The result was announced—yeas 98, nays 0, as follows:

[Rollcall Vote No. 187 Leg.]

YEAS—98

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

NOT VOTING—2

Hayakawa Tsongas

So the resolution (S. Res. 87), as amended, was agreed to.

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

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question now is on agreeing to the amendments to the preamble.

The amendments to the preamble were agreed to.

The PRESIDING OFFICER. The question now is on agreeing to the preamble as amended.

The preamble, as amended, was agreed to.

The resolution, as amended, with its preamble, as amended, is as follows:

S. RES. 87

Whereas social security was established to protect the income of Americans against the serious economic risks that families face upon retirement, disability, and death; and

Whereas social security provides a monthly payment to some thirty-five million beneficiaries; and

Whereas various bodies have recommended that social security benefits be included in taxable income for Federal income taxes; and

Whereas for the people affected, taxing of social security benefits would be tantamount to a cut in benefit payments; and

Whereas the elderly are especially burdened by inflation and the cost of basic necessities such as fuel, food, and medical care have risen faster than the rate of inflation; and

Whereas the prospect of taxation of benefits has alarmed many older Americans and may have undermined their confidence in the integrity of the social security program: Now, therefore, be it

Resolved, That it is the sense of the Senate that any proposals to make social security benefits subject to taxation would adversely affect social security recipients and undermine their confidence in the social security programs, that social security benefits are and should remain exempt from Federal taxation, and that the Ninety-seventh Congress will not enact legislation to subject social security benefits to taxation.

ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business, to extend not beyond 5:30 p.m., in which Senators may speak for not more than 10 minutes each.

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

THE LAST OF THE NAZI WAR CRIMES TRIALS COMPLETED

Mr. PROXMIRE. Mr. President, I would like to call the Senate's attention to an event which recently took place in West Germany. After 5½ years, the longest, most costly and probably the last of the Nazi war crimes trials was completed.

Although there are certainly other war criminals still at large, the difficulty of producing evidence of actions taken 40 years ago will probably rule out further prosecutions.

Some might hail this as a landmark, the end of official governmental actions taken in response to the holocaust. While this may be the end of the West German Government's actions, we in this country, and particularly in this Chamber, have a large piece of unfinished business still before us.

I am speaking of the Genocide Convention, the treaty which has been before the Senate for 30 years. How much longer must we wait before we take this most basic step in response to the holocaust?

West Germany has worked long and hard in attempting to face up to its responsibilities. We have hardly lifted a finger to face up to ours. I urge immediate ratification of the Genocide Convention.

ALL THAT'S GOLD GLISTERS

Mr. MATHIAS. Mr. President. Shakespeare once said that "All that glisters is not gold," and no one has contradicted him yet. But if Shakespeare had been a reader of the Washington Post he might also have said that "All that s Gold glisters."

Bill Gold's columns have glittered, glowed and glistered through the years. And in so doing they have shed light on countless issues for the benefit of myriad readers.

I have personally read Bill's columns for years and found them a source of both legislative inspiration and occasional correction of some erroneous idea or opinion of my own. I shall miss this fount of knowledge and I know that in this feeling I shall accurately represent a massive majority of Maryland Post fans.

I ask unanimous consent that an editorial from the Washington Post be printed in the RECORD.

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

BILL GOLD RETIRES

In an obviously crazed moment of self-indulgence this morning, Bill Gold is telling his countless thousands of readers that he has reached the end of The District Line and "will write only occasionally" from now on. Some friend he turned out to be—just like that, after a mere 34½-year run, Bill all of a sudden decides he wants out of daily newspapering, and never mind that he's packing in a Washington tradition. Silence may be golden, but Gold silent?

No way. Bill Gold has never been at a loss for words—and he'll surely have a few harsh ones for us when he sees this, because he's been adamant that no fuss be made. But we owe as much to all the Washingtonians—natives as well as those who became naturalized, permanent citizens of this community thanks to Bill's potpourri of news, views and vignettes about our town. And then there are all those children—and their children—who know what Bill Gold has meant to the health care of young people in Greater Washington. We lost count when he headed for his second $1 million, but Bill's collections for Children's Hospital have made him one of the greatest individual fund-raisers ever in our town.

In this way, as in his daily reports, Bill has always succeeded in bringing out the best in people from every corner of the region, from offices, clubs, youth organizations, schools and civic groups. But as we indicated, he gets irritated when showered with deserved praise and moves quickly to shift the spotlight. This morning he does exactly that, with a warm introduction for Bob Levey, who begins a new local column for The Post on Monday.

It's not farewell to Bill for us, anyway, because we know better than to believe that this incurable newspaperman won't be on the phone or hovering over the city desk with his notes from an accident, fire or any other local news event he comes across. But for his unflagging love of the town and for sharing it with us and you, as a friend and as a pro, our thanks go to Bill Gold.

AMERICA SEEN FROM ABROAD

Mr. PROXMIRE. Mr. President, I hope each Senator will read Alex Brummer's Manchester Guardian article titled "America Seen From Abroad" with serious reflection.

Mr. Brummer decries the current furror to amend the Foreign Corrupt Practices Act. He says that changing the ethical standard to allow salesmen to corrupt foreign government officials on the ground of unleashing competition is an assumption that must be challenged. He challenges the assumption well and makes a good case for the defeat of S. 708 a bill that would gut the existing foreign bribery law.

I ask unanimous consent that Mr. Brummer's article, appearing in the Washington Post June 7, 1981 be printed in the RECORD.

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

AMERICA SEEN FROM ABROAD

(By Alex Brummer)

The name Magellan Petroleum hardly ranks among America's corporate giants. Until the last fortnight, when its affairs occupied three separate full-page advertisements in the Wall Street Journal, few investors can have even known or cared for its existence given its bleak record of 23 successive years of losses.

But Magellan's tangled affairs provide an instructive guide to the changing business ethics that are becoming commonplace in President Reagan's Washington.

The company is largely controlled by America's most prominent family of the New Right—the Buckleys. Among the family members are former senator James Buckley, who is now under secretary of state for security affairs, and William Buckley, a newspaper and television commentator and a regular on Reagan's dinner guest list.

A rebel group of Magellan shareholders, led by Canadian-based United Canso Oil and Gas Co., is seeking to dislodge the Buckley family. In their message to shareholders, the oilmen have noted that the Securities and Exchange Commission is currently investigating certain companies associated with members of the Buckley family, particularly Catawba Corp., which they control. As a result of these investigations, the SEC has informed Magellan that it will soon be seeking remedy through a civil lawsuit.

Whatever the merits of the Magellan case, it seems that the New Right has a different view of business ethics and regulation from that of the more moderate Republicans and Democrats who have dominated Washington thinking in recent years.

The change in attitude has been on full public view in recent days. Stanley Sporkin, who in his 20 years as SEC enforcement chief had earned the reputation as the toughest policeman around, abandoned ship in the face of New Right resentment and became general counsel to the CIA, where his investigatory talents were likely to be more appreciated.

Despite a Senate furor over the nomination of Ernest Lefever as assistant secretary of state for human rights, the Reagan administration for an extended time persisted in his defense. At issue in the Senate was not so much Lefever's view of human rights but the ethics of donations to a center he directed from the milk formula lobby.

Two other examples of the changing ethic spring to mind. President Reagan seemed to see nothing wrong in the behavior of his son, Michael, who invoked his father's name to try to secure government defense contracts. Yet under the now abandoned code of conduct introduced by his predecessor, Jimmy Carter, after his brother Billy's dealings with Libya, such behavior would have been specifically forbidden.

Second, the White House appears to have decided that bribery by American companies is not such a bad thing after all. After the Carter team spent the last few years trying to bully its friend, including Britain, into a tougher code to prevent international bribery, the United States under Reagan believes that export business comes first.

The theme that connects this series of

apparently unconnected events is the New Right's antipathy to regulation of business of any kind and international regulation in particular. Although it might clearly be possible in pure balance-sheet terms to show that regulation stifles initiative and in some cases profits and dividends, it does not address the abuses that created the necessity for such rules in the first place.

The United States, which has been in the forefront of corporate regulation, is abandoning its leadership role in the pursuit of short-term gains.

There can be little doubt that the SEC has been the glittering light over the years in the bureaucratic wasteland that is Washington. As Sporkin said: "We've helped preserve the integrity of our markets. That has made the U.S. markets safer than any other markets in the world."

It is a scandal that more information on British companies is available in the United States through the SEC's tough disclosure rules than in Britain. It is also worth noting that on many occasions in the United States the threat of litigation alone is enough to bring the errant companies to heel.

Nowhere was this more clear than in the case of international business bribery that erupted in the mid-1970's. Although the Reagan administration, in the hope of improving America's export performance, has taken aim at the Foreign Corrupt Practices Act, it was not the act, but the threat of legal action that led to disclosure statements by so many companies—including British firms.

Institutions and laws such as the Corrupt Practices Act have established a certain moral authority for American business after the dark days of Watergate, Vietnam, and ITT intervention in Chile.

The New Right appears to believe that by adapting ethical standards to allow unscrupulous businessmen to plunder investors, multinational companies to plunder governments they dislike, salesmen to corrupt foreign government officials and the presidents' family to trade on its name, they will unleash a competitive spirit in the American economy that has been lacking in recent years.

It is an assumption that must be challenged. Despite the burden of regulation, compounded by sky-high interest rates imposed almost by government fiat, business appears to be doing very nicely. Gross domestic product is up by 8.4 percent in the first quarter.

If Congress eases the Foreign Corrupt Practices Act, and a bribery row with an oil supplier erupts or the SEC fails to prevent a share-dealing scam, it will be only a short time before clamor for tough regulation will again be heard all the way to the White House. So why needlessly change the rules in the first place?

HIGH INTEREST RATES

Mr. BOREN. Mr. President, today, I again come to the floor of the Senate to address the negative effect which high interest rates are having on our Nation's productivity. For several days now, my colleagues and I have voiced our concern over the threat that interest rates are posing to our economy, in an effort to encourage the President and key policymakers of the administration to develop a plan to restore workable interest rates to our financial markets.

Mr. President, today I would like to briefly comment on the effects high interest rates are forcing on the general level of productivity in America. Without focusing on one industry or economic sector in particular, I shall present statistics which will point out the damaging across-the-board effects interest rates are causing.

We hear reports that small businesses can no longer afford to borrow the full amount of short-term credit required to maintain and modernize their businesses. Statistics released by the Small Business Administration point out that the average size of SBA loans to these businesses have, indeed, decreased over 8 percent in the last year.

While our smaller businesses and industries suffer the effects of high interest costs, productivity is becoming concentrated in the largest firms. The result is that the largest 200 firms in the United States now control 60 percent of all manufacturing assets. High interest rates are continuing to drain resources away from productive investment and innovation so that today there are 5 percent fewer people in research and development efforts than there were 12 years ago.

Industry spent $50 billion on advertising last year, compared to only $20 billion in research and development. The effect has been to choke out long-term productive investment, with the result that the United States share of world manufacturing output has declined from 21 percent in 1972 to 15 percent last year.

Our Nation was founded on a strong economic base of hardworking, productive, and innovative people. We need to implement a return to our American society where individual initatve and productivity are the primary stimulus to economic growth. To accomplish this important end, we must stop following a misguided high interest rate policy.

EXPORT TRADING COMPANY LEGISLATION

Mr. HEINZ. Mr. President, on April 8 of this year the Senate passed S. 734, the Export Trading Company Act of 1981 by a vote of 93 to 0. That bill is now proceeding to make its way through the House of Representatives.

One of the House committees that has been most careful in its examination of the bill is the Judiciary Committee, which has had 3 days of hearings on an alternative proposed by Congressmen RODINO and MCCLORY. A number of the witnesses at those hearings, and a number of the additional statements submitted also commented on S. 734 and its House counterparts, H.R. 1648 and H.R. 1799, contrasting the latter approach with that of the Rodino-McClory bill.

A particularly clear and thoughtful comparison of the two was submitted to the Committee by International Business-Government Counsellors, Inc. That organization's general counsel, John F. McDermid, has produced, in my view, a comprehensive piece of legal research and analysis which clearly lays out the differences between the bills and makes a compelling case that the Senate version will better meet the needs of the exporting community without prejudicing our antitrust enforcement interests. Mr. President, I think everyone interested in this legislation would be well-advised to take a close look at Mr. McDermid's testimony, and I ask unanimous consent that it be printed in the RECORD.

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

STATEMENT OF JOHN F. MCDERMID

I. INTRODUCTION

My name is John F. McDermid and I am General Counsel and Government Relations Counsellor for International Business-Government Counsellors, Inc., a private international government relations counselling firm with headquarters in Washington, D.C.

My previous experience includes: Attorney-Advisor, U.S. International Trade Commission; Attorney, Bureau of Competition, Federal Trade Commission; and Assistant General Counsel, National Association of Manufacturers. While at NAM, I testified before the Senate Subcommittee on International Finance on various export trade association proposals (i.e., S. 864, S. 1499, and S. 1663).

I have authored several law review articles on international trade and foreign antitrust issues, including an article on the President's 1979 Antitrust Commission review of the Webb-Pomerene Act (Webb Act.)[1] I have long been concerned that U.S. antitrust laws are formidable obstacles for American companies operating abroad.

II. RECOMMENDATION

I endorse the good intentions behind H.R. 2326, the "Foreign Trade Antitrust Improvements Act of 1981", which, amongst other things, seeks to introduce a less complicated alternative to an export trading company antitrust certification procedure. However, the proposal will not—without numerous changes—respond to the needs of U.S. firms wishing to defray their costs and increase economies of scale by collectively seeking to enter the export market.

In this regard, Title II of H.R. 1648, the Export Trading Company bill is a far preferable route for legislative action. Therefore, I strongly urge the Committee to adopt H.R. 1948 in lieu of H.R. 2326.

III. REASONS FOR RECOMMENDATION

A. My criticisms of H.R. 2426 are based principally upon the following:

1. H.R. 2326 fails to even acknowledge that its primary purpose is to increase U.S. exports by helping U.S. firms better compete in the increasingly competitive world market. Unless the export promotion intent is made clear, the overall policy which is being sought may not be implemented by the U.S. government agency monitoring or administrating the antitrust exemption. Findings to this effect should be included in any initiative such as H.R. 2326.

2. H.R. 2326 fails to give adequate antitrust protection to enterprises seeking to cooperate jointly for export purposes. H.R. 2326 goes nowhere near that protection afforded enterprises under H.R. 1648, the Export Trading bill.

3. By concentrating half of its efforts to amending Section 7 of the Clayton Act, HR 2326 misses what is in fact really needed in terms of legislation by the U.S. business community to operate collectively for export purposes. The primary inhibiting factor to joint activity in export trade is not the uncertainty as to the types of effects on interstate trade that must be shown in order to establish U.S. antitrust jurisdiction over an international transaction. Thus, whether Congress legislates the standard to read "directly and substantially affects U.S. commerce" or "direct, substantial, and foreseeable," or some other formula for judging il-

[1] "The Antitrust Commission and the Webb-Pomerene Act: A Critical Assessment," 37 Wash. and Lee L. Rev. 105 (1980).

legality is not the burning issue. Rather, U.S. business enterprises are more concerned with the question of whether any kind of concerted action in export trade will be prosecuted either by the U.S. government or by private parties.

This is not to say it isn't laudable that Congress may want to legislatively standardize the effects doctrine. But such an amendment will not address the real and central problem that exists. Moreover, even with Section 7 amended as proposed under HR 2326, U.S. firms will still not be able to predict with any assurance whether their conduct will have a "direct, substantial, and foreseeable" effect on U.S. interstate trade. This determination is, after all, a factual question which is frequently very complex.

B. Possible certification procedure for H.R. 2326:

A meaningful certification procedure must be available for U.S. firms, or they cannot be expected to take advantage of any antitrust exemption for exporting.

If the Committee fails to embrace Title II, HR 1648, it should amend HR 2326 so as to provide a "meaningful" certification procedure which would include the following:

1. Remove the Justice Department as the sole or even primary decision-maker for assessing the legality of the joint conduct. Instead, the responsibility should be within the Commerce Department, the lead U.S. government export promotion entity.

If the Justice Department must be the administrator of the antitrust exemption, Congress should provide that Justice could not make any final decision as to the legality of the cooperative export arrangement without concurrence of the Commerce Department. In this way, a balance between the loss to competition against the gain to exports could be achieved.

2. Remove any possibility of private action, whether single or treble damages, unless the firms operating under the certification umbrella are found by the Justice Department to be operating beyond the granted certification. In this regard, however, U.S. firms should be given an opportunity to correct whatever abuses may be found before private actions may be brought.

3. Expand the scope of the term "joint venture." Under the present Webb Act and under Title II, H.R. 1648, firms are provided broad latitude to cooperate jointly for export purposes, therefore their activities are not limited to only "joint venture" relationships. There may be many reasons why U.S. firms would rather get together to export other than through legally created joint ventures. For example, companies may not find it necessary or even desirable to enter into a joint venture when their only purpose for cooperating with one another is to defray marketing expenses. To this point, former President Carter, in his September 26, 1978, export policy message, noted that there are instances in which joint ventures *and other kinds of cooperative arrangements between American firms are necesary or desirable to improve our export performance.* (Emphasis added)

In this regard, one of the principal purposes behind H.R. 2326 should be to allow exporters to achieve greater efficiencies through joint marketing so that they may offset some of the high costs incurred by international exporters who wish to enter foreign trade. Without an antitrust exemption, companies are terrified, for antitrust reasons, over any kind of inter-corporate cooperation, even if only for marketing purposes.

C. Justice Department should be removed as prime decision-maker:

The apparent intent behind H.R. 2326's amendment to the Clayton Act, Section 7, is to provide exporters a simple and easily understood antitrust exemption for concerted action in export trade which would promote U.S. exports, a change that is recognized in the following quote:

"For many years the manufacturers in this country have felt the need of passage of this bill in order to clarify their rights in the foreign export trade."

These were not the remarks of any present day member of Congress, but rather a 1917 statement of Senator Pomerene, one of the key sponsors of the present Webb Act (Cong. Rec. 2785 (1917)).

The obvious question is why was the Congressional intent never realized and therefore why hasn't the Webb Act really increased exports? One of the principal reasons lies in the fact that Congress placed Administration of the Webb Act with the antitrust authorities rather than with those government policymakers committed to enforcing an export promotion policy and because the thought of cooperative arrangements in export without the protection provided by the Webb Act was too risky for firms to undertake.

Since 1945, the Justice Department was given judicial approval to carry out possible Webb Act violations without waiting for the Federal Trade Commission (FTC) to conduct a section 5 "readjustment hearing", which permitted Webb Associations to readjust their business so as to comply with the law. With Justice essentially preempting the FTC, companies that may have been interested in the trading advantage of the export exemption did not do so for fear of possible criminal prosecution and/or treble damage private actions.

Perhaps due to a realization that Justice was reluctant to defer to the Webb exemption, the Minnesota Mining Court chastised Justice when it stated that:

The courts are required to give as ungrudging support to the policy of the Webb-Pomerene as to the policy of the Sherman Act. Statutory eclecticism is not a proper judicial function.[2]

Moreover, the Justice Department's bias against Webb Associations, and against non-Webb Act cooperative export transactions, (and therefore bias against implementing a proper balance between antitrust principles and export promotion) is seen in the role it played in examining the Webb Act in the President's National Commission for the Review of Antitrust Laws and Procedures (the Commission).

A close examination of the Commission's record and its findings reveal that—as a direct result of the Department's leadership role in that Commission and predictable institutional bias toward antitrust enforcement policies—(as compared for example, to export promotion)—much of the Webb-Pomerene analysis was both factually incorrect and wholly misleading.

As a result in the absence of the Presdentially appointed Business Advisory Panel's affirmative findings, the commission would likely have recommended repeal of the Webb Act.

It is more than reasonable to expect—based upon the above history of the Department vis-a-vis the Webb Act—that it will continue to be antagonistic toward any departure from purely competitive, free market doctrines. This is not, after all, surprising since the Department has an institutional mandate to assure that this country's antitrust laws and principles are fully implemented.

Accordingly, unless U.S. firms are given some clear assurances—preferably through a certification procedure—that their cooperative action will not be subject to an unexpected U.S. government (or private party) prosecution, Congress should expect that the antitrust exemption will not be taken advantage of and that we will be right back to the situation we are witnessing and have witnessed under the present Webb Act.

IV. NEED FOR EXEMPTION

A. Antitrust As "Real" Impediment to Export Trade:

Many witnesses before this Committee and elsewhere have argued that there is only a business community "perception" that this country's antitrust laws are an impediment to export trade.

It is more than a "perception problem". There is a *real* fear that what may be done collectively for export may be unlawful. Examples in support of this are as follows:

1. Justice Department's attitude towards cooperative arrangements for export:

The Antitrust Division's attitude towards collective export arrangements and whether they may be lawful depends upon the policymakers in charge, which in turn results in confusion as to whether certain conduct is lawful or not. For example, imagine the reaction of established Webb Associations, potential Webb Associations, or firms contemplating a collective export arrangement, to the following statement made by a former Assistant Attorney General in charge of the Antitrust Division:

The existence of an antitrust exemption for export associations *inevitably affects competition at home and thereby affects the American consumer. Every export arrangement that offsets the amount of a product sold abroad must inevitably affect the amount sold at home* (emphasis added).[3]

Mr. Turner's remarks conspicuously fail to recognize that, in passing the Webb Act, Congress intended to effectuate a policy in the national interest and stimulate exports even though there might exist some danger to domestic competition. Moreover, the Department's antitrust chief failed to acknowledge that if, in fact, abuses are found judicial remedies are available to deal with them.

2. Confusion in defining application of antitrust laws:

As admitted by many antitrust lawyers both in and out of the government, and as indicated in the Justice Department's 1977 Antitrust Guide for International Operations, this country's antitrust laws—particularly, as they apply to foreign commerce—are rarely susceptible to clear and concise rules for determining what is permissible conduct.

For example, a former Antitrust Division Chief recognized that the standards for analyzing "collateral restraints" in joint ventures are "both too tough and too vague.[4] Moreover, he stated, this critical area of international trade activity is "quite rightly subject to confusion and criticism and the (Antitrust) Guide did nothing to resolve the issue."

Similarly, the Guide notes that "the United States Antitrust statutes do not provide a checklist of specific, detailed statutory requirements, but instead set forth principles of almost constitutional breadth" (Guide at 21).

With regard to joint ventures for export, although certain very narrowly defined short-term joint ventures may be permitted by the Justice Department, there is no assurance that they may not be attacked through a potentially crippling private right of action.[5] The Justice Department, through

[2] *United States* v. *Minnesota Mining and Mfg., Co.*, 92 F Supp. 947, 965 (D. Mass. 1950).

[3] Testimony of Donald F. Turner, 1976, before the Subcommittee on Antitrust and Monopoly of the Senate Committee on the Judiciary.

[4] Baker, Donald, "The Published Guide for International Operations Two Years Later" (1979) at 11–12.

[5] The *Antitrust Guide* even conditions the creation of short term joint ventures, stating "Any joint venture among competitors involves some antitrust risk that the cooperation may spill over into other areas." (The Antitrust Guide at 20). It is important that

its Guide, fails to recognize that many long-term joint ventures are necessary to reap the benefits of developing and retaining profitable foreign markets.

B. U.S. competitive disadvantages in foreign transactions:

One of the primary reasons why U.S. firms need antitrust protection for export cooperation arrangements is to enable them to compete more effectively in world markets.

As stated so succinctly by the American Bar Association as far back as 1954,

. . . the existence of State controlled buying agencies, State monopolies and other foreign industrial combinations make it desirable that American exporters be permitted to combine amongst themselves in export associations.[6]

In centrally planned economies, there is no necessary link between economic lists and prices. Indeed, like cartels, state-trading organizations are given a monopoly over the importing and exporting of such goods and may control the quantities and prices of such goods. The decisions of the state planners promote governmental objectives and bear no relation to competitive conditions. As a consequence, it is extremely difficult for the individual American exporter to face non-price competition in these countries' home markets and in third country markets.

Moreover, the Judiciary Committee should be mindful of the competition individual American exporters currently face in competing with the large integrated trading companies which have been established worldwide, particularly in Japan. These organizations began on the theory that a combination operates more efficiently than the independent constituent firms. The enormous success of international trading companies is most pronounced in Japan and Korea, where their role in export expansion has greatly contributed to the growth in their economies.

Lastly, unlike other antitrust systems in the world, American law prohibits any cooperative arrangements by firms which restrain export trade, even if the restraint has no effect on domestic interstate trade. Most other industrialized countries strike a balance between antitrust enforcement and other national priorities, such as export promotion or increased employment. In stark contrast, in one landmark case, the U.S. court found that "the art has rapidly advanced, production has increased enormously, and prices have sharply declined . . ." Yet, because "the suppression of competition . . . is in and of itself a public injury . . ." a violation of our antitrust laws was found.[7]

C. Possible U.S. multinational alternatives:

If Congress fails to provide an adequate exemption and system for permitting U.S. firms to cooperate for export purposes, there is a possibility that more and more U.S. multinationals will undertake cooperative arrangements from other trading countries' markets rather than our own.

Such "global sourcing" might be necessary to compete against the private, public, and quasi-public combinations that are operated for export in such countries as France, Germany and Japan.

If U.S. multinationals are forced to look abroad to export collectively from those countries, the result will mean (1) lost U.S. jobs, (2) lost U.S. revenues and (3) declines in the U.S. balance of trade and payments.

V. JUSTICE DEPARTMENT RECENT RECOMMENDATIONS ON FOREIGN TRADE ANTITRUST IMPROVEMENTS ACT

It was encouraging to learn that the Justice Department endorses the thrust of this statement; namely, in William Baxter's words, that the Title II Export Trading Company "procedure would provide a degree of antitrust certainty and assurance beyond that provided by legislation such as S. 795". (S. 795 is the Senate companion to HR 2326.)

However, I would urge Congress to carefully assess the effects of introducing a 50 percent rule, as recommended by the Assistant Attorney General. This rule would prohibit, with only certain undefined exceptions, certification to associations whose members comprise 50 percent or more of the domestic market for a product or service that they are exporting.

The apparent rationale for this recommendation is based upon a concern that the activities of highly concentrated U.S. industries—if permitted to be carried out collectively for export purposes—are more likely to result in domestic spillover effects than if concentration did not exist. It is believed that a limitation placed upon the industries able to take advantage of an antitrust exemption is unnecessary since the FTC or Justice can always bring suit in Federal court when there is evidence of a restraint on domestic trade. It is simply bad policy to assume that the activities of every concentrated industry that cooperates in any way to increase exports will result in a restraint on interstate trade.

Additionally, the 50 percent rule could very easily exclude many of the small and medium sized firms that Congress would like to see enter the export market. It is well known that in antitrust or trade regulation analysis, product markets can be defined extremely narrowly. Invariably, there are fewer firms in any industry where the product market is defined narrowly. As a result, if the Justice Department's recommendation is accepted, many small and medium sized firms in both the manufacturing and service sector may be unintentionally excluded from taking advantage of the antitrust exemption for export trade.

VI. CONCLUSION

If enacted, H.R. 2326 would provide only a marginal benefit to U.S. firms seeking to enter into collective export arrangements without fear of antitrust retaliation.

In order to provide the assurance that is necessary to permit cooperative action and therefore to enable U.S. firms to better compete in world markets, Congress must place primary jurisdiction for administering any antitrust exemption in the Commerce Department where there is an increasingly committed determination to increase U.S. exports, which in turn will stimulate domestic production, increase U.S. employment and improve this country's international trade account.

In order to effectuate the desired policy, it is critical to establish a procedure (i.e. compliance procedure) which precisely conveys the message to exporters that they will not be antitrust liable for transactions which are carried out within the parameters of the certification.

In this regard, it is believed that the certification procedure as set forth in HR 1648, Title II is not difficult to understand or to follow and that—on balance—the complexity that may be seen by some observers is far preferable to an exemption that does not provide maximum antitrust certainty. If this certainty is not provided by Congress, there is a strong likelihood that a substantial number of companies will not take advantage of the exemption, as has been the case under the present Webb Act.

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procedures be created that would allow firms to alter their commercial practices—without fear of antitrust prosecution—where there are indications that domestic competition is being adversely impacted as a result of the export arrangement.

[6] Report of the ABA Committee on Antitrust Problems in International Trade, 5 ABA Section of Antitrust Law 188 (1954).

[7] *United States* v. *National Lead Co.*, 63F Supp. 513 (D.C.N.Y.), aff'd., 332 US 319.

TAX STRADDLES

Mr. DIXON. Mr. President, the Senate will soon be considering House Joint Resolution 266, the Economic Recovery Act of 1981. I agree with the Senate Finance Committee that tax relief is essential if our economy is to be put back on the road to economic health. Tax relief is essential for individual citizens as well as for business, both small and large, and for the agricultural community.

The tax proposal reported by the Senate Finance Committee has 5 titles: Four of these titles are designed to provide needed tax relief. I have some concerns regarding the provisions in those titles, but I will save my comments on them for another day.

What I would like to discuss for a few moments now is the 5th title of the tax bill, entitled "Tax Straddles."

At the outset let me say that while I believe the Finance Committee provisions may go too far, I also believe that the committee has done the Senate a considerable service by bringing this issue to our attention. After reviewing the testimony presented to the committee, I am convinced that there are tax abuses involving commodity straddles, and that there is a definite need for legislation to correct those abuses.

I am concerned, however, that the Finance Committee's proposal could have significant adverse impacts on our Nation's commodity markets and could serve to disrupt the efficient functioning of those markets.

I agree with the senior Senator from New York (Mr. MOYNIHAN), one of the most intelligent and perceptive Members of this body, who was quoted in a recent Wall Street Journal story as stating that "the commodities markets are invaluable institutions." The distinguished Senator from New York might be somewhat surprised to find out that I also agree with his further comment, that the commodities markets "are being invaded by people with no interest in commodities who use this vehicle to avoid paying taxes." I support efforts to end this abuse.

However, Mr. President, I also agree with the Assistant Secretary of the Treasury for Tax Policy, Mr. John Chapoton, who, in testimony before the Senate Finance Committee on the straddle issue, stated that the commodities markets, and the instruments which are traded on these markets, are totally unlike the stock and securities markets with which most of us are familiar.

I am concerned, therefore, about provisions in title V of the tax bill which seem to be trying to force commodities transactions into the mold of securities transactions.

The commodities markets are unique and they do play a vital role in the American agricultural distribution and marketing system. I believe, and I understand that the Department of Agriculture shares this belief, that the changes proposed by House Joint Resolution 266 could increase the volatility of commodity prices and make the outcome of essential hedging transactions more uncertain and costly.

I am concerned that the Finance Committee's proposal does not give adequate

consideration to the impact the changes would have on the operation of the commodity markets. I believe that further hearings on the potential impact of the proposal should be held before so drastic a change in the tax law is made.

A recent editorial from the Chicago Sun Times summarizes very well the concerns I have with the straddle provisions in House Joint Resolution 266. The editorial states that the goal of the legislation is worthy: "to prevent those who make financial killings in entertainment, real estate, the professions or otherwise from sheltering their earnings against taxes by investing them in futures contracts."

The editorial goes on to state that "the problem, however, is that this dragnet also sweep in bona fide futures traders—hedgers and speculators—who serve a very useful function in the economy. By their willingness to take risks on what futures prices might be, these traders take risk off the backs of those who cannot afford it: farmers, ranchers, food processors, businesses, and financial institutions.

To fulfill this function the risk taker must be able to average profits and losses over time and be assured of capital gains treatment on his earnings."

The editorial concludes that legislation to shut off the tax shelter to outsiders is appropriate, but that legislation should be written to exempt bona fide futures traders.

If this is not done, some go as far as to say that the bill (H.J. Res. 266) could literally destroy U.S. futures markets as they exist today.

Mr. President, I ask unanimous consent that two recent columns in the Chicago Tribune by Bob Wiedrich which explore the problems raised by title V in more detail be printed at this point.

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

BILLS WOULD DESTROY FUTURES MARKET HERE

Congress has short-changed the Midwest on defense spending. It consistently has taken more Midwestern tax dollars than it returns. Because of partisan politics, it is threatening the future of the Great Lakes shipping industry.

Now, an alliance of certain House and Senate members with Treasury Department bureaucrats is jeopardizing the existence of the Chicago Board of Trade, the Chicago Mercantile Exchange, and the nation's agricultural community.

Commodity tax bills introduced in both houses under the guise of reform measures would destroy the futures market in farm products, a system that has served this country well for 150 years and is the envy of the world.

That is the judgment of commodities market leaders, supported by such agricultural interests as the 3 million member families of the American Farm Bureau Federation.

The bill sponsors, however, are attempting to railroad their efforts through Congress on grounds the measures would obliterate the practice of wealthy persons who abuse the futures market to create tax shelters for income earned in totally unrelated fields.

The farmers and commodities speculators don't quarrel with that goal. They don't like tax dodgers any more than anyone else.

But they say that if the legislation introduced by Sen. Daniel Patrick Moynihan and Rep. Benjamin Rosenthal, both New York Democrats, is enacted as offered, the speculators who provide risk capital vital to the market's functions will take their money elsewhere.

Thus, industry leaders—again backed by farm groups, grain elevator operators, and the 460,000 producers of the American Soybean Association—are asking that Congress reach a compromise:

Drive out the rock stars and professional people like doctors and lawyers, who use the commodities futures market to shelter substantial incomes from taxation. But preserve the practice that permits legitimate market speculators to offset any profits made with other commodity losses.

Otherwise, they predict, the commodities market place, which handled $150 billion in agricultural products in 1979, will suffer anywhere a dislocation of from 1 to 10 percent.

That estimate comes from, among others, Leslie Rosenthal, Chicago Board of Trade chairman. And he says those percentages translate into a $1.5-billion to $15-billion dislocation, a serious disruption indeed.

Congress has been gnawing at the issue for some time. Rep. Rosenthal (no relation to Chicago's Leslie Rosenthal) introduced a similar measure a year ago, but received little support.

This year, however, some congressmen are on an economy kick and the Reagan administration, through the Treasury Department, is supporting the legislation in the hope Uncle Sam will be $1.3 billion richer in tax revenue by closing such loopholes.

The motivation is noble; the consequences, however, could be disastrous unless common sense prevails.

The proposed law would, for example, prohibit a rock star from taking $200,000 earned warbling at Woodstock and writing off that income against $200,000 in futures market losses.

Neither he nor the physicians, surgeons, dentists, and other professionals with big bucks, who play the market with the intention of losing, would be permitted to persist in their intrusion.

But the bona fide risk takers, estimated by Rosenthal to number 500,000 to 1 million across the country, would also be barred from writing off market losses against income earned in the same market.

"Our marketplace has been used in the last three to four years by people seeking tax shelter gimmicks," declared Leo Melamed, Chicago Mercantile Exchange special counsel.

"The Treasury Department correctly feels our market should not be abused that way. Government, however, usually does not understand the complexities and possible ramifications of its actions.

"In the attempt to get rid of these abuses and tax avoiders, it is proposing rules that would jeopardize the entire market. As the legislation now stands, it is building a $1.5 to $15 billion mousetrap to catch a $1.3 billion mouse.

"These events are occurring at a time when the political climate is for fiscal restraint and revenue raising. But the Treasury is using a blunderbuss approach. It is not differentiating between types of income.

"New York is the capital of the securities market. Chicago is the capital of the futures market. The effect of this legislation would be devastating on Chicago."

In Tuesday's column, I'll tell you just how devastating that would be.

ONE MARKET WITH A FUTURE

Chicago would be a catastrophic loser if Congress succeeds in dismantling the American system of commodities futures markets. So would American farmers.

Every day commodities traders here must deposit in Chicago banks an average of $1.5 billion in good faith money to cover potential market losses.

That money generates an enormous amount of investment income that gives the entire community an economic boost. It also generates a large number of support activities—lawyers, accountants, computers, and real estate.

The Chicago Board of Trade is constructing a $108-million building to house its trading facilities. The Chicago Mercantile Exchange has entered into an undertaking of similar proportions.

"We've made this investment because Chicago is well on the way to becoming the premier financial center of the world," declares Leslie Rosenthal, Chicago Board of Trade chairman. "The amount of jobs these centers create is almost staggering for a one-industry effect.

"If you take the value of the total annual transactions of the futures markets, 80 per cent of which are in Chicago, the figure approaches the gross national product of $3 trillion."

A recent Tribune series on the city's economic woes demonstrated the downtown curve of Chicago's growth in virtually every sector. The futures industry, however, has been on a growth curve for the last decade and persists in that direction.

"Our volume has grown tenfold in the last 10 years," said Leo Melamed, Chicago Mercantile Exchange special counsel. "If Congress kills off this industry, Chicago will be dealt a potentially mortal blow."

For 150 years, the agricultural community has prospered because of the unique tradition of trading in commodities futures.

Now Congress is threatening the entire structure of that market by entertaining legislation that would prohibit tax shelters for those suffering losses.

The intent of the measures is good—to banish from the marketplace abusers such as professional people and rock stars who avoid paying taxes by charging off market losses against capital gains earned elsewhere.

The futures industry agrees with that stance. So does a majority of farm organizations.

But the bills, as they now stand, also would prohibit bonafide speculators, who take enormous risks in the market, from enjoying similar tax advantages. And without such speculators, Rosenthal predicts, the industry could collapse.

"It will push capital to overseas markets modeled after the American system in London, Hong Kong, Canada, and Australia," Melamed said.

"The farmer is the biggest gambler. He plants his crops. He figures out such cost factors as planting, machinery, manpower, and harvesting.

"But the one thing he cannot figure is the eventual sales price, whether his crop will produce a profit or a loss. When it produces a loss, the government must support him. And that risk has become even greater in an era of inflationary costs.

"The futures market, however, provides the only mechanism whereby a farmer can establish a sales structure for his product before it is harvested. That's the key factor.

"It gives him the opportunity to shift his risk to someone else, the speculator, someone with risk capital. Thus, the farmer is guaranteed a price as much as 6 to 18 months in the future.

"The United States is the only country with markets on such a scale and the only one with a highly successful agricultural industry. If you tinker with that mechanism, you endanger a vital part of that complex. What these markets do is insure price. And the cost of that insurance is assumed by the risk taker.

"Otherwise, the farmer would have to increase the price of his products to offset the cost of his risk. So there is no question that damaging that mechanism will eventually cost consumers many dollars."

Once a farmer, grain elevator, or feedlot operator has sold a futures contract, it is like money in the bank. He can take that agreement to a bank as collateral on loans for expansion or expenses.

But if Congress drives off that risk capital essential to the market's function, Rosenthal predicts Americans will soon see the results reflected in their grocery bills.

It is as simple as that. But somehow Congress has not yet perceived the folly of the proposed legislation.

Mr. DIXON. Mr. President, I am convinced that the risk of serious disruption of the commodity markets due to the changes proposed in House Joint Resolution 266 is real. On Friday, July 10, the House Ways and Means Committee adopted a tax straddle proposal that differs significantly from that contained in the Senate tax bill. I believe that the House proposal eliminates the real abuses that so rightly concern the Senate Finance Committee, but I believe the House proposal is much less likely to cause disruptions in the commodity markets.

The House proposal would eliminate the use of tax-motivated commodity straddles to shelter income which is unrelated to the commodity markets. It will keep entertainers, executives, professionals and others from using the commodity markets to shelter their ordinary income from salaries or investments which have nothing to do with the commodity markets.

Further, the House proposal will retain the provisions of existing law regarding treatment of interest and other costs related to holding a commodity. Requiring the capitalization of these costs could have serious ramifications on the storage of grain in this country, and I see no reason to treat the costs of holding commodities differently from the costs of holding any other assets. Interest incurred in holding real estate, stocks, and other forms of investments is deductible, and any gain from a sale of the asset can still qualify as a long-term capital gain. Interest related to holding a commodity should also be deductible.

The House proposal would also eliminate the Finance Committee's proposal to tax gains on commodities using the fair market value of the commodity as of the end of the tax year even though the commodity was not sold. I believe that this action is without precedent, and I do not think it has any place in the Tax Code.

Mr. President, the House proposal strikes a reasonable balance between the need to eliminate abuses of the Internal Revenue Code and the need to avoid significant injury to the commodity markets. The Finance Committee estimates revenue loss from tax avoidance at approximately $1 billion a year; their proposal would raise roughly $1.3 billion in fiscal year 1982. The House proposal would result in additional revenues of almost $900 million in fiscal year 1982, which demonstrates that it eliminates the real abuses that have recently come to the attention of the Senate.

Mr. President, because of the potential problems raised by the Senate proposal, I had seriously considered offering the House provisions as an amendment. I am a political realist, however, and I recognize that there is not now sufficient support in the Senate to insure that such an amendment would be successful.

Even if the straddle provisions are not modified on the Senate floor, there is still an opportunity to achieve a reasonable compromise. The Senate-House conference on the tax bill will have the flexibility to fashion a compromise that will close any loopholes without adversely affecting the commodity markets and American agriculture. I hope that the eventual conference on the tax bill will achieve these two objectives.

I urge my colleagues to join me in working to see that it does.

Mr. BAKER. Mr. President, it is my hope and expectation to be able to ask the Chair to name the conferees to the conference requested on the reconciliation bill within the time prescribed for the transaction of routine morning business. I am not prepared to do that at this moment, but I expect to be able to do that before 5:30. I wish to announce that there will be no more rollcall votes today.

ORDER FOR STAR PRINT—S. 881

Mr. RUDMAN. Mr. President, I ask unanimous consent that a star print be made of S. 881, the Small Business Innovation Research Act of 1981. The correction appears on page 4, line 20, of the bill.

I ask unanimous consent that the correct copy of this bill be printed in the RECORD at this point.

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

9 S. 881

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 "Small Business Innovation Research Act of 1981".

SEC. 2. (a) The Congress finds that—

(1) technological innovation creates jobs, increases productivity, competition, and economic growth, and is a valuable counterforce to inflation and the United States balance-of-payments deficit; and

(2) while small business is the principal source of significant innovations in the Nation, the vast majority of federally funded research and development is conducted by large businesses, universities, and Government laboratories.

(b) Therefore, the purposes of this Act are—

(1) to stimulate technological innovation;

(2) to use small businesses to meet Federal research and development needs; and

(3) to increase private sector commercialization of innovations derived from Federal research and development.

SEC. 3. Section 9(b) of the Small Business Act is amended—

(1) by striking out "and" at the end of clause (2);

(2) by striking out the period at the end of clause (3) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following:

"(4) to develop and maintain a source file and an information program to assure each qualified and interested small business concern the opportunity to participate in Federal agency Small Business Innovation Research programs;

"(5) to coordinate with participating agencies a schedule for release of SBIR solicitations, and to prepare a master release schedule so as to maximize small businesses opportunities to respond to solicitations;

"(6) to independently survey and monitor the operation of SBIR programs within participating Federal agencies; and

"(7) to report annually to the Committee on Small Business of the Senate and the Committee on Small Business of the House of Representatives on the SBIR programs of the Federal agencies and the Administration's information and monitoring efforts related to the SBIR programs.".

SEC. 4. Section 9 of the Small Business Act is amended by adding at the end thereof the following new subsections:

"(e) For the purpose of this section—

"(1) the term 'Federal agency' means an executive agency as defined in section 105 of title 5, United States Code, or a military department as defined in section 102 of such title;

"(2) the term 'funding agreement' means any contract, grant, or cooperative agreement entered into between any Federal agency and any small business for the performance of experimental, developmental, or research work funded in whole or in part by the Federal Government;

"(3) the term 'Small Business Innovation Research program' or 'SBIR' means a program under which a portion of a Federal agency's research or research and development effort is reserved for award to small business concerns through a simplified, standardized acquisition process having a first phase for determining, insofar as possible, the technical and economic feasibility of ideas proposed under the program, and a second phase, the awarding of which shall take into consideration the potential commercial applications of the research or research and development, to further develop the proposed idea to meet the particular agency needs; and a third phase where private capital pursues commercial applications of the research or research and development; phase three may also involve follow-on contracts with some agencies for products or processes intended for use by the United States Government; and

"(4) the term 'research' or 'research and development' means any activity which is (A) a systematic study directed toward fuller scientific knowledge of the subject studied; (B) a systematic study directed specifically toward applying new scientific knowledge to meet a recognized need; or (C) a systematic application of new scientific knowledge toward production of useful materials, devices, and systems or methods, including design, development, and improvement of prototypes and new processes to meet specific requirements. Such term does not include studies related to the social sciences or the humanities.

"(f) Each Federal agency which has a research or research and development budget in excess of $100,000,000 for any fiscal year beginning with fiscal year 1982 shall expend not less than two-tenths of 1 per centum of such budget for fiscal year 1982, not less than six-tenths of 1 per centum for fiscal year 1983, and not less than 1 per centum of such budget for all subsequent fiscal years with small business concerns specifically in connection with a Small Business Innovation Research program which meets the requirements of this Act and regulations issued hereunder. Funding agreements with small business concerns for research or research and development which result from competitive or single source selections other than under an SBIR program shall not be counted as meeting any portion of the percentage requirements of this section.

"(g) Each Federal agency required by subsection (f) to establish a Small Business Innovation Research program shall in accordance with this Act and regulations issued hereunder—

"(1) establish an agency Small Business Innovation Research program;

"(2) determine categories of projects to be in its SBIR program;

"(3) issue SBIR solicitations in accordance with a schedule determined cooperatively with the Small Business Administration;

"(4) receive and evaluate proposals resulting from SBIR proposals;

"(5) select awardees for its SBIR funding agreements;

"(6) administer its own SBIR funding agreements (or delegate such administration to another agency);

"(7) make payments to recipients of SBIR funding agreements on the basis of progress toward or completion of the funding agreement requirements; and

"(8) make an annual report on the SBIR program to the Small Business Administration.

"(h) In addition to the requirements of subsection (f), each Federal agency which has a budget for research or research and development in excess of $20,000,000 for any fiscal year beginning with fiscal year 1982 shall establish goals specifically for funding agreements for research or research and development to small business concerns, and no goal established under this subsection shall be less in actual dollars than the amount of research or research and development awards made to small businesses in 1981.

"(i) Each Federal agency required by this section to have an SBIR program or to establish goals shall report annually to the Small Business Administration the number of awards pursuant to grants, contracts, or cooperative agreements over $10,000 in amount and the dollar value of all such awards, identifying SBIR awards and comparing the number and amount of such awards with awards to other than small business concerns.

"(j)(1) The Administrator of the Office of Federal Procurement Policy, in conjunction with the Small Business Administration, shall promulgate and issue appropriate regulations, in accordance with the provisions of subsections (f), (g), and (h) and within one hundred and twenty days after the date of enactment of the Small Business Innovation Research Act of 1981, for conduct of Small Business Innovation Research programs within the Federal Government. Such regulations shall—

"(A) provide for simplified standardized and timely SBIR solicitations, proposals, and evaluation processes; and

"(B) require Federal agencies to coordinate SBIR solicitation release schedules with the Small Business Administration.

"(2) The National Science Foundation and the Small Business Administration shall furnish the Administrator of the Office of Federal Procurement Policy advice and assistance in the promulgation of regulations under this section.".

SEC. 5. The amendments made by this Act do not authorize the appropriation of funds.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

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

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

GROUNDBREAKING FOR THE MARGARET CHASE SMITH LIBRARY CENTER, SKOWHEGAN, MAINE

Mr. MITCHELL. Mr. President, I would like to bring to the attention of my colleagues and honor that has recently been bestowed on one of the finest and most dedicated persons that Maine or any other State has ever sent to this body—Margaret Chase Smith. On Thursday, July 9, ground was broken in her hometown of Skowhegan, Maine, for the Margaret Chase Smith Library Center.

A facility to house the papers and records of Senator Smith's career will be an invaluable resource, not only to the people of Maine, but to the entire Nation. During her 24-year tenure in the Senate, Margaret Chase Smith was a tireless voice for her constituents. But her contributions to public life reached far beyond the borders of Maine.

As the first woman elected to the U.S. Senate, and as the first woman to seek the Presidential nomination of a major party, Senator Smith was an important pioneer in the ongoing struggle to make women full participants in the political process.

The courage and honesty with which she spoke out against the deplorable tactics of Senator Joseph McCarthy earned her the respect of her colleagues and the country.

An able legislator, a dedicated public servant, and a national political figure, Margaret Chase Smith has brought great honor to Maine and to the Nation. It is gratifying to see her important contributions honored in this way.

I ask unanimous consent to print in the RECORD the text of a recent editorial in the Portland Evening Express honoring Senator Smith on this occasion.

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

THE LADY FROM MAINE

The groundbreaking for the $1 million Margaret Chase Smith Library Center in Skowhegan the other day represents an important step in preserving the historical records of one of the most remarkable political figures in American history.

Sen. Smith was, characteristically, brief and to the point at the ceremony. "This," she said, "is truly one of the most cherished moments of my life. It is because of the peace of mind that it gives me as to the use and security of my papers and records for posterity."

All Maine shares that peace of mind. Margaret Chase Smith embodies the best of the Maine character and it is fitting that the records of her long and distinguished career be housed within the state.

Although she left the political arena almost a decade ago, her qualities of honesty, courage, dedication and devotion to purpose remain as benchmarks for all public servants.

She was the first woman ever elected to the United States Senate and for 24 years was one of its most respected figures. Her courage was unquestioned; in a terse, 15-minute "Declaration of Conscience" speech in June of 1950 she became the first national figure to decry the communist-hunting tactics of Sen. Joseph McCarthy.

Her honesty was without parallel. She kept her own political counsel and once she had made up her mind she never once broke her word. Her credibility was unassailable.

Her dedication and devotion were monumental. In her time she set the record for an unbroken string of consecutive roll call votes.

In becoming a nationally known and influential senator—she was the first woman ever to seek the presidential nomination of a major political party—Margaret Chase Smith paved the way for the entry of many women into national politics.

Yet she has never considered herself a feminist. She simply did the best job she could, secure in the knowledge that her Maine neighbors would judge her on the basis of her performance without regard to her sex.

The new Margaret Chase Smith Library Center assures that the record of her extraordinary political life will be permanently gathered in her hometown. That's where it belongs.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

OMNIBUS RECONCILIATION ACT OF 1981

Mr. BAKER. Mr. President, may I inquire is the Chair in a position to name conferees on the part of the Senate in respect to the conference on the budget reconciliation bill?

The PRESIDING OFFICER. The Chair has that authority.

MOTION TO INSTRUCT SENATE CONFEREES

Mr. CRANSTON. Mr. President, on behalf of the Senator from Alabama (Mr. DENTON), the Senator from Florida (Mr. CHILES), and myself, I move that the conferees on the part of the Senate to be appointed in connection with H.R. 3982 be instructed as follows:

That the conferees on the part of the Senate insist that provisions authorizing appropriations for the Head Start program be included in the conference report at the following levels: $950,000,000 for fiscal year 1982, $1,007,000,000 for fiscal year 1983, and $1,058,357,000 for fiscal year 1984.

Mr. President, that is the motion. Let me explain the reason for it.

First, let me say I am delighted to be joined in this motion by the Senator from Alabama (Mr. DENTON), who is the chairman of the authorizing subcommittee on the Labor and Human Resources Committee, and the Senator from Florida (Mr. CHILES).

This motion is designed to insure that the Head Start program, one of the most successful and important programs supported by the Federal Government, does not become the victim of the rush to complete action on the reconciliation legislation.

My motion would simply instruct the conferees to include a provision authorizing appropriations for the Head Start program at the level requested by the administration for fiscal year 1982 and the levels approved by the Senate for fiscal years 1983 and 1984.

Mr. President, the Senate-passed rec-

onciliation measure included an authorization of appropriations for Head Start for fiscal year 1982 at the 1981 level of $820 million, although the administration has requested $950 million and the Labor and Human Resources Committee has approved the $950 million level in separate reauthorization.

It was anticipated that the House would include the administration's requested level of $950 million in its reconciliation bill; unfortunately, in the haste to prepare the Gramm-Latta substitute, Head Start was omitted entirely. In fact, it was not discovered until days later that Head Start had been left out of the House bill.

I have heard in the last week from numerous Head Start supporters who are deeply concerned about the fate of Head Start as a result of this mishap in the House. The authorization of appropriations for the Head Start program expires at the end of September.

I am deeply concerned that efforts to move a separate reauthorization bill are likely to get bogged down in the legislative process. I do not think we should allow this program to be placed in jeopardy. I think the Senate ought to make very clear its desire to see the Head Start program funded at the level requested by the administration for fiscal year 1982 and its desire to see this matter resolved immediately.

I reiterate that my motion would simply instruct the conferees to include in the conference report provisions authorizing appropriations for the Head Start program at the level requested by the administration for fiscal year 1982 and the levels approved by the Senate and the Labor and Human Resources Committee for fiscal years 1983 and 1984. The latter levels are simply the administration's level for 1982, adjusted for inflation.

I have been advised by the Parliamentarian that it would be within the scope of conference in the Senate for the conferees to agree to this level for fiscal year 1982.

Head Start is, perhaps, the most successful of all programs designed to render help to children from low-income families. I have been a supporter of the Head Start program since I first came to the Senate. As the chairman during the 95th and 96th Congresses of the Child and Human Development Subcommittee, I was deeply involved in matters relating to the Head Start program. I authored the legislation passed in 1978 which continued the authorization of appropriations for Head Start through October of this year and at the beginning of this Congress I introduced legislation, S. 181, to continue the Head Start program for another 5 years. This is an important, effective program that helps break the cycle of poverty at a critical point in the lives of young children. It more than pays for itself by enhancing the lives and the futures of these children and their families.

I strongly urge that this motion be agreed to.

Mr. BAKER addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. BAKER. Mr. President, I not only have no objection to the motion filed by the distinguished Senator from California and cosponsored by the distinguished Senator from Alabama, but I commend both of them for their initiative in this respect.

Mr. President, I am advised that there is no time remaining for debate on this measure. I think we should provide some time for remarks and comments.

I inquire of the Chair if there is time remaining on this measure.

The PRESIDING OFFICER. All time has expired for consideration of the reconciliation measure and motions relating thereto.

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

Mr. President, I ask unanimous consent that there be 15 minutes under the control of the majority and minority leaders for further debate on this measure.

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

Mr. BAKER. Mr. President, I yield to the distinguished Senator from New Mexico, the chairman of the Budget Committee.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I yield first to the distinguished Senator from Alabama, if he has some remarks. Mine would be of a general nature regarding the budgetary impact.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. DENTON. Mr. President, I thank the Senator from New Mexico.

Mr. President, I am pleased to join the Senior Senator from California, (Mr. CRANSTON) as a cosponsor of his motion to instruct the Senate Conferees on the budget reconciliation bill to insist on the Senate position on the Head Start program and to increase the level of funding from $820 million to $950 million for fiscal year 1982. This motion, in effect, would approve the legislative proposal unanimously reported from the Senate Labor and Human Resources Committee on June 24.

Few in this Chamber are unaware of the accomplishments of the Head Start program over the past 15 years. Since its beginning over 7 million children have benefited. In my opinion, the most significant attribute of the program comes through the recognition and involvement of parents as the key element to the success of the program. Head Start participants consistently score higher on standardized tests of intelligence and general ability; show significant gains in cognitive development and language development; and demonstrate positive long-term effects including improved grades, better test scores and fewer special education placements when parents are involved.

In designating this program as part of the social safety net, the administration also endorses the increased funding level and the consideration of this proposal as part of the reconciliation package.

This motion is most timely because it will allow the Appropriations Committee to take prompt action for the upcoming fiscal year 1982 appropriation at the authorization level recommended by the President without waiting for a possible prolonged reauthorization process on the Senate and House floors. It is my understanding that the House bill might run into particular difficulty because it includes a reauthorization of the Community Services Administration.

I would like to commend Senator CRANSTON for his efforts to insure the continuation of this valuable program. During my brief tenure as chairman of the subcommittee which has jurisdiction over the Head Start program, I have learned much from the record he established while he was the chairman. I have come to appreciate the strengths of this program and without reservation I urge my colleagues to support it.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I yield myself 1 minute.

Mr. President, I commend the Senator from California and the distinguished junior Senator from Alabama for bringing this matter to the Senate's attention and for the way they have done it. It is obvious that we are not going to let Head Start suffer. The President of the United States has requested funding at the level included in this instruction. Through some kind of oversight as a part of the reconciliation, this authorizing level was not included in the House bill. That would not have conclusively harmed the program but it would have required that we have an authorization bill clear both Houses.

As it is now, we have the matter in our bill. It is my understanding that this will raise the level to that requested by the President. I think we should do it.

My advice to the majority leader is that we accept it. I commend the Senators and have no objection as far as the Budget Committee is concerned.

Mr. MOYNIHAN addressed the Chair.

Mr. ROBERT C. BYRD. Mr. President, do I have control of the time under the order?

The PRESIDING OFFICER. The Senator from West Virginia controls the time.

Mr. ROBERT C. BYRD. Mr. President, I yield to Mr. MOYNIHAN such time as he may require and to Mr. CRANSTON.

Mr. MOYNIHAN. I thank the minority leader.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, I ask that my name be added as a cosponsor of this legislation.

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

Mr. MOYNIHAN. Mr. President, I was a member of the task force that drew up the original poverty program and Head Start program.

I would like to comment on the statements of our distinguished chairman of the Budget Committee that it is obvious that this was an oversight and ask what is in this legislation, what is being left out of this legislation that is not obvious?

In the history of this body, there cannot have been so chaotic an enterprise

as the reconciliation procedures of the past month.

I have introduced in this body a resolution which declares it to be the sense of the Senate that no bill will be engrossed or enrolled which a majority of the Members present and voting cannot attest to having read. I have not had any very strong response as yet, but here is just the most recent instance of the not altogether nongermane nature of the proposal.

Mr. BAKER. Mr. President, is there time remaining?

The PRESIDING OFFICER. There is time remaining on both sides.

Mr. BAKER. Mr. President, I am prepared to yield back the time on this side.

Mr. CRANSTON. Mr. President, will the minority leader yield me just 1 minute?

Mr. ROBERT C. BYRD. Mr. President, I yield all time under my control to Mr. CRANSTON.

Mr. CRANSTON. Mr. President, I wish to thank Senator DENTON for his effective work with me on this matter. It is a pleasure to work with him. I thank the majority leader for his cooperation and support. I thank Senator DOMENICI for his contribution. It is important to have the chairman of the Budget Committee working with us as it is to have the majority leader. And I thank Senator MOYNIHAN for his helpful contribution. I know of his great concern about issues like the one that we are dealing with here.

● Mr. CHILES. Mr. President, I am pleased to join in introducing this motion to instruct the reconciliation bill conferees to bring back a bill which reauthorizes the Head Start program at the level of $950 million for fiscal year 1982, instead of the $820 million level included in the Senate-passed bill.

Head Start is one of the most critical of our programs to provide equal educational opportunity for poor children. It provides a comprehensive set of educational services to disadvantaged preschool age children, so that they can enter school with basic skills and orientations equivalent to those acquired at home by middle-class children.

Getting poor children off to a good start in school is critical to assuring them the opportunity, when they become adults, to be fully participating members of the economy. As our economy becomes more complex, and as we undertake to upgrade our technology to improve our productivity, higher levels of education are necessary for our work force. We have learned over the years that good education begins in the earliest years, and Head Start provides educational beginning for poor children.

The $950 million funding level we are seeking here was assumed in the budget resolution, and it is the full amount requested by President Carter. President Reagan has endorsed that request.

This funding level will allow the program to continue serving over 366,000 children in full-year projects. Of the $130 million increase over the 1981 funding level, $78 million will be used to offset higher operating costs, and $52 million will be used to restore or upgrade the quality of program operations in some key areas where inflation has eroded services in the last few years. I think a clear measure of the success of this program is that while it employs 73,000 full-year staff, it also enlists the help of 494,000 volunters, almost seven times the number of paid staff. That demonstrates to me that the residents of the communities where Head Start operates recognize its importance and are willing to give their time and effort to keep it going.

I hope this motion will be agreed to, so that the parents and poor children who depend on the Head Start programs can get a clear signal that we are going to provide adequate funding.●

Mr. BAKER. Mr. President, I yield back my time.

Mr. CRANSTON. I yield back the time on this side.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the motion of the Senator from California.

The motion was agreed to.

Mr. CRANSTON. Mr. President, I move to reconsider the vote by which the motion was agreed to.

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

The motion to lay on the table was agreed to.

Mr. BAKER addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. BAKER. I thank the Chair.

Mr. President, I ask that the Chair name the conferees on behalf of the Senate.

APPOINTMENT OF CONFEREES

The PRESIDING OFFICER. Pursuant to the order granted yesterday, the Chair appoints the following conferees on the part of the Senate:

From the Committee on the Budget: Mr. DOMENICI, Mr. ARMSTRONG, Mrs. KASSEBAUM, Mr. BOSCHWITZ, Mr. HOLLINGS, Mr. CHILES, and Mr. BIDEN;

From the Committee on Agriculture, Nutrition, and Forestry, for matters within their jurisdiction: Mr. HELMS, Mr. HAYAKAWA, Mr. LUGAR, Mr. COCHRAN, Mr. HUDDLESTON, Mr. LEAHY, and Mr. ZORINSKY;

From the Armed Services Committee for matters within their jurisdiction: Mr. TOWER, Mr. HUMPHREY, Mr. JEPSEN, Mr. EXON, and Mr. LEVIN;

From the Banking, Housing, and Urban Affairs Committee for matters under their jurisdiction: Mr. GARN, Mr. HEINZ, Mr. LUGAR, Mr. PROXMIRE, and Mr. RIEGLE;

From the Commerce, Science, and Transportation Committee for matters within their jurisdiction: Mr. PACKWOOD, Mr. GOLDWATER, Mr. SCHMITT, Mr. CANNON, and Mr. INOUYE;

From the Energy and Natural Resources Committee for matters within their jurisdiction: Mr. MCCLURE, Mr. HATFIELD, Mr. WALLOP, Mr. JACKSON, and Mr. JOHNSTON;

From the Environment and Public Works Committee for matters within their jurisdiction: Mr. ABDNOR, Mr. STAFFORD, Mr. CHAFEE, Mr. SYMMS, Mr. RANDOLPH, Mr. MOYNIHAN, and Mr. MITCHELL;

From the Finance Committee for matters within their jurisdiction: Mr. DOLE, Mr. DANFORTH, Mr. CHAFEE, Mr. LONG, and Mr. HARRY F. BYRD, JR.

From the Foreign Relations Committee for matters within their jurisdiction: Mr. PERCY, Mr. MATHIAS, Mrs. KASSEBAUM, Mr. PELL, and Mr. BIDEN;

From the Governmental Affairs Committee for matters within their jurisdiction: Mr. ROTH, Mr. STEVENS, Mr. MATHIAS, Mr. EAGLETON, and Mr. PRYOR;

From the Judiciary Committee for matters within their jurisdiction: Mr. THURMOND, Mr. MATHIAS, Mr. LAXALT, Mr. BIDEN, and Mr. DECONCINI;

From the Labor and Human Resources Committee for matters within their jurisdiction: Mr. HATCH, Mr. STAFFORD, Mr. QUAYLE, Mr. NICKLES, Mr. DENTON, Mrs. HAWKINS, Mr. KENNEDY, Mr. RANDOLPH, Mr. PELL, Mr. EAGLETON, and Mr. METZENBAUM;

From the Small Business Committee for matters within their jurisdiction: Mr. WEICKER, Mr. BOSCHWITZ, Mr. HAYAKAWA, Mr. NUNN, and Mr. BUMPERS;

From the Veterans' Affairs Committee matters within their jurisdiction: Mr. SIMPSON, Mr. KASTEN, Mr. MURKOWSKI, Mr. CRANSTON, and Mr. RANDOLPH;

From the Select Committee on Indian Affairs for matters within their jurisdiction: Mr. COHEN, Mr. ANDREWS, Mr. GORTON, Mr. MELCHER, and Mr. INOUYE.

Mr. HATCH. Mr. President, the reason for six Republicans and five Democrats serving for the Senate Labor and Human Resources Committee is because of the wide variety of programs under our jurisdiction. Senator KENNEDY and I have agreed to vote three Republicans to two Democrats on all miniconference issues. On final adoption of our portion of reconciliation we will vote six Republicans and five Democrats.

Mr. BAKER. Mr. President, I should like to take a moment this morning to commend my colleagues who chair their respective committees in the Senate, for their forthright and constructive contributions to the budget reduction effort last Friday.

Our initiatives in this Chamber over the past 7 months have been both challenging and demanding. I believe that we have been and will continue to be equal to the task. I also believe that now is not the time to let up. We must continue to pursue and produce the best possible achievements for our country.

As I have stated on so many occasions on this floor and elsewhere, the proposed spending cuts in our Nation's budget are quintessential to the economic recovery which we are all pledged to.

To a degree unprecedented in recent years, we have been fortunate enough to join in partnership with our President and chart a common course. I view this relationship with the White House as one of the most rewarding facets of my position as majority leader.

With that in mind, I believe our decision to sit down with our friends in the House and iron out minor differences in next year's budget will prove to be of great service to our Nation.

Working with the White House, we

have launched one of the most impressive legislative agendas in this century. Our actions have been deliberate and responsible, and I expect that the reconciliation process will be looked back upon as an exemplary effort in which we can all take pride.

What we are embarking on with our colleagues in the House, is a journey toward betterment. Both the Senate and the House versions of the budget proposal reflect the same philosophical considerations. The need for abating the limitless expenditures of the past is clear.

Budget analysis is a highly technical and time-consuming procedure. It is usually born from necessity, and raised under urgency. It is no simple matter.

Subsequently, what now remains to be done is some fine tuning, in order to give the American people the best possible bill. I applaud the efforts of the distinguished Senator from New Mexico (Mr. DOMENICI) and thank him and the Budget Committee staff for their tireless efforts. Their work was not done in vain. It will become part of a great blueprint for getting our economy on the right track again.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-1562. A communication from the Acting Comptroller General of the United States transmitting, pursuant to law, a report entitled "Military Contractor-Operated Stores' Contracts Are Unmanageable and Vulnerable to Abuse"; to the Committee on Armed Services.

EC-1563. A communication from the Deputy Assistant Secretary of Defense for Administration, transmitting, pursuant to law, notification of a determination by the Department to exclude the clause providing for examination of records by the Comptroller General from a certain proposed contract; to the Committee on Armed Services.

EC-1564. A communication from the Assistant Secretary of the Army for Installations, Logistics, and Financial Management transmitting, pursuant to law, notification of a decision made to convert the guard services at Fort Bliss, Tex., to performance under contract; to the Committee on Armed Services.

EC-1565. A communication from the Assistant Secretary of the Army for Installations, Logistics, and Financial Management transmitting, pursuant to law, notification of a decision made to convert the combined maintenance/motor vehicle operations activity at the U.S. Military Academy, West Point, N.Y., to performance by contract; to the Committee on Armed Services.

EC-1566. A communication from the Secretary of Transportation transmitting, pursuant to law, the annual report on activities under the Emergency Rail Services Act and an evaluation of the financial condition of railroads having outstanding certificates guaranteed under the act; to the Committee on Commerce, Science, and Transportation.

EC-1567. A communication from the Secretary of Transportation, transmitting pursuant to law, a report on the financial conditions and operations of the Railroad Rehabilitation and Improvement Fund and the Obligation Guarantee Fund; to the Committee on Commerce, Science, and Transportation.

EC-1568. A communication from the chairman of the Board and the President and Chief Executive Officer, respectively, of the U.S. Railway Association, transmitting, pursuant to law, the final annual report of the association on the performance of Conrail; to the Committee on Commerce, Science, and Transportation.

EC-1569. A communication from the Acting Administrator of the National Oceanic and Atmospheric Administration, transmitting, pursuant to law, a report on the status of negotiations relating to a system for the protection of interim investments in deep seabed mining; to the Committee on Commerce, Science, and Transportation.

EC-1570. A communication from the Acting Comptroller General of the United States transmitting, pursuant to law, a report entitled "Limited Progress Made in Consolidating Grants to Insular Areas"; to the Committee on Energy and Natural Resources.

EC-1571. A communication from the Secretary of the Federal Trade Commission transmitting, pursuant to law, the annual report of the Commission on the impact of the international energy program on competition and on small business; to the Committee on Energy and Natural Resources.

EC-1572. A communication from the Director of the Office of Management and Budget transmitting additional language to original draft of proposed legislation entitled "Debt Collection Act of 1981"; to the Committee on Government Affairs.

EC-1573. A communication from the Acting Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Gains and Shortcomings in Resolving Regulatory Conflicts and Overlaps"; to the Committee on Governmental Affairs.

EC-1574. A communication from the Acting Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Internal Control Weaknesses Contributed to the Mismanagement and Misuse of Federal Funds at Selected Community Action Agencies"; to the Committee on Governmental Affairs.

EC-1575. A communication from the Director of ACTION, transmitting, pursuant to law, a copy of a regulation on trainee deselection and early termination procedures; to the Committee on Labor and Human Resources.

EC-1576. A communication from the Special Assistant to the Secretary of Defense, transmitting, pursuant to law, a report on Department of Defense Procurement from small and other business firms for the period October-December 1980; to the Committee on Small Business.

EC-1577. A communication from the Secretary of Commerce, transmitting, pursuant to law, a report on progress made in implementing of Public Law 96-481, title IV, section 301—Small Business Export Expansion Assistance; to the Committee on Small Business.

EC-1578. A communication from the Assistant Secretary of the Army (civil works), transmitting a draft of proposed legislation to amend the National Cemeteries Act of 1973, to rescind the requirement that the superintendent positions of national cemeteries under the jurisdiction of the Secretary of the Army be limited to disabled veterans, and for other purposes; to the Committee on Veterans' Affairs.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-315. A resolution adopted by the House of Representatives of the Commonwealth of Massachusetts; to the Committee on Armed Services:

"Whereas, 1981 marks the 38th anniversary of the U.S.S. Wasp CV-18, the ninth ship of the United States Navy to bear the distinguished name of her predecessors, since the first Wasp was commissioned over 200 years ago as one of the first two vessels in the Continental Navy; and

"Whereas, The Wasp, nicknamed the "Stinger", gained a brilliant record in combat against the enemy, downing 230 Japanese planes by airmen, 16 enemy planes by ship guns, 411 enemy planes on the ground, sinking 52 enemy ships and damaging 305 enemy ships; and

"Whereas, those who lived and died valiantly defending their ship and their country, fought honorably and heroically true to the tradition of their ship's name, to the Navy, and the United States of America; and

"Whereas, in tribute to those who served, the next nuclear powered aircraft carrier should bear the name U.S.S. Wasp, thereby memorializing a record of distinguished service for 200 years; therefore be it

"*Resolved*, That the Massachusetts House of Representatives hereby urges the Congress of the United States to enact legislation designating the next nuclear powered aircraft carrier the U.S.S. Wasp; and be it further

"*Resolved*, That a copy of these resolutions be forwarded by the Clerk of the House of Representatives to the Presiding Officer of each branch of the Congress, and to the Members thereof from this Commonwealth, and the Secretary of the Navy."

POM-316. A resolution adopted by the House of Representatives of the Commonwealth of Massachusetts; to the Committee on Finance:

"RESOLUTION

"Whereas, A worker who chooses to retire at the age of 62 years currently receives 80% of the pension to which he is entitled should he retire at age 65, yet President Ronald Reagan proposes that a retiring 62 year old worker receive 55% of his full pension; and

"Whereas, The net effect for those contemplating early retirement is a choice between two unattractive alternatives: viz. either stay on the job until age 65 or rely on their life savings; and

"Whereas, Early retirement is a goal of millions of Americans and President Reagan's proposal will jeopardize long years of hard work and careful retirement planning; and

"Whereas, the 31 million retirees who currently receive social security checks will lose their cost of living increases in the third fiscal quarter of this year, which will cost them 4 billion dollars; and

"Whereas, in the Commonwealth of Massachusetts there are 650,000 men and women over 65 years of age and approximately 95% of those individuals receive social security benefits; and

"Whereas, we have 1,000,000 men and women over 60 years of age, of which number, some 350,000 are between the range of 60 to 65 years of age and approximately 100,000 of these individuals receive social security benefits; and

"Whereas, as social security benefits are based on wages earned, women are severely discriminated against. Throughout this century, up to present day, women employees have historically earned substantially less than their male counterparts even though they held the same job and performed the same work duties. Though it is now unlawful to discriminate in this fashion, it will take approximately 30 to 40 years for the social security system to catch up. Cuts in their

benefits would be felt much more so than the male retiree; and

"Whereas, another instance of discrimination is the homemaker. If the wife's husband dies, the wife does not receive the same dollar amount of her husband's social security benefit, but rather a much smaller percentage of the total; and

"Whereas, said proposal, if passed, would reduce, in real dollars, benefits for those employees who retire either at age 62 or 65, for, while the average retiree currently receives approximately $41 for every $100 earned while working, under the President's plan, workers who retire after January of 1987 will receive 38% of pre-retirement income; therefore be it

"Resolved, that the Massachusetts house of representatives hereby urges the Congress of the United States to reject President Reagan's proposal to reduce social security benefits; and be it further

"Resolved, that a copy of these resolutions be forwarded by the clerk of the house of representatives to the presiding officer of each branch of the Congress and the members thereof from this commonwealth."

POM-317. A resolution adopted by LaSociete des 40 Hommes et 8 Cheveaux du Iowa, opposing any reduction in the social security death benefit; to the Committee on Finance.

POM-318. A resolution adopted by the Massachusetts Conference of the United Church of Christ calling for a reduction of nuclear arms by the United States, to the Committee on Foreign Relations.

POM-319. A resolution adopted by the La Societe des 40 Hommes et 8 Cheveaux du Iowa, opposing reductions in certain Veterans' benefits; to the Committee on Veterans' Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HELMS, from the Committee on Agriculture, Nutrition, and Forestry;

Special report entitled "Allocation of Budget Totals for Fiscal Years 1981 and 1982" (Rept. No. 97-152).

By Mr. THURMOND, from the Committee on the Judiciary, with an amendment and an amendment to the title:

S.J. Res. 42. Joint resolution to designate the third Sunday in September as "National Ministers Day."

By Mr. THURMOND, from the Committee on the Judiciary, without amendment, and with a preamble:

S.J. Res. 78. Joint resolution to provide for the designation of October 2, 1981, as "American Enterprise Day."

S.J. Res. 92. Joint resolution to authorize and request the President to designate the week of September 6, 1981, through September 12, 1981, as "Older Americans Employment Opportunity Week."

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. THURMOND, from the Committee on the Judiciary:

Daniel K. Hedges, of Texas, to be United States Attorney for the Southern District of Texas, for the term of four years;

Sarah Evans Barker, of Indiana, to be United States Attorney for the Southern District of Indiana, for the term of four years;

Rex. E. Lee, of Utah, to be Solicitor General of the United States; and

Edward C. Prado, of Texas, to be United States Attorney for the Western District of Texas, for the term of four years.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. HATFIELD:

S. 1468. A bill to provide for the designation of the Burns Paiute Indian Tribe as the beneficiary of a public domain allotment, and to provide that all future similarly situated lands in Harney County, Oregon, will be held in trust by the United States for the benefit of the Burns Paiute Indian Colony; to the Select Committee on Indian Affairs.

By Mr. STEVENS:

S. 1469. A bill to amend the Internal Revenue Code of 1954 to provide for an investment tax credit for theatrical productions; to the Committee on Finance.

By Mr. HEFLIN:

S. 1470. A bill for the relief of Grietje Rhea Pietens Beumer, Johan Christian Beumer, Cindy Larissa Beumer, and Cedric Grant Beumer; to the Committee on the Judiciary.

By Mr. HUDDLESTON (for himself and Mr. ROTH):

S. 1471. A bill to amend the Internal Revenue Code of 1954 to redefine individuals eligible for the earned income credit, and for other purposes; to the Committee on Finance.

By Mr. DENTON:

S. 1472. A bill to amend the Internal Revenue Code of 1954 to exclude the value of certain research and experimental expenditures from the aggregate face amount of certain small issues of industrial development bonds; to the Committee on Finance.

By Mr. HART (for himself and Mr. ARMSTRONG):

S. 1473. A bill for the relief of the Jefferson County Mental Health Center, Incorporated, and of certain current and former employees thereof; to the Committee on Finance.

By Mr. QUAYLE:

S. 1474. A bill to continue the operation of the Defense Department's education system in the Department of Defense; to the Committee on Armed Services.

By Mr. McCLURE (for himself and Mr. JACKSON):

S. 1475. A bill to amend the expiration date of section 252 of the Energy Policy and Conservation Act; to the Committee on Energy and Natural Resources.

By Mr. DURENBERGER (for himself and Mr. ANDREWS):

S. 1476. A bill to provide standby authority to deal with petroleum supply disruptions, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. METZENBAUM (for himself, Mr. TSONGAS, and Mr. WILLIAMS):

S. 1477. A bill to require the Secretary of Labor to submit an annual report on child day care services; to the Committee on Labor and Human Resources.

By Mr. METZENBAUM (for himself, Mrs. HAWKINS, Mr. TSONGAS, and Mr. WILLIAMS):

S. 1478. A bill to amend the Internal Revenue Code of 1954 to increase the amount of the credit for expenses for household and dependent care services necessary for gainful employment, to provide a credit for employers who provide such services, and for other purposes; to the Committee on Finance.

By Mr. METZENBAUM (for himself, Mr. TSONGAS, and Mr. WILLIAMS):

S. 1479. A bill to amend the Internal Revenue Code of 1954 to exclude from the income of an employee certain adoption expenses paid by an employer, to provide a deduction for adoption expenses paid by an individual, and for other purposes; to the Committee on Finance.

S. 1480. A bill to amend the Internal Revenue Code of 1954 with respect to the treatment of foster children as dependents of taxpayers; to the Committee on Finance.

S. 1481. A bill to amend title II of the Social Security Act to eliminate gender-based distinctions under the old-age, survivors, and disability insurance program; to the Committee on Finance.

By Mr. HOLLINGS (for himself and Mr. WEICKER):

S. 1482. A bill to amend certain provisions of the Act of May 27, 1970, to provide a procedure for determining whether a plan for the Federal Government to participate in an international exposition should include construction of a Federal pavilion, whether such Federal pavilion should be a permanent structure, and for other purposes; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HATFIELD:

S. 1468. A bill to provide for the designation of the Burns Paiute Indian Tribe as the beneficiary of a public domain allotment, and to provide that all future similarly situated lands in Harney County, Oreg., will be held in trust by the United States for the benefit of the Burns Paiute Indian Colony; to the Select Committee on Indian Affairs.

LAND DESIGNATED TO THE BURNS PAIUTE TRIBE

● Mr. HATFIELD. Mr. President, I am introducing legislation today that will designate a parcel of land in Harney County, Oreg., to be held in trust for the Burns Paiute Tribe pursuant to Federal law (25 U.S.C. 373b). This bill is primarily of a technical nature as it will fulfill the requirements of 25 U.S.C. 373b which provides that parcels of land, where the value of the land exceeds $2,000 and the allottee dies without legal heirs, shall be held in trust by the United States for such Indians as Congress may designate.

This bill addresses a matter that arose in Harney County, Oreg., where a Burns Paiute Indian named Jesse T. James died on January 12, 1978 without heirs or a will. At the time of his death, he was the sole owner of 160 acres of trust land in Harney County, land which is classified as a "public domain allotment." The proposed legislation is needed to clear up this matter, as well as comply with Federal law.

The Burns Paiute Tribe has occupied the southeast corner of the State of Oregon for the last 8,000 years. In 1868 representatives of the Federal Government negotiated a treaty with the tribe to end hostilities between the tribe and the growing influx of white settlers. That treaty, however, was never ratified by the Senate.

Instead, President Ulysses S. Grant established a reservation comprising approximately 1,778,560 acres by executive orders in 1872, 1875, and 1876. Not less than 10 years later the reservation was cancelled by executive orders in 1882, 1883, and 1889, and the land converted to the public domain. The Paiutes were compensated for the taking of this land

in 1959 by the Indian Claims Commission, which awarded each Indian 40 cents an acre for the loss of their aboriginal lands.

In 1887 Congress passed the General Allotment Act, which intended to assimilate Indians into the non-Indian culture. Each "allottee" was given a 160-acre allotment of reservation or public domain land, with the title to the land held in trust by the United States. In 1896 and 1897, 115 allotments were created out of the public domain near Burns, Oreg., for the Paiutes, totaling 17,541.96 acres. After an aggressive policy of attempting to end the restricted status of these allotments, many of these were sold to non-Indians, with less than 70 allotments in the Burns area remaining in Indian hands, totaling approximately 11,000 acres.

Federal law governs the probate disposition of allotments. Congress enacted 25 U.S.C. 373b in 1942 to address this matter. That law states that such allotments "be held in trust for such needy Indians as the Secretary may designate, where the value of the estate does not exceed $2,000, and in the case of estates exceeding such sum, such estates shall be held in trust by the United States for such Indians as the Congress may designate."

In the case of the allotment covered by the bill I am introducing today, the value of the allotment exceeds $9,000. Thus, under 25 U.S.C. 373b, Congress must designate what Indians shall receive this property. During hearings on this matter before the Board of Hearings and Appeals in the Bureau of Indian Affairs, the board stated, "based on the record before the board, and following a full opportunity for individual Indians and Indian groups to state a claim to the property at issue, the board has no reservation stating that were it within its authority to decree, it would allow the Indian Joe allotment—Jesse T. James estate—to go to the Burns Paiute Tribe, rather than reverting to the public domain or being conveyed to other Indians."

The present Burns Paiute reservation comprises 770 acres and the tribe hopes to use this allotment for economic development to enable it to become more self-sufficient. By utilizing the land for agricultural purposes, the tribe hopes to increase its income, reduce its dependence upon the Bureau of Indian Affairs and provide employment for tribal members and residents of the area. To that end, this legislation would designate this parcel of land to be held in trust for the Burns Paiute Tribe. An action which is supported by the record accumulated before the Board of Hearings and Appeals of BIA.

In addition, to avoid subsequent action of this nature, the legislation introduced today would also provide that future public domain allotments that fall under this same situation would go directly into trust for the tribe. The utilization of 25 U.S.C. 373b is rare, having been used only once before, but by including this provision in the proposed legislation administrative efficiency is promoted. In the future when this situation occurs, the Secretary of the Interior would designate that these allotments go to the tribe, thereby avoiding the need for Congress to be involved in this process.

In closing, I urge expeditious action on this matter by the Congress as the Burns Paiute Tribe will be greatly benefited by the development of this allotment.●

By Mr. STEVENS:

S. 1469. A bill to amend the Internal Revenue Code of 1954 to provide for an investment tax credit for theatrical productions; to the Committee on Finance.

THEATRICAL PRODUCTION INVESTMENT TAX CREDIT ACT OF 1981

Mr. STEVENS. Mr. President, today I am pleased to introduce a bill which will amend the Internal Revenue Code of 1954 extending the investment tax credit to theatrical productions.

This bill is identical to S. 2500 that was introduced in the last Congress and was the subject of hearings before the Senate Subcommittee on Taxation and Debt Management on May 30, 1980.

The Theatrical Production Investment Tax Credit Act of 1981 extends the investment tax credit to live commercial theatrical production. Provisions of this bill closely parallel those which were included in the Tax Reform Act of 1976 that extended the investment tax credit to qualifying production costs in the motion picture industry. The Theatrical Production Investment Tax Credit Act of 1981 will provide tax credit to persons to invest in productions of the commercial theatre.

This credit will provide an effective incentive to the performing arts industry while minimizing direct Government funding in this area. Under the provisions of this bill the investment tax credit will be allowed with respect to production costs if such costs constitute new section 38 property. Each taxpayer's share of the credit will be limited to their ownership interest in the theatrical production.

The investment tax credit was designed to spur investment and create new employment opportunities.

The theatrical industry badly needs the stimulus of an investment tax credit. Fewer new plays are being produced each year in commercial theatres. To a great extent, the decline in theatrical productons over the last few years can be traced to skyrocketing production costs. The play must run for months, if not a year, if the investors are to recoup production costs; yet four out of five productions lose money. The investment tax credit will help abate the deterrent to invest in new productions.

Theatre is an important component of American culture. The theatre industry provides a valuable cultural resource that attracts corporations and their employees to locate near the city environment.

The cost of the Treasury for this measure is extremely small. The Joint Tax Committee estimate for last year's bill determined that the Theatrical Production Investment Tax Credit Act will reduce budget receipts by only $5 million annually. This is certainly a small price to pay for encouraging investors to participate in theatrical productions that will have such a significant effect on the American artistic community.

I urge consideration of this measure.

By Mr. HUDDLESTON (for himself and Mr. ROTH):

S. 1471. A bill to amend the Internal Revenue Code of 1954 to redefine individuals eligible for the earned income credit, and for other purposes; to the Committee on Finance.

TAX SUBSIDIES FOR ILLEGEAL ALIENS

● Mr. HUDDLESTON. Mr. President, on April 15 millions of Americans completed their tax returns for 1980 and in the process paid an unprecedented amount of taxes. Hundreds of billions of dollars in income taxes have been paid into a tax system which is the largest in the world and which functions primarily upon the voluntary compliance of the American taxpayer.

Unknown to most taxpayers, large numbers of illegal aliens also rushed to get their income tax return filed. However, a substantial number of illegal aliens who file income tax returns are using the earned income tax credit to either reduce their taxes or to receive a refund on taxes that were never paid.

In 1975, Congress passed a tax bill which created a new concept in tax law: the earned income tax credit. This credit was intended to provide some tax relief for low-income workers who have dependent children. The underlying rationale for the credit was that it would offset the impact of social security taxes and encourage individuals to find employment.

Under this law, the worker is entitled to a 10-percent tax credit for the first $5,000 in earned income; the credit is phased out when adjusted gross income reaches $10,000. The most expensive feature of this law is its refundable aspect. If the worker owes taxes which are less than the credit, the excess of the credit will be paid to him or her by the Government as an "overpayment." In 1979 about 9 million individuals qualified for the earned income tax credit, which cost the Federal Treasury approximately $2.1 billion. Of this amount, $1.4 billion was attributable to the refundable aspect of the law.

There is compelling new evidence that illegal aliens are using the earned income tax credit in order to reduce taxes or to secure refunds from the Government even though they do not pay any taxes. A new study just released by David North, director of the Center for Labor and Migration Studies at the New Trans-Century Foundation, concluded that nearly a third of those with refunds secured EITC payments. Furthermore, they had larger average EITC payments and larger refunds than Americans generally.

The study states that part of the study group of 17 individuals received EITC payments totaling $19,637 and that this resulted in a mean payment of $302. If we assume a very conservative number of 3 million illegal alien workers in the United States, this would result in EITC payments of about $120 million. The 3

million assumption is conservative, because even the U.S. Bureau of the Census admits that there could be as many as 6 million illegal aliens in the country and other reliable sources believe there could be as many as 12 million.

According to a letter from the acting commissioner of IRS, illegal aliens can qualify under the law for the EITC and they use the earned income tax credit. In order to prevent this continued misuse of the EITC, I am introducing a bill today which limits eligibility for the EITC to a citizen of the United States or an alien individual who has been admitted to the United States as a permanent resident.

It is ironic that an earned income tax credit primarily meant to encourage low-income individuals to work instead serves to limit employment opportunities for them. Even though we have about 8 million unemployed people in the country today, this provision is an added incentive to enter the United States to take jobs from American citizens. In effect, the Federal Government is paying illegal aliens to take American jobs, at a time when the administration is reducing unemployment benefits and jobs programs.

To believe that this is not a widespread problem would be to ignore what we have learned in the past about the speed with which illegal aliens catch on to the loopholes in our tax laws. The IRS has established through experience that illegal aliens learn very quickly how to beat the tax collector. Between 1976 and 1978 the IRS conducted a pilot program in which it interviewed apprehended illegal aliens to determine whether they had outstanding tax liabilities. This program was dropped because the illegal aliens quickly learned how to get around it. In a letter to me dated January 4, 1980, the Director of the Collection Division at the IRS stated:

> An awareness of the program developed within the Mexican illegal alien community which comprised the majority of apprehended illegals. The Mexican press publicized the fact that illegals caught with money were subject to being interviewed by IRS, and the word evidentally spread. Consequently, when Mexican illegals were picked up, they had little or no money, but numerous postal money order stubs from payments they had apparently sent back to their families in Mexico.

In essence the Director admitted that even though the IRS found that many of the apprehended illegal aliens did in fact owe Federal income taxes, there was no way to collect, since the illegals learned very quickly to send most of their money out of the country as soon as possible.

There is further evidence that illegal aliens learned quickly of other methods of avoiding Federal income taxes. The IRS published a manual which was used by its own agents for the tax collection program aimed at illegal aliens. In this manual was a section entitled "Practices to Avoid Taxes" which stated:

> (1) Assigned personnel should be aware of practices utilized by some illegal aliens and their employers to avoid their Federal tax obligations.
>
> Many aliens also claim excessive exemptions, since they are aware that by doing so they will receive larger take-home amounts.

This manual states conclusively that many illegal aliens are deliberately falsifying their tax returns and W-4 forms. The result is that if an illegal alien does not bother filing a tax return before he returns home, he in effect takes the uncollected, nonwithheld taxes with him. If he does file a return, he pays little or no taxes because of the excessive number of exemptions. Under the latter method he also increases the amount of the refundable earned income tax credit.

Although the amounts involved in each individual case may be relatively small, they are very substantial if several million illegal aliens are in fact manipulating the tax system. The earned income tax credit alone cost the Federal Government over $2 billion in 1979. Further, we should not forget that the Congressional Budget Office has determined that each one percentage point increase in unemployment costs the Federal Treasury $29 billion every year. Any program which encourages illegal aliens to take jobs in this country will result in a substantial indirect cost by increasing our unemployment rate.

Mr. President, at the present time most Americans are paying more in taxes but are being told they will receive less in benefits for those taxes. In the near future we may be able to reduce this inequity for many taxpayers by passing a substantial tax reduction bill. I think that it would be very appropriate to pass along hundreds of thousands of dollars of savings now by denying the use of the EITC to illegal aliens. The EITC was intended to encourage Americans to find jobs, not to recruit illegal aliens.

I ask unanimous consent that chapter 7 of Mr. North's study entitled "Government Records: What They Tell Us About The Role of Illegal Immigrants in The Labor Market and In Income Transfer Programs" be printed in the RECORD.

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

CHAPTER SEVEN: THE STUDY GROUP AND THE INCOME TAX

The Internal Revenue Service was able to trace 517 members of the study group through its data systems. It found (to its surprise) that 355 of them, or 68.8 percent had filed one or more income tax returns.

The distribution among the three subpopulations was predictable; walkins were the most likely to file at least once (85 percent), the mainstream aliens were next (68 percent), and the introubles came in last (57 percent).

As Table 7-1 indicates, some members of the study group were filing returns as early as 1966 (nine years before their encounter with INS), and many of them were still doing so for 1979. The peak year was 1974, as it was in the SSA earnings data.

It should be noted that, while filing an income tax return is required by the law (for those with incomes above a rather low cutoff level) and is a commendable civic exercise, it is also an act that is usually rewarded, subsequently, with the delivery of a check. Most Americans find that their employers withhold more than the tax liability. In most years, about seven out of nine return filers receive refunds. This combination of motivations must have inspired the members of the study group as it does other taxpayers.

Table 7-2 provides 1979 data on the three subpopulations in our study group regarding tax liability, withholdings, refunds, and Earned Income Tax Credits (EITC). A total of 226 of the study group members filed returns, and 204 of them were rewarded with refunds. Nearly a third of those with refunds secured EITC payments. Comparing the three subpopulations, one finds the expected pattern, with the largest tax liability being recorded by the walkins, the next by the mainstream aliens, and the least by the introubles.

Members of the study group on average have lower levels of tax liability and withholdings than American taxpayers generally, reflecting below-average incomes as Table 7-3 shows. For the same reasons, the study group members had larger average EITC payments and larger refunds than Americans generally.

Balance sheet: In 1979 members of the study group had a combined tax liability to IRS of $229,556 and received $96,795 in refunds and $19,637 in EITC payments for a total of $116,432.

TABLE 7-1.—INDIVIDUAL INCOME TAX FILINGS OF THE 3 SUBPOPULATIONS IN THE ILLEGAL IMMIGRANT STUDY GROUP, 1966-79

Data item	Mainstream		Walkin		In trouble	
	Number	Percent	Number	Percent	Number	Percent
SSN's on masterfile	405	100.0	61	100.0	51	100.0
Record of filing	274	67.7	52	85.2	29	56.9
No record of filing	131	32.3	9	14.8	22	43.1
Filings by year:						
1966	9	2.2			2	3.9
1967	11	2.7			2	3.9
1968	14	3.5			2	3.9
1969	22	5.4	2	3.3	2	3.9
1970	36	8.9	8	13.1	5	9.8
1971	67	16.5	16	26.2	10	19.6
1972	98	24.2	18	29.5	16	31.4
1973	138	34.1	32	52.5	22	43.1
1974	210	51.9	39	63.9	23	45.1
1975	195	48.1	36	59.0	17	33.3
1976	178	44.0	30	49.2	19	37.3
1977	183	45.2	32	52.5	18	35.3
1978	188	46.4	34	55.7	19	37.3
1979	180	44.4	29	47.5	17	33.3

Source: Unpublished IRS tabulations.

TABLE 7-2.—COMPARISON OF TAX DATA ON THE 3 SUBPOPULATIONS IN THE ILLEGAL IMMIGRANT STUDY GROUP, 1979

Data item	Mainstream			Walkin			In trouble		
	Total	Number	Average	Total	Number	Average	Total	Number	Average
Tax liability	$154,681	123	$1,258	$64,238	26	$2,471	$10,637	17	$626
Withholding	215,936	170	1,270	66,793	27	2,474	21,602	17	1,271
Earned income tax credit	16,210	54	300	1,443	4	361	1,984	7	283
Refunds [1]	90,384	164	551	13,847	23	602	12,201	17	718
Filings		180			29			17	

[1] Includes earned income tax credit. Source: Unpublished IRS tabulations.

TABLE 7-3.—COMPARISON OF STUDY GROUP TAX RETURNS WITH THOSE OF U.S. TAXPAYERS, 1978 AND 1979

Data item	Members of study group (mean)	U.S. taxpayers (mean)
Tax liability	$1,383	$2,742
Withholding	1,422	2,172
Earned income tax credit	302	202
Refunds [1]	571	500

[1] Includes earned income tax credit.
Note: Study group data are for 1979; data for U.S. taxpayers for 1978.

Source: Unpublished IRS tabulations.●

By Mr. DENTON:

S. 1472. A bill to amend the Internal Revenue Code of 1954 to exclude the value of certain research and experimental expenditures from the aggregate face amount of certain small issues of industrial development bonds; to the Committee on Finance.

RESEARCH AND DEVELOPMENT TAX EXEMPTION

● Mr. DENTON. Mr. President, I am today introducing legislation to remove a needless and unjustified obstacle to the carrying out of research and development activities by companies using tax-exempt industrial development bond financing. Specifically, my bill would permit research and development costs to be treated for purposes of the so-called "small-issue exemption" for industrial development bonds in the same manner as they are treated elsewhere in the Internal Revenue Code, as expensable items rather than capital costs.

The "small-issue exemption" of section 103(b)(6) of the code permits localities to provide tax-exempt financing for businesses within their jurisdictions. Under this exemption, a business may not have more than a total of $10 million in capital expenditures within the bond-issuing jurisdiction in the 6-year period beginning 3 years prior to the issue date. The $10 million cap applies to all of a company's capital expenditures in that 6-year period, whether or not the specific expenditure was financed with the proceeds of an IDB.

Section 174 of the code expressly permits research and experimentation costs to be expenses for most tax purposes. The Internal Revenue Service, however, has held that expenses for research are capital expenditures within the meaning of the industrial development bond provision. In other words, because of section 174, research and development costs are generally permitted to be treated as expenses, except if considered in the IDB context, in which case they must be treated as capital expenditures.

This rule has had unfortunate consequences for research by American industry. Those companies which build, renovate or expand their facilities through the use of IDB's must avoid or curtail their research expenditures for a 6-year period in order to stay within the $10 million limit. Even more seriously, the small, high technology firms that are on the cutting edge of this Nation's innovation and productivity, are effectively denied the advantages of tax-exempt financing. For if a firm spends a large share of its budget on research and development, it cannot afford to finance its capital facilities—land, plant, and equipment—through an industrial development bond.

In addition to its adverse impact on research, the current rule needlessly compounds the bureaucratic burden upon businesses. While section 174 was intended to end the need for companies to separate their research and development capital expenses from normal operating expenses, and avoid repeated audits and challenges on this point, the IDB rule raises these problems all over again. A business which uses an industrial development bond must analyze all of its expenditures in the preceding 3 years, separating out research, and must segregate research expenditures for the subsequent 3 years as well. And because this determination can always be challenged, the bond issue's tax exemption will be uncertain.

My bill would correct this situation, by providing that research and experimental costs which are treated as expenses for the purposes of section 174 may also be expenses for the purposes of the small-issue exemption under section 103(b)(6). By doing so, the bill will provide uniform treatment for research and development expenses in the code, and avoid the uncertainty and unnecessary accounting problems created by the present IRS position. The bill will permit firms which use IDB financing to carry out normal research and experimentation activities, and it will permit those high technology firms which depend heavily on research and innovation to benefit from tax-exempt financing.

To assure an immediate beneficial impact, the bill would apply to research and development expenditures by companies already operating under IDB's, as well as to expenditures under new bond issues. The provision would not be retroactive, validating bond issues that have already been ruled taxable. But it would remove the disincentive to research and development activities by companies using IDB's as of its effective date.

The bill's revenue impact will be negligible. The research and development expenditures to which it would apply cannot themselves be funded out of the proceeds of an industrial development bond issue. IDB's basically can only fund capital costs for plant and equipment. Thus the number and size of IDB issues should not increase significantly. However, this valuable low-cost financing tool will not be denied to those companies which help to advance American technology and industry solely because of their high research costs.

Mr. President, in the context of President Reagan's tax proposals, the Congress is considering a number of measures to promote research and development and encourage small business. The bill I am introducing today would accomplish both of these important objectives at an insignificant loss of tax revenues.●

By Mr. HART (for himself and Mr. ARMSTRONG):

S. 1473. A bill for the relief of the Jefferson County Mental Health Center, Inc., and of certain current and former employees thereof; to the Committee on Finance.

JEFFERSON COUNTY MENTAL HEALTH CENTER

● Mr. HART. Mr. President, I am introducing today, on behalf of myself and my colleague, Mr. ARMSTRONG, a bill designed to provide relief to the Jefferson County Mental Health Center in connection with certain social security tax payments.

The Jefferson County Mental Health Center, located in Colorado, is a nonprofit organization which is exempt from employee participation in the social security program. However, employees at the center elected to participate in the program, and, in 1963, the center filed the appropriate forms with the Internal Revenue Service and began withholding FICA taxes.

When IRS reviewed the center in 1975, however, no record of this filing could be found. As a result, the IRS directed the center to refund the withheld FICA taxes to any employee who did not wish to continue his/her social security coverage.

After refunding $74,128 to its employees, the center applied to IRS to have that amount repaid to it. But even after IRS discovered that a valid waiver of immunity from social security taxes had, in fact, been filed, it was unable to reimburse the center. IRS does not have authority to expend funds without a legal obligation or statutory authorization.

Mr. President, the Jefferson County Mental Health Center is seeking reimbursement solely for the employee share of the social security taxes involved and only for the period before IRS notified the center of its error. This legislation authorizes the Secretary of the Treasury to determine the amounts withheld and

to treat those amounts as tax overpayments, reimbursable to the center.

During the 95th Congress, the Senate passed this legislation as an amendment to an authorization bill. Unfortunately, Congress adjourned before final action on the bill was completed. In the 96th Congress, Congressman WIRTH of Colorado introduced the measure. It passed the House, but neither the Senate Finance Committee nor the full Senate had an opportunity to act on it.

Congressman WIRTH has reintroduced the bill in the House of Representatives, and the House Judiciary Committee plans to consider it in the near future.

Mr. President, under the circumstances, relief to the Jefferson County Mental Health Center is certainly justified. I look forward to quick action on this necessary measure by the Senate Finance Committee on the full Senate.●

● Mr. ARMSTRONG. Mr. President, today Senator HART and I are introducing a bill to provide relief to the Jefferson County Mental Health Center. The center, located in Lakewood, Colo., and serving a tricounty area, suffered a round of administrative misunderstandings with the Internal Revenue Service that can only be corrected by this legislation.

The Jefferson County Mental Health Center is exempt from employee participation in the social security program, as are all nonprofit organizations, unless the employees elected to participate in the system. In 1963 the employees at the center elected to take coverage in the program and the proper forms were filed with the IRS. Subsequently, FICA taxes were withheld to effect such participation.

The problem developed in 1975 when IRS initiated a survey and the Jefferson County Mental Health Center was unable to find any indication that it had waived its immunity of taxes. Consequently, the IRS directed the center to refund those FICA taxes withheld to all employees and said that the IRS would reimburse the center.

The 133 employees were reimbursed by the center for a total of $74,128. At that point, the IRS discovered a valid waiver of immunity had, in fact, been filed, and it was therefore unable to refund the taxes paid to the center. By this time it was too late to get money back from the employees.

Mr. President, the IRS cannot remedy this blunder because it does not have the authority to expel funds without a legal obligation to do so or a statutory authorization. This bill provides that the Secretary of the Treasury determine the amounts withheld and treat these amounts as tax overpayments which are then reimbursed to the center. The center is seeking relief only for the employee share of the social security taxes involved and only for the period prior to the time when IRS notified the center that its previous instructions were in error.

The bill also provides for social security coverage for the affected employees. Services performed by the employees were covered and should not be removed from coverage because of erroneous information given by a Government agency.

The Finance Committee's Subcommittee on Taxation and Debt Management held a hearing on this proposal in October 1977. The Senate subsequently reviewed and passed the legislation as an amendment to an authoriztion bill. Unfortunately, that authorization bill was not acted on before Congress adjourned. In the 96th Congress, the House agreed to such a measure, with no Senate action.

Mr. President, the facts and equities of this case merit legislative relief as provided for in the bill and I enthusiastically recommend to the Senate expeditious approval by the 97th Congress.●

By Mr. QUAYLE:

S. 1474. A bill to continue the operation of the Defense Department's education system in the Department of Defense; to the Committee on Armed Services.

REPEAL TRANSFER OF DEPARTMENT OF DEFENSE SCHOOLS TO DEPARTMENT OF EDUCATION

● Mr. QUAYLE. Mr. President. Today, I am introducing legislation to repeal that provision in law which requires the transfer of Department of Defense dependents schools (DODDS) to the Department of Education. I firmly believe that the Defense Department should operate these schools.

The DODDS system was instituted after World War II when dependents began to accompany parents to their overseas assignments. Over 260 schools are operating in 23 countries providing education to over 135,000 students.

I am opposed to this transfer because: First, the quality of education would not be improved, second, the transfer is used to justify the existence of the Department of Education, and third, the transfer does not recognize the unique characteristic of these schools.

On May 6 of this year, the Secretary of Education transmitted to Congress a report of a plan for the transfer of the overseas schools to the Department of Education. Throughout this report, there are references to equating the practices and operation of these schools to resemble those in the United States. However, the DODDS are already providing quality education equal or better to that provided by public schools in the States. All of the DODDS high schools are accredited by the North Central Association of Colleges and Schools, which provides accreditation to over 4,700 schools and colleges in the United States. The teachers are highly qualified with 1.3 percent having doctor's degrees and 48.7 percent having master's degrees (compared with 0.4 percent doctor's and 34.3 percent master's in the public schools). On SAT's, students from the DODDS system, on the average, score slightly higher than students from the States.

This transfer, while not improving the quality of education, would increase the bureaucracy. The transfer of these schools would more than double the size of the Department of Education. At the end of the fiscal year 1980, the Department had approximately 6,100 full-time employees. The schools employ over 9,000 individuals, most of whom are professional educators. This would add more employees than are currently in the Department of Education, providing a justification for maintaining a department-sized Federal education entity.

In the Secretary's report to Congress, it states that the Department of Defense will—

> Continue to provide personnel services to overseas employees to the dependents education system, provide administrative control over overseas school system personnel, and treat all overseas school system personnel, for the purposes of access to services and facilities, as employees of DOD.

In addition, those personnel "whose duties involve support for the overseas dependents schools" but are not employees of the DODDS will not be transferred to the Department of Education. DOD will also continue to hold title to the facilities used by the schools.

What this means is that DOD and the Department of Education will have to meet continually to coordinate the operation of these schools. This bureaucratic "runabout" is unnecessary if the schools remain where they are now, within the Department of Defense.

Finally, the desire by the Department of Education to treat these schools as educational institutions in the United States ignores the unique character of both the schools and the students.

The normal tour of duty for military personnel at one location is approximately 3 years. This frequent change causes social and adjustment problems for the children. The schools tend to be a secure, stable environment in a nonstable life. Insuring this understanding has been a goal of the Department of Defense in operating the schools. Treating these schools and their students as the same as schools in the continental United States would destroy the compassion needed to deal with the rigors of overseas military life.

The DODDS personnel as employees of the Department of Defense have security clearance and receive advance information on transfers to be able to adequately prepare for the arrival of new students. This is a rare feature not usually provided in U.S. local schools. The DODDS system is operating in a completely different environment, in foreign countries with different customs and cultures.

The law currently requires that advisory councils be instituted to assure more systematic participation by parents, students, teachers, and military personnel in the operation of the schools. The report to the Congress by Secretary Bell devotes a large number of pages to the composition and activities of the councils.

I have included in my legislation a section making minor technical changes in the composition of the national-level council. The Assistant Secretary of Defense for Manpower, Reserve Affairs, and Logistics will be the chairman of the council.

He will also appoint 12 individuals who will be well "versed by training or experience" in the field of primary or secondary education. These include representatives of professional employee organizations, school administrators, par-

ents of students enrolled in the schools, and one student. My change comes by giving the Assistant Secretary the discretion to also appoint representatives from overseas military commands and from other educational organizations. This provision insures a cooperative effort on the council between those involved in educational functions and those involved in the day-to-day operation of the schools.

My bill makes one other technical change in current law. The Director is to submit to Congress a report on the schools "not later than 1 year after July 1, 1979." The system has not made a report to Congress in part because they must consult with the advisory council which is not yet established. Therefore, I have amended this section to require a reporting date to Congress of January 1, 1983.

My bill is very simple, Mr. President. It repeals the transfer of the DOD overseas dependents school system to the Department of Education.

The administration has informed me that it is taking a position in support of maintaining the schools within the Defense Department. I shall ask that a letter from White House Assistant Max L. Friedersdorf be printed in the RECORD following my remarks.

Time is running out, Mr. President. We must ask now if the transfer is to be stopped. I urge expeditious consideration of this legislation.

Furthermore, I urge my colleagues to join me in this effort to keep the overseas dependents schools within the Department of Defense.

I ask unanimous consent that the bill and the letter referred to be printed in the RECORD.

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

S. 1474

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled. That (a) (1) sections 208 and 302 of the Department of Education Organization Act are repealed.

(2) Sections 202(e), 401(f), 419(a)(2), and 503(a)(2) of the Department of Education Organization Act are repealed.

(b) The items relating to sections 208 and 302 in the table of contents of such Act are repealed.

SEC. 2. (a) Section 1410(b) of the Department of Defense Dependents' Education Act of 1978 is amended by striking out "The Secretary of Education, in consultation with the Secretary of Defense," and inserting in lieu thereof "The Secretary of Defense".

(b) Section 1411(a) of the Department of Defense Dependents' Education Act of 1978 is amended to read as follows:

"(a) There is established in the Department of Defense an Advisory Council on Dependents' Education (hereinafter in this section referred to as the 'Council'). The Council shall be composed of—

"(1) the Assistant Secretary of Defense for Manpower, Reserve Affairs, and Logistics (hereinafter in this section referred to as the 'Assistant Secretary'), who shall be the chairman of the Council;

"(2) twelve individuals appointed by the Assistant Secretary, who shall be individuals versed by training or experience in the field of primary or secondary education and who shall include representatives of professional employee organizations, school administrators, sponsors of students enrolled in the defense dependents' education system, and one student enrolled in such system; and

"(3) representatives from overseas military commands and from educational organizations as designated by the Assistant Secretary.".

(c) Section 1411(b)(1) of the Department of Defense Dependents' Education Act of 1978 is amended by striking out "Secretary of Education" and inserting in lieu thereof "Assistant Secretary".

(d) Section 1411(c) of the Department of Defense Dependents' Education Act of 1978 is amended—

(1) by striking out clause (2);

(2) by redesignating clauses (3), (4), and (5) as clauses (2), (3), and (4), respectively; and

(3) by striking out "Secretary of Education" in clause (4) (as redesignated in clause (2) of this subsection) and inserting in lieu thereof "Assistant Secretary".

(e) Section 1412(a)(2) of the Department of Defense Dependents' Education Act of 1978 is amended by striking out "two years after the effective date of this title" and inserting in lieu thereof "January 1, 1983".

(f) Section 1412(c) of the Department of Defense Dependents' Education Act of 1978 is amended by striking out "one year after the effective date of this title" and inserting in lieu thereof "January 1, 1983".

SEC. 3. The Director of the Office of Management and Budget, the Secretary of Defense, and the Secretary of Education are each directed to take whatever action is necessary to assure the continued effective administration of the Defense Dependent's education system pursuant to title XIV of the Education Amendments of 1978.

THE WHITE HOUSE,
Washington, D.C., June 2, 1981.

Hon. DAN QUAYLE,
U.S. Senate, Washington, D.C.

DEAR DAN: I sincerely apologize for this extreme delay in responding to your February letter in which you urge that the Department of Defense Overseas Dependent Schools remain within the Department of Defense and not be transferred to the Department of Education.

As you know, the Department of Education Organization Act (Public Law 96-88) called for the transfer of these schools no later than 3 years after the effective date of this act (May 1980). Such transfer has not yet taken place, and the Administration is taking the position that the Overseas Dependent Schools should remain within the Department of Defense.

Your views on this matter are most appreciated, and we will be sure to contact you as additional information becomes available. I have taken the liberty of sharing your correspondence with the appropriate advisory staff within the Administration so that they may have the benefit of your views on this important matter.

Thank you for bringing your concerns to our attention.

With cordial regard, I am,
Sincerely,

MAX L. FRIEDERSDORF,
Assistant to the President. ●

By Mr. McCLURE (for himself and Mr. JACKSON):

S. 1475. A bill to amend the expiration date of section 252 of the Energy Policy and Conservation Act; to the Committee on Energy and Natural Resources.

EXTENSION OF SECTION 252 OF ENERGY POLICY AND CONSERVATION ACT

● Mr. McCLURE. Mr. President, today I am introducing legislation that would amend the Energy Policy and Conservation Act by extending the expiration date of section 252 of that act. The expiration date in the current law is September 30, 1981. The bill would extend the date to June 30, 1985, which is also the expiration date for titles I and II of the act. Those titles relate to domestic energy supplies, the strategic petroleum reserve, and standby energy authorities, including authorities with respect to the international energy program.

Section 252 of the Energy Policy and Conservation Act authorizes U.S. oil companies to participate in voluntary agreements for implementing the allocation and information provisions of the agreement on an international energy program. That program provides a mechanism for an oil allocation system to be utilized by the participating countries in the event of a major oil supply disruption. Section 252 also provides a limited defense against any antitrust suits that may be brought against U.S. oil companies participating in the international energy program. The antitrust defense is limited to actions taken in implementing the allocation and information provisions of the program.

The agreement creating the international energy program was originally signed in 1974 as the result of an effort by the United States to promote cooperation among major industrial countries in reducing dependence on imported oil. There are presently 21 signatories to the agreement, consisting of most of the principal industrialized oil consuming nations. The agreement provided for creation of the international energy agency as an autonomous entity within the Organization for Economic Cooperation and Development. The agreement also provided that the IEA would serve as the medium for the operation of an international oil sharing system for use during oil supply emergencies, and an information system on the international oil market. It also required each country to establish an emergency petroleum storage program, and to have a means for restraining demand for petroleum products in the event of an interruption of petroleum supplies to the IEP countries.

Section 252 of EPCA sets out procedures applicable to the development or carrying out of voluntary agreements and plans of action to implement the allocation and information provisions of the international energy program. Under this authority, U.S. oil companies entered into the voluntary agreement and plan of action to implement the international energy program. At present, 22 U.S. oil companies, including both major international oil companies and independent oil companies, are participants in the voluntary agreement.

The antitrust defense made available by section 252(f) is essential to the participation of U.S. oil companies in the voluntary agreement and, through it, in the IEP. The IEP, in turn, can function effectively only with participation by United States and foreign oil companies, which are primary sources of information about conditions in the international oil market and would be the primary actors in redistributing oil if the

IEP's emergency-sharing provisions were activated.

As I have previously noted, the current expiration date of section 252 is September 30, 1981. If the Congress fails to act by that date and section 252 is allowed to expire, U.S. oil companies participating in the international energy program would be compelled to cease their participation in the program. If that should occur, the allocation mechanism of the program could not operate effectively in the event of any new disruption of oil supplies in the international oil market.

During the last Congress, the expiration date was extended on three separate occasions. It was extended a fourth time during this Congress, when the date was changed from March 15 to September 30, 1981. It is now time for Congress to avoid the necessity for these periodic amendments by enacting a long-term extension.

Participation by the United States in the international energy agency is central to the pursuit of our long-term international energy objectives. In general terms, the IEA provides a unique and effective forum for consultations and joint actions with our principal allies in the industrialized world. It represents a shared commitment to cooperate in dealing with one of the most critical issues of our time. More specifically, in terms of facing oil shortages, the United States benefits from the IEA emergency sharing commitment. Our participation in the allocation program reduces our vulnerability to politically inspired embargoes directed solely at the United States. Moreover, during a general triggering of the system, member countries would share the shortfall equitably, and the result would be a reduction in the devastating ratcheting of prices that otherwise would result from individual members scrambling for oil on their own.

I am pleased to note, Mr. President, that the legislation would not result in an increase in the budgetary requirements for the Department of Energy.

The Energy and Natural Resources Committee will schedule a hearing on this bill in the near future. Mr. President, I am hopeful that the Congress will enact an extension of section 252 before the current expiration date, and that the extension will be long term, to June 30, 1985.●

By Mr. DURENBERGER (for himself and Mr. ANDREWS):

S. 1476. A bill to provide standby authority to deal with petroleum supply disruptions, and for other purposes; to the Committee on Energy and Natural Resources.

PETROLEUM DISRUPTION MANAGEMENT ACT

Mr. DURENBERGER. Mr. President, the Emergency Petroleum Allocation Act of 1973 expires on September 30 of this year. Since its enactment shortly after the Arab oil embargo, this legislation has been the core of our energy policy in the United States. It provided the authority to control crude oil and gasoline prices and to allocate crude oil and petroleum products among refiners, consumers, and regions of the Nation. Although we did not always use this authority wisely and although the President will continue to have some emergency power under other law, the expiration of EPAA will leave us largely without a policy focus during petroleum emergencies.

Senator ANDREWS and I are today introducing legislation to replace EPAA. This legislation does not extend EPAA. It replaces EPAA with a new approach to managing petroleum disruptions. Before describing this legislation in detail, I would characterize it through a brief comparison to EPAA. First, it does not rely on extensive Government programs to manage shortfalls. It does not authorize crude oil price controls. It uses the marketplace supplemented only to the extent necessary to protect public health and safety, our national security, and our economic well-being.

This bill authorizes no semipermanent Government regulations. Any regulation activated under this legislation would have a life limited to 120 days. It does not provide Presidents with broad authority to use any and all forms of intervention for any and all emergencies. Rather it provides a series of responses to be implemented sequentially in a gradual response to a shortfall.

Finally, unlike EPAA this bill provides no subsidy to any sector of the petroleum industry or energy consuming public. It sends the right signals to all parties so as not to discourage our efforts to become independent from foreign imports.

Mr. President, the bill we introduce today contemplates five disruption management techniques. At the beginning of every shortfall and for the duration of any small shortfall our response should rely primarily on private stocks. The problem with such reliance is that the market encourages refiners to sell crude oil during a surplus and hold during a disruption. These incentives, although easily understood, sometimes work contrary to the national interest. The bill requests a study from the President to determine the practicality of reversing these incentives through amendments to the Internal Revenue Code which would encourage refiners to build stocks during gluts and draw down these stocks during disruptions.

The second disruption management program is based on the strategic petroleum reserve. The bill would authorize the Department of Energy to sell oil from the strategic reserve during substantial petroleum disruptions or at times when the International Energy Program is activated. These sales would be to small and independent U.S. refiners and would provide them with some recourse other than the spot market where prices rapidly escalate during a shortage. A minimum level of strategic reserve oil would be withheld from sale for purposes of national security.

Mr. President, I am confident that if our SPR program had gone forward as we planned in the early part of the last decade, we would now be in a position to respond adequately to any but the most severe petroleum disruption. However, it will now be several more years before the fill level is sufficient for this kind of protection and it is necessary to provide a transition program to meet intermediate disruptions until such time as our SPR goal is reached. The bill includes such a program, called the private dedicated reserve, which is a limited allocation program for sales between refiners with adequate supply in a shortfall and those who because of a disruption cannot operate at the national utilization rate.

The fourth management technique is a national crude oil sharing program to be used only in the most severe petroleum supply interuption. It requires equal distribution of all available crude oil among all refiners. It would also allow the President to order specific product yields and refinery utilization rates on a refinery-by-refinery basis.

Finally, the bill also authorizes a product allocation program which again is intended only for use during severe interuptions. This portion of the bill tracks the currently expiring EPAA to establish priority use designations, continued supplies to all regions of the country and the State set-aside program.

Mr. President, it is clear from this short description that the bill is designed to provide for a sequential management system. We begin with reliance on the marketplace and only move toward government intervention as necessary and then only in limited steps.

Perhaps the most difficult task in drafting such a sequential program is to determine the levels of disruption or price increases which should activate a government response. This is the trigger problem. We have avoided this difficulty in drafting the bill by providing for an implementation process that describes the effect rather than the size of the shortfall and relies on a political rather than a statistical determination of the appropriate point to activate any one of the five mechanisms.

Implementing these disruption management techniques begins with a requirement that the President promulgate standby regulations for each program within 120 days of enactment. These regulations are transmitted to the Congress but are not effective in a standby status unless approved by a joint resolution within 30 days. Once approved they can only be activated by a second resolution submitted to the Congress after a Presidential determination that a substantial or severe disruption exists or is imminent. Again, affirmative congressional action is required to activate any such program. One further feature is the automatic sunset of the activating resolutions. No program so authorized could continue beyond 120 days without further congressional authorization.

Mr. President, this is a simple outline of the bill. I am submitting a detailed section-by-section analysis with my comments today and a copy of the legislation. I am sure that there will be much debate about the fine points as there should be in the case of a policy with this importance. However, I believe that the basic structure of the bill—sequential management triggered by congressional action—is the essential fea-

ture that makes this legislation unique. I believe that the structure of the bill will survive the scrutiny of close examination and analysis and that a program very similar to this will emerge as a replacement for EPAA. It is clear that we need such a program and I am pleased to offer this bill as a starting point.

Mr. President, I would ask that the section-by-section analysis and a copy of the bill be printed in the RECORD.

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

S. 1476

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

SHORT TITLE AND TABLE OF CONTENTS

SECTION 1. (a) This Act may be cited as the "Petroleum Disruption Management Act of 1981".

(b) Sec. 1. Short title; table of contents.

Sec. 2. Statement of findings and purposes.

Sec. 3. Definitions.

TITLE I—SEQUENTIAL MANAGEMENT AUTHORITY AND ACTIVATION

Sec. 101. Petroleum disruption management program development and implementation.

Sec. 102. Congressional consideration of petroleum disruption management programs.

Sec. 103. Activation of petroleum disruption management programs.

TITLE II—PRIVATE CRUDE OIL AND PETROLEUM PRODUCT STORAGE INCENTIVES

Sec. 201. Oil storage tax incentives report.

TITLE III—STRATEGIC PETROLEUM RESERVE AND PRIVATE DEDICATED RESERVE DISTRIBUTION

Sec. 301. Definitions.

PART A—STRATEGIC PETROLEUM RESERVE DISTRIBUTION

Sec. 302. Distribution from the Strategic Petroleum Reserve.

Sec. 303. Amendment of the Strategic Petroleum Reserve Plan.

Sec. 304. Temporary reserve storage.

PART B—PRIVATE DEDICATED RESERVE PROGRAM

Sec. 305. Establishment of private dedicated reserve program.

PART C—EVALUATION OF NEAR-TERM USE OF STRATEGIC PETROLEUM RESERVE TO MANAGE CRUDE OIL DISRUPTIONS

Sec. 306. Report on near-term use of Strategic Petroleum Reserve.

TITLE IV—NATIONAL CRUDE OIL SHARING PROGRAM

Sec. 401. National crude oil sharing program.

TITLE V—PETROLEUM PRODUCT PROGRAMS

Sec. 501. Petroleum product disruption management program.

Sec. 502. Amendment of section 203(f) of the Energy Policy and Conservation Act.

TITLE VI—ESTABLISHMENT OF ADVISORY, DATA COLLECTION AND COORDINATION FUNCTIONS

Sec. 601. Establishment of Energy Emergency Council.

Sec. 602. Establishment of Energy Advisory Committee.

Sec. 603. Information collection and monitoring.

Sec. 604. Coordination of sequential management authorities with other energy emergency authorities.

TITLE VII—MISCELLANEOUS PROVISIONS

Sec. 701. Administration and enforcement.

Sec. 702. Amendment of Department of Energy Organization Act.

Sec. 703. Extension of certain Energy Policy and Conservation Act authorities.

Sec. 704. Effect on other law.

Sec. 705. Expiration.

STATEMENT OF FINDINGS AND PURPOSES

SEC. 2. (a) CONGRESS FINDS AND DECLARES THAT—

(1) shortages of crude oil and refined petroleum products caused by inadequate domestic production and the general unavailability of imports sufficient to meet domestic demand have occurred in the past and are likely to recur in the future;

(2) during such shortages, hoarding and destructive competition among petroleum refiners for available supplies cause spot market prices to rise precipitously above the prices of crude oil sold pursuant to contracts; such a dramatic escalation of spot crude oil prices tends to encourage price increases in crude oil sold pursuant to contracts and encourages producers to divert crude oil to the spot market where much higher prices prevail;

(3) such shortages and the resulting price escalations have threatened and will threaten national security, and have created and will create severe economic dislocations and hardships, including severe inflationary pressures on the economy and sharp increases in the prices of gasoline, diesel fuel and other refined petroleum products sold to consumers across the United States;

(4) during such shortages and dislocations, which begin as crude oil disruptions but are readily translated into refined petroleum product disruptions, petroleum refiners have unequal access to crude oil supplies at competitive prices, with the result that regional supply imbalances occur and some regions and areas of the United States are more severely affected by shortages and higher prices than others; in these areas such shortages will create particularly severe economic dislocations and hardships, including loss of jobs, closing of factories and businesses, reduction of crop planting and harvesting, shortages of home heating oil, and curtailment of vital public services, including public transportation and the transportation of food and other essential services; such regional shortages are particularly acute in rural and less densely populated areas served by independent refiners; these are the same areas in which many larger refiners have discontinued or are discontinuing service;

(5) the American economy should not, and need not, be held captive by international cartel-controlled supply and price levels which threaten the viability and competitiveness of the domestic refining industry, thereby impairing service to all regions of the country;

(6) such hardships and dislocations have, in the past, interrupted the normal flow of commerce and created national energy crises which have impaired the public health, safety and welfare before effective responsive action was initiated; extensive governmental intrusion can be avoided in dealing with more limited disruptions if the crude oil shortages that could lead to regional imbalances are dealt with effectively and in a timely manner, including use of the Strategic Petroleum Reserve; and

(7) the national security and economic well-being of the United States requires that a standby sequential petroleum disruption management program be established and maintained in anticipation of a future crisis so that efficient and immediate action can be taken by the President and the Congress to manage such disruptions and their consequences.

(b) The purpose of this Act is to establish an overall sequential petroleum disruption management program comprised of several individual programs each of which is to be formulated and implemented so as to assure timely and effective action in managing petroleum supply disruptions of varying magnitudes and causes. The authority granted under this Act shall be exercised for the purpose of minimizing the adverse short- and long-term effects of petroleum disruptions on the American people and the economy, and in a manner that such adverse effects are anticipated and contained at their inception.

SEC. 3. DEFINITIONS.

As used in this Act, the term—

(a) "international energy program" means the Agreement on an International Energy Program, signed by the United States on November 18, 1974, including (1) the annex entitled "Emergency Reserves," (2) any amendment to such Agreement which includes another nation as a party to such Agreement; and (3) any technical or clerical amendment to such agreement;

(b) "national utilization rate" means the ratio of crude oil available as input to domestic refineries in any particular period (excluding inventory volumes as determined by rule by the Secretary after consultation with the Energy Advisory Committee and included as part of the programs established in Sections 305 and 401), compared to the aggregate refining capacity of all domestic refineries which have been in operation during all or part of the three months prior to the activation of the program or programs established in Titles III and IV of this Act;

(c) "petroleum disruption management program" means the Strategic Petroleum Reserve Program, Private Dedicated Reserve Program, National Crude Oil Sharing Program, and Petroleum Product Disruption Management Program as specified in this Act;

(d) "refiner" means a person which owns, operates or controls the operation of one or more refineries;

(e) "refined petroleum product" means any refined petroleum product, including gasoline, kerosene, middle distillate (including Number 2 fuel oil), LPG, refined lubricating oils, diesel fuel, jet fuel, residual fuel oil, and any natural gas liquid or natural gas liquid product;

(f) "Secretary" means, unless otherwise specified in a particular section, the Secretary of Energy;

(g) "severe petroleum supply interruption" means a national petroleum supply shortage which (1) is, or is likely to be, of significant scope and duration, (2) may cause major adverse impact on national security or the national economy, and (3) results, or is likely to result, from an interruption in the crude oil or refined petroleum product supplies of the United States, including supplies of imported crude oil and refined petroleum products, or from sabotage or an act of God;

(h) "substantial crude oil supply disruption" means a national crude oil disruption of lesser magnitude than a severe petroleum supply disruption, or a regional crude oil disruption, arising from either limited crude oil supplies or anomalous crude oil price conditions, which affects 'qualified refiners' in the manner specified in Section 301(d)(1); and

(i) "United States" means all of the several States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

TITLE I—SEQUENTIAL MANAGEMENT AUTHORITY AND ACTIVATION

PETROLEUM DISRUPTION MANAGEMENT PROGRAM DEVELOPMENT AND IMPLEMENTATION

SEC. 101. (a) Within 120 days after the date of enactment of the Act, the President shall

prescribe by rule, after notice and opportunity for oral presentation of data, views, and arguments, and transmit to the Congress for approval in accordance with Section 102 the following four petroleum disruption management programs:

(1) a Strategic Petroleum Reserve Distribution Program, promulgated in conjunction with the Secretary of Energy's authority to develop a Strategic Petroleum Reserve Plan and in accordance with the requirements of Part B of Title I of the Energy Policy and Conservation Act, as amended by this Act;

(2) a Private Dedicated Reserve Program, promulgated in accordance with the requirements of Section 305 of this Act;

(3) a National Crude Oil Sharing Program, promulgated in accordance with the requirements of Section 401 of this Act; and

(4) a Petroleum Product Disruption Management Program, promulgated in accordance with the requirements of Section 501 of this Act.

(b) The programs specified in subsection (a) may not become effective unless—

(1) The President has transmitted such program to Congress in accordance with subsection (a);

(2)(A) the Strategic Petroleum Reserve Distribution Program has been approved as an amendment to the Strategic Petroleum Reserve Plan in accordance with the provisions of Part B of Title I of the Energy Policy and Conservation Act, as amended by this Act; and

(B) the Private Dedicated Reserve Program, Natural Crude Oil Sharing Program, and Petroleum Product Disruption Management Program have been approved by Congress in accordance with the provisions of Section 102 of this Act; and

(3) the activation of the program or programs has been approved in accordance with Section 103 of this Act.

(c) The Private Dedicated Reserve Program, National Crude Oil Sharing Program, or Petroleum Product Disruption Management Program may not be amended unless the President has transmitted such amendment to the Congress and the Congress has approved the amendment in accordance with the procedures specified in Section 102. Technical or clerical amendments to a program may be prescribed after notice and opportunity for oral presentation of data, views, and arguments and the amendments have been submitted to the Energy and Natural Resources Committee of the United States Senate and the Energy and Commerce Committee of the United States House of Representatives.

APPROVAL OF PETROLEUM DISRUPTION MANAGEMENT PROGRAMS

SEC. 102. (a)(1) The Strategic Petroleum Reserve Plan, as amended to comply with the requirements of this Act, shall be transmitted for approval in accordance with Section 159(a), as amended, of the Energy Policy and Conservation Act.

(2) The Private Dedicated Reserve Program, National Crude Oil Sharing Program, and Petroleum Product Disruption Management Program shall each be transmitted to both Houses of Congress on the same day and to each House while it is in session.

(b)(1) No such petroleum disruption management program specified in subsection (a)(2) may be considered approved for purposes of Section 101(b) of this Act unless between the date of transmittal and the end of the first period of 30 calendar days of continuous session of Congress after the date on which such action is transmitted to the Congress, each House of Congress passes a resolution described in subsection (c).

(2) For the purpose of subsection (1)—

(A) continuity of session is broken only by an adjournment of Congress sine die; and

(B) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of the calendar-day period involved.

(c) For purposes of applying this section with respect to a petroleum disruption management program, "resolution" means only a resolution of either House of Congress the matter after the resolving clauses of which is as follows: "That the ———— approves the ———— Program submitted to the Congress on ————, 19—," the first blank space therein being filled with the name of the resolving House, the second blank space being appropriately filled with the name of the program considered, and the last blank space being filled with the appropriate date; but does not include a resolution which specifies more than one petroleum disruption management program.

(d) A resolution once introduced with respect to a program listed in Section 101 of this Act shall be considered by the Congress in the same manner as an energy conservation contingency plan is considered pursuant to the expedited procedures established in Section 552 of the Energy Policy and Conservation Act.

(e) If the Strategic Petroleum Reserve Plan (or amendment thereto) or a petroleum disruption management program submitted in accordance with this section is not approved, the President shall, within 15 days, submit a revised Plan or program (or revised amendment thereto) to the Congress for approval pursuant to the requirements of Section 159(a), as amended, of the Energy Policy and Conservation Act in the case of the Strategic Petroleum Reserve Plan and the requirements of this section for the programs specified in subsection (a)(2).

ACTIVATION OF PETROLEUM DISRUPTION MANAGEMENT PROGRAMS

SEC. 103. (a) Activation of the below-listed petroleum disruption management programs shall be made in the following manner—

(1) Strategic Petroleum Reserve Distribution.

(A) Except as provided in Section 302(a), the President may distribute and allocate crude oil and/or refined petroleum products from the Strategic Petroleum Reserve whenever the President determines that a substantial crude oil supply disruption exists or is imminent, a severe petroleum supply disruption exists or is imminent, a severe energy supply interruption exists or is imminent, or such distribution and allocation is necessary in order to comply with the obligations of the United States under the international energy program, and only with the passage of a joint resolution authorizing distribution and allocation from the Strategic Petroleum Reserve.

(B) In the event of an actual or imminent substantial crude oil supply disruption, or an actual or imminent severe petroleum supply interruption, or an actual or imminent severe energy supply interruption, or that the international energy program has been implemented and the obligations of the United States under that program require distribution and allocation from the Strategic Petroleum Reserve, the President shall transmit evidence of the determination called for in subsection (A) and a request for a joint resolution to both Houses of Congress on the same day.

(2) Private Dedicated Reserve Program.

(A) The President may implement the standby plan prescribed in Section 305 of the Act whenever the President determines that a substantial crude oil supply disruption exists or is imminent and only with the passage of a joint resolution authorizing implementation of the Private Dedicated Reserve Program.

(B) In the event of an actual or imminent substantial crude oil disruption, the President shall transmit evidence of the determination called for in subsection (A) and a request for a joint resolution to both Houses of Congress on the same day.

(3) National Crude Oil Sharing Program.

(A) The President may implement the standby plan prescribed in Section 401 of the Act whenever the President determines that a severe petroleum supply interruption exists or is imminent or such implementation is necessary in order to comply with the obligations of the United States under the international energy program and only with the passage of a joint resolution authorizing implementation of the National Crude Oil Sharing Program.

(B) In the event of an actual or imminent severe petroleum supply interruption or that the international energy program has been implemented and the obligations of the United States under that program require implementation of the National Crude Oil Sharing Program, the President shall transmit evidence of the determination called for in subsection (A) and a request for a joint resolution to both Houses of Congress on the same day.

(4) Petroleum Product Disruption Management Program.

(A) The President may implement the standby plan prescribed in Section 501 of the Act whenever the President determines that a severe petroleum supply interruption exists or is imminent or such implementation is necessary in order to comply with the obligations of the United States under the international energy program and only with the passage of a joint resolution authorizing implementation of the Petroleum Product Disruption Management Program.

(B) In the event of an actual or imminent severe petroleum supply interruption or that the international energy program has been implemented and the obligations of the United States under that program require implementation of the Petroleum Product Disruption Management Program, the President shall transmit evidence of the determination called for in subsection (A) and a request for a joint resolution to both Houses of Congress on the same day;

(b) No such joint resolution may be considered approved for purposes of subsection (a) unless, between the date of transmittal and the end of the first period of 6 calendar days of the date on which such action is transmitted to such House, each House of Congress passes the appropriate joint resolution described in subsection (d)(2).

(c) If the Congress is not in session the President may call the Congress into emergency session.

(d)(1) This subsection is enacted by Congress—

(A) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of joint resolutions described by paragraph (2) of this subsection; and it supersedes other rules only to the extent that it is inconsistent therewith; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of the House.

(2) For purposes of this subsection, the term "joint resolution" means only a resolution of Congress which reads, where appropriate, as follows:

(A) "The President is authorized to implement the Private Dedicated Reserve Program promulgated pursuant to Section 305 of the Petroleum Disruption Management Act of 1981 for a period of time not to ex-

ceed 120 days beginning on the date ten days after the enactment of this joint resolution."

(B) "The President is authorized to implement the National Crude Oil Sharing Program promulgated pursuant to Section 401 of the Petroleum Disruption Management Act of 1981 for a period of time not to exceed 120 days beginning on the date ten days after the enactment of this joint resolution."

(C) "The President is authorized to implement the Petroleum Product Disruption Management Program promulgated pursuant to Section 501 of the Petroleum Disruption Management Act of 1981 for a period of time not to exceed 120 days beginning on the date ten days after the enactment of this joint resolution."

(D) "The President is authorized to distribute and allocate crude oil and/or petroleum products from the Strategic Petroleum Reserve pursuant to the Strategic Petroleum Reserve Plan and allocation regulations for a period of time not to exceed 120 days beginning on the date ten days after the enactment of this joint resolution."

(3) A joint resolution once introduced shall immediately be referred to the House Committee on Energy and Commerce and the Senate Committee on Energy and Natural Resources by the Speaker of the House of Representatives or the President of the Senate, as the case may be.

(4)(A) If the committee to which a joint resolution has been referred has not reported it at the end of two calendar days after its referral, it shall be in order to move either to discharge the committee from further consideration of such joint resolution or to discharge the committee from further consideration of any other joint resolution which has been referred to the committee.

(A) A motion to discharge may be made only by an individual favoring the joint resolution, shall be highly privileged, and debate thereon shall be limited to not more than 1 hour, to be divided equally between those favoring and those opposing the joint resolution. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(C) If the motion to discharge is agreed to or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other joint resolution.

(5)(A) When the committee has reported, or has been discharged from further consideration of, a joint resolution, it shall be at any time thereafter in order (even though a previous motion to the same effect has been disagreed to), to move to proceed to the consideration of the joint resolution. The motion shall be highly privileged and shall not be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(B) Debate on the joint resolution referred to in subparagraph (A) of this paragraph shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing such joint resolution. A motion further to limit debate shall not be debatable. An amendment to, or motion to recommit the joint resolution shall not be in order, and it shall not be in order to move to reconsider the vote by which such joint resolution was agreed to or disagreed to.

(6)(A) Motions to postpone, made with respect to the discharge from committee, or the consideration of a joint resolution and motions to proceed to the consideration of other business, shall be decided without debate.

(B) Appeals from the decision of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedures relating to a joint resolution shall be decided without debate.

(e) The procedures described in (a) and (b) above may also be initiated by either the Senate or the House of Representatives with the introduction of a joint resolution sponsored by either 8 Senators or 25 Congressmen, respectively. If the President vetoes the measure so initiated, the Congress may attempt to override the veto in the usual manner.

(f) The President may seek implementation of each of these programs for successive 120 day periods under the procedures described in this section by submitting an additional request using the same procedure specified in this Section as may the Congress under the procedures specified in Section 103 (e).

TITLE II—PRIVATE CRUDE OIL AND PETROLEUM PRODUCT STORAGE INCENTIVES

OIL STORAGE TAX INCENTIVES REPORT

SEC. 201. Within 180 days after the date of the enactment of this Act, the President shall submit a report on the advisability and alternative means of (1) reducing the tax liability of persons who draw down crude oil and petroleum product reserves during oil supply disruptions, and (2) providing tax or other incentives for the construction of private-sector crude oil and petroleum product storage facilities and the maintenance of increased private-sector crude oil or petroleum product reserves.

TITLE III—STRATEGIC PETROLEUM RESERVE AND PRIVATE DEDICATED RESERVE DISTRIBUTION

DEFINITIONS

SEC. 301. For purposes of this Title, the term—

(a) "crude oil runs to distillation units" means the total number of barrels of crude oil input to distillation units processed by a refiner measured in accordance with standards established by rule by the Secretary of Energy after consultation with the Energy Advisory Committee;

(b) "designated refiner" means a refiner which is not a small or independent refiner, and which has, as determined by rule by the Secretary after consultation with the Energy Advisory Committee, volumes of crude oil available to it sufficient to enable it to operate in excess of the national utilization rate;

(c) "independent refiner" means a petroleum refiner whose total petroleum refining capacity (including the refinery capacity of any person who controls, is controlled by, or is under common control with such refiner) is located within the United States, who, during any calendar year, as certified to the Secretary of Energy by such refiner obtained, directly or indirectly, in the previous calendar year, more than 70 per centum of its refinery input of domestic crude oil (or 70 per centum of its refinery input of domestic and imported crude oil) from producers who do not control, are not controlled by, and are not under common control with such refiner;

(d) "qualified refiner" means a small and independent refiner that—

(1)(A) is incurring, or would incur during a given period, a reduction in its supply of crude oil such that its ratio of crude oil runs to distillation units to Department of Energy certified crude oil refinery capacity would fall below 95 percent of the national utilization rate, and (B) is not able or cannot reasonably be expected to replace such lost supplies through its own efforts, including, but not limited to a situation where the refiner must pay a price for replacement supplies in excess of the weight-averaged price during a given time period for all crude oil produced in, and imported into, the United States, with consideration being given to economically-based quality differentials.

(2)(A) The Secretary shall by rule, after consultation with the Energy Advisory Committee, establish criteria the Secretary will use in deciding whether to designate a refiner as a qualified refiner under this title, which criteria shall be incorporated into the Private Dedicated Reserve Program. In making such a designation the Secretary shall consider the national and regional need for particular types of petroleum refining and minimum levels of storage capacity, and the cost of supplying such capacity.

(B)(i) The Secretary shall, upon application, designate any small and independent refiner as a qualified refiner under this title if based on information provided by such refiner the Secretary determines that (1) such refiner meets the criteria established under subsection (A); or (2) such refiner provided a written commitment, including a commitment of funds, satisfactory to the Secretary, that the refiner through control of a new, expanded or retrofitted refinery or refineries will comply with subparagraph (1) within a time period specified by the Secretary.

(ii) Notwithstanding paragraph (i), the Secretary may designate a domestic refiner as a qualified refiner under this Title if the Secretary determines, based on information provided by such refiner, that, but for such designation, it is likely that essential public service or economic activity in a region or regions of the United States will be impaired during a substantial crude oil supply disruption to an extent significantly greater than would otherwise be the case.

(C) Any refiner designated a qualified refiner under paragraph (B)(i)(2) shall make such progress reports with respect to any commitment under such paragraph as the Secretary may reasonably require. The Secretary may periodically review any designation under subsection (B), but may not rescind any such designation unless he determines, after notice and opportunity for a hearing, that the requirements for the designation are not being met, or in the case of a designation under paragraph (B)(a)(2) are not likely to be met within the time period set forth in the commitment under such subparagraph or any reasonable extension thereof.

(3) Notwithstanding subparagraph (B)(i)(2), the Secretary of Energy may determine that a refiner is a qualified refiner if the refiner is one which provides essential public service or economic activity in a region or regions of the United States; and

(e) "small refiner" means a refiner, the sum of the capacity of the refineries of which (including the capacity of any person who controls, is controlled by, or is under common control with such refiner) does not exceed 175,000 barrels per day.

PART A—STRATEGIC PETROLEUM RESERVE DISTRIBUTION

DISTRIBUTION FROM THE STRATEGIC PETROLEUM RESERVE

SEC. 302. (a) Notwithstanding any other provision of law and upon a determination that a substantial crude oil disruption exists, the President is authorized to distribute crude oil from the Strategic Petroleum Reserve in amounts not to exceed 300,000 barrels per day for no more than 90 days in any calendar year. Such distribution shall be made on a pro rata basis by rule promulgated in accordance with the standards and in the manner provided in Section 305 of this Act.

(b) Section 3 of the Energy Policy and Conservation Act is amended by adding at the end of such section the following—

"(11) The term 'severe petroleum supply interruption' means a national petroleum product supply shortage which (1) is, or is likely to be, of significant scope and dura-

tion, (2) may cause major adverse impact on national security or the national economy, and (3) results, or is likely to result, from an interruption in the petroleum product supplies of the United States, including supplies of imported crude oil and refined petroleum products, or from sabotage or an act of God.

"(12) The term 'substantial crude oil supply disruption' means a national crude oil disruption of lesser magnitude than a severe petroleum supply disruption, or a regional crude oil disruption, arising from either limited crude oil supplies or anomalous crude oil price conditions, which affects 'qualified refiners' in the manner specified in Section 301(d)(1) of the Petroleum Disruption Management Act of 1981."

(c) Section 151 of the Energy Policy and Conservation Act is amended to read as follows—

"(a) The Congress finds that the storage of substantial quantities of petroleum products will diminish the vulnerability of the United States to the effects of an energy supply interruption, and provide an important means for dealing in a timely and effective manner with the short-term and long-term consequences of interruption in supplies of pertoleum products."

(d) Section 154(b) of the Energy Policy and Conservation Act is amended by—

(1) deleting "not later than December 15, 1976", and substituting "within 120 days of the date of enactment of the Petroleum Disruption Management Act of 1981" in lieu thereof; and

(2) deleting "551" and substituting "552" in lieu thereof.

(e) Section 159 of the Energy Policy and Conservation Act is amended by—

(1) amending subsections (a) and (b) to read as follows:

"SEC. 159. (a) The Strategic Petroleum Reserve Plan shall not become effective and may not be implemented unless—

"(1) the Secretary has transmitted such Plan to the Congress, in conjunction with the development by the President of petroleum disruption management programs as required in the Petroleum Disruption Management Act of 1981;

"(2) such Plan has been approved by a resolution by each House of Congress in accordance with the procedures specified in section 552 except that the "60 days" in section 552(b)(1) shall be changed to 30 days; and

"(3) activation of the Plan has been approved by the Congress in accordance with the requirements of section 103 of the Petroleum Disruption Management Act of 1981.

"(b) In developing the Strategic Petroleum Reserve Plan required by the Petroleum Disruption Management Act of 1981, the Distribution Plan and allocation regulations must be revised so as to reflect such Act's requirements pertaining to distribution from the Strategic Petroleum Reserve."

(2) amending subsection (e)(2) to read as follows—

"(2) such proposal or amendment has been approved by a resolution by each House of Congress in accordance with the procedures specified in section 552."

(f) Section 161(d) of the Energy Policy and Conservation Act is amended to read as follows—

"(d) Neither the Distribution Plan contained in the Strategic Petroleum Reserve Plan nor the Distribution Plan contained in the Early Storage Reserve Plan may be implemented, and no drawdown and distribution of the Reserve or the Early Storage Reserve may be made, unless (1) the President determines that a (i) substantial crude oil supply disruption, (ii) severe petroleum supply interruption, or (iii) severe energy supply interruption exists or is imminent or that such implementation is necessary to comply with obligations of the United States under the international energy program, and (2) a joint resolution authorizing such implementation is passed in accordance with Section 103 of the Petroleum Disruption Management Act of 1981."

(g) Section 161(e) of the Energy Policy and Conservation Act is amended to read as follows—

"(e) The Secretary shall, by rule, provide for the allocation of any petroleum product withdrawn from the Strategic Petroleum Reserve in amounts specified in (or determined in a manner prescribed by) and at prices specified in (or determined in a manner prescribed by) such rule, which rule shall become part of the Strategic Petroleum Reserve Plan. The rule shall provide, during a substantial crude oil disruption, for the allocation of crude oil withdrawn from the Strategic Petroleum Reserve in the same manner and upon the same basis as crude oil is provided pursuant to the program established under Section 305 of the Petroleum Distribution Management Act of 1981. In addition, such price levels and allocation procedures shall be consistent with the attainment, to the maximum extent practicable, of the objectives specified in Section 4(b)(1) of the Emergency Petroleum Allocation Act of 1973, as amended."

AMENDMENT OF STRATEGIC PETROLEUM RESERVE PLAN

SEC. 303. Within 120 days after the enactment of this Act, the Secretary of Energy shall submit to Congress an amendment to the Distribution Plan contained in the Strategic Petroleum Reserve Plan implementing the amendment to Section 161(d) of the Energy Policy and Conservation Act set forth in Section 302(f) of this Act, and the elements of the Strategic Petroleum Reserve Plan allocation regulations set forth in Section 302(g) of this Act.

TEMPORARY RESERVE STORAGE

SEC. 304. Within 180 days of the enactment of this Act, the Secretary shall submit to Congress a report evaluating the expansion of the physical capacity of the Reserve through the use of temporary storage facilities.

PART B—PRIVATE DEDICATED RESERVE PROGRAM

ESTABLISHMENT OF PRIVATE DEDICATED RESERVE PROGRAM

SEC. 305. (a) Within the time period specified in Section 101(a), the President shall promulgate a rule establishing a Private Dedicated Reserve Program in accordance with the provisions of subsection (b). This rule shall be approved in the manner specified in Section 102, but shall not be activated except in accordance with the findings and procedures specified in Section 103 of this Act.

(b) The rule establishing the Private Dedicated Reserve (PDR) Program shall—

(1) Provide for the equitable distribution of crude oil at competitive prices among all regions and areas of the United States;

(2) Require designated refiners to provide crude oil to any qualified refiner that is experiencing or is about to experience a substantial crude oil supply disruption;

(3) Distribute crude oil to such qualified refiners which is of suitable quality for their refineries in amounts which will permit such refiners to operate at 95 percent of the national utilization rate for the United States during the relevant period;

(4) Provide that the obligation of each designated refiner to sell crude oil to qualified refiners shall be a given percentage of each designated refiner's average crude oil runs to distillation units during the previous 12 months and that the total obligation for all designated refiners shall be determined by the total distribution of crude oil to qualified refiners under this Section;

(5) Provide that the price paid by a qualified refiner will not exceed the weight-averaged price during the previous 60-day period for crude oil produced in, and imported into, the United States, including appropriate adjustments for transportation, gravity, sulfur content, and handling;

(6) Provide a mechanism to assure that designated refiners are reimbursed for the crude oil so provided;

(7) Provide for timely action on applications submitted pursuant to this Section; and

(8) Provide for adjustments to the regulation promulgated under this section in accordance with the standards established in Section 504(a) of the Department of Energy Organization Act.

(c) This rule shall be promulgated after consultation with the Energy Advisory Committee.

PART C—EVALUATION OF NEAR-TERM USE OF STRATEGIC PETROLEUM RESERVE TO MANAGE CRUDE OIL DISRUPTIONS

REPORT ON NEAR-TERM USE OF STRATEGIC PETROLEUM RESERVE

SEC. 306. Within 120 days after the enactment of this Act, the Secretary of Energy shall submit to Congress a report determining the minimum volumes of reserves to be maintained in the Strategic Petroleum Reserve as necessary for national defense needs and analyzing the near-term capability and advisability of distributing crude oil from the Strategic Petroleum Reserve (other than as is authorized in section 302(a)) in lieu of activating the Private Dedicated Reserve Program.

TITLE IV—NATIONAL CRUDE OIL SHARING PROGRAM

NATIONAL CRUDE OIL SHARING PROGRAM

SEC. 401. (a) Within the time period specified in Section 101(a), the President shall promulgate a rule establishing a National Crude Oil Sharing Program in accordance with the provisions of subsection (b). The rule shall be approved in the manner specified in Section 102, but shall not be activated except in accordance with the findings and procedures specified in Section 103 of this Act.

(b) The rule establishing the National Crude Oil Sharing Program shall—

(1) Provide for the equitable sharing of crude oil at competitive prices among all regions and areas of the United States during a severe petroleum supply interruption or in order to comply with the obligations of the United States under the international energy program;

(2) Require refiners to offer for sale any crude oil supplies that would permit their refineries to operate in excess of the national utilization rate;

(3) Assure that refiners are able to purchase sufficient crude oil to permit operation of their refineries at the national utilization rate;

(4) Provide that the price paid by a refiner will not exceed the weight-averaged price during the previous 60-day period for crude oil purchased in, and imported into, the United States, including appropriate adjustments for transportation, gravity, sulfur content, and handling;

(5) Provide, based upon standards developed in consultation with the Energy Advisory Committee, for the issuance of directives, which may be issued whenever, a refined petroleum product is or will be in short supply during a severe petroleum supply disruption, requiring a refiner or refiners to adjust their percentage yield of that product in order to increase the relative output of that product in short supply;

(6) Provide, based upon standards developed in consultation with the Energy Advisory Committee, for the adjustment of the quantities of crude oil allocated among refiners pursuant to this rule in a manner designed to ensure desired production levels of refined petroleum products in short sup-

ply during a severe energy supply interruption; and

(7) Provide for adjustments to the regulation promulgated under this Section in accordance with the standards of Section 504(a) of the Department of Energy Organization Act.

TITLE V—PETROLEUM PRODUCT PROGRAMS

PETROLEUM PRODUCT DISRUPTION MANAGEMENT PROGRAMS

SEC. 501. (a) Within the time period specified in Section 101(a), the President shall promulgate a standby regulation which when implemented will provide for the mandatory allocation of refined petroleum products produced in or imported into the United States in amounts specified in (or determined in a manner prescribed by) and at ceiling prices specified in (or determined in a manner prescribed by) such regulation. This regulation shall become effective in the manner prescribed in Section 102, but shall not be activated except in accordance with the findings and procedures specified in Section 103 of this Act.

(b)(1) The standby regulation under subsection (a), to the maximum extent practicable, shall provide for—

(A) protection of public health (including the production of pharmaceuticals), safety and welfare (including maintenance of residential heating, such as individual homes, apartments and similar occupied dwelling units), and the national defense;

(B) maintenance of all public services (including facilities and services provided by municipality, cooperatively, or investor owned utilities or by any State or local government or authority, and including transportation facilities and services which serve the public at large);

(C) maintenance of agricultural operations, including farming, ranching, dairy, and fishing activities, and service directly related thereto;

(D) preservation of an economically sound and competitive petroleum industry, including the priority needs to foster competition in the producing, refining, distribution, marketing, and petrochemical sectors of such industry, and to preserve the competitive viability of independent refiners and marketers;

(E) equitable distribution of refined petroleum products at equitable prices among all regions and areas of the United States and sectors of the petroleum industry, including independent refiners and marketers, and among all users;

(F) allocation of refined petroleum products in such amounts and in such manner as may be necessary for the maintenance of, exploration for, and production or extraction of—

(i) fuels, and

(ii) minerals essential to the requirements of the United States, and for required transportation related thereto;

(G) economic efficiency; and

(H) minimization of economic distortion, inflexibility, and unnecessary interference with market mechanisms.

(2) In specifying prices (or prescribing the manner for determining them), the standby regulation under subsection (a) shall provide for a dollar-for-dollar passthrough of net increases in the cost of crude oil and refined petroleum products at all levels of distribution from the producer to the retail level.

(c) The standby regulation under subsection (a) shall also provide for the establishment of a state set-aside program for refined petroleum products to be activated on a state-by-state basis upon application of the Governor of the State in which the program is to be implemented.

AMENDMENT OF 203(f) OF THE ENERGY POLICY AND CONSERVATION ACT

SEC. 502. Section 203(f) of the Energy Policy and Conservation Act is hereby amended to read as follows—

"(f) Notwithstanding section 531, all authority to carry out any rationing contingency plan shall expire on the same date as authority to issue and enforce rules and orders of the Petroleum Disruption Management Act of 1981."

TITLE VI—ESTABLISHMENT OF ADVISORY, DATA COLLECTION AND COORDINATION FUNCTIONS

ESTABLISHMENT OF ENERGY EMERGENCY COUNCIL

SEC. 601. (a) Within 60 days of the enactment of this Act, the President shall establish an Energy Emergency Council for the purpose of advising the President on matters relevant to the implementation of the various provisions of this Act and the activation and management of the programs established by this Act. The Energy Emergency Council shall be composed of the following, and such other members of the Executive Branch as the President may, from time to time, designate:

(1) the Secretary of Energy, who shall be the Chairman;

(2) the Secretary of State;

(3) the Secretary of Defense;

(4) the Secretary of Agriculture;

(5) the Secretary of Commerce;

(6) the Secretary of Transportation;

(7) the Secretary of the Interior; and

(8) the Secretary of Labor.

(b) The duties and responsibilities of the Energy Emergency Council shall be—

(1) to advise the President on matters concerning the development, activation and management of the petroleum disruption management programs established by this Act; and

(2) to consult with the Energy Advisory Committee regarding the development of specific mechanisms to deal with petroleum disruptions and appropriate management programs to deal with the effects of a particular disruption.

ESTABLISHMENT OF ENERGY ADVISORY COMMITTEE

SEC. 602. (a) Within 60 days of the enactment of this Act, the President shall establish an Energy Advisory Committee for the purpose of advising the President and the Energy Emergency Council on matters relevant to the implementation of the various provisions of this Act and the activation and management of the programs established by this Act. The Energy Advisory Committee shall be a group reasonably representative of the functions and points of view of the various segments of the petroleum industry, as well as consumers and other users of refined petroleum products, and shall have no fewer than ten nor more than thirty members.

(b) The duties and responsibilities of the Energy Advisory Committee shall be—

(1) to advise the President and the Energy Emergency Council on matters concerning the development, activation and management of the petroleum disruption management programs established by this Act, including the responsibilities of the Committee otherwise specified in the Act; and

(2) to provide recommendations regarding the development of specific mechanisms to deal with petroleum disruptions and appropriate management programs to deal with the effects of a particular disruption.

(c) All records, reports, transcripts, memoranda, and other documents prepared by or for the Energy Advisory Committee shall be made available for public inspection and copying at a single location determined by the Energy Advisory Committee.

(d) The Energy Advisory Committee established pursuant to this section shall be governed in full by the provisions of the Federal Advisory Committee Act, as amended (Pub. L. 92-463, Oct. 6, 1972), except the requirements contained therein that are inconsistent with this section.

INFORMATION COLLECTION AND MONITORING

SEC. 603. (a) Within 90 days of the enactment of this Act, the Energy Emergency Council, after consultation with the Energy Advisory Committee and such persons from the Department of Energy as the Chairman of the Energy Council may designate, shall evaluate the current energy information collection and monitoring systems within the federal government in order to ascertain their effectiveness in assuring that the programs established by this Act may be implemented in a timely and effective manner and report their findings to the Secretary of Energy. In evaluating these systems, the Council shall give particular attention to the adequacy of such information to determine trends in national and international crude oil markets, to measure differentials between spot and contract prices, and to project when substantial crude oil supply disruptions are about to occur, as well as their scope, magnitude and likely duration.

(b) Within 120 days of the enactment of this Act, the Secretary of Energy, based on the conclusions reached by the Energy Emergency Council under subsection (a), shall inform the Administrator of the Energy Information Administration—(1) whether the energy information now being collected and monitored is sufficient for purposes of the development and implementation of petroleum disruption management programs; and (2) whether changes in the current energy information collection and monitoring systems maintained by the federal government need to be made.

(c) If the Energy Emergency Council finds, under subsection (a), that additional or different information than that currently being collected and monitored should be collected and monitored, the Secretary of Energy shall direct the Administrator of the Energy Information Administration to make the necessary changes in the reporting or other information gathering requirements to assure that the information necessary for the development and implementation of petroleum disruption management programs provided for in this Act is readily available for those purposes.

(d) In the event that it is determined that additional authority is required to collect the information necessary to assure the timely and effective development and implementation of the programs specified in this Act, the Secretary shall submit a report to the Congress specifying authority required within 120 days of enactment of this Act.

(e) Information collected by the Energy Information Administration shall be cataloged and, upon request, any such information shall be promptly made available to the public in a form and manner easily adaptable for public use, except that this subsection shall not require disclosure of matters exempted from mandatory disclosure by section 552(b) of title 5, United States Code. The provisions of section 11(d) of the Energy Supply and Environmental Coordination Act of 1974, and section 17 of the Federal Nonnuclear Energy Research and Development Act of 1974, shall continue to apply to any information obtained by the Administrator under such provisions.

COORDINATION OF SEQUENTIAL MANAGEMENT AUTHORITIES WITH OTHER ENERGY EMERGENCY AUTHORITIES

SEC. 604. (a) Within 90 days after the enactment of this Act, the Secretary of Energy

shall submit to Congress a report examining the standards for activation of the programs established in the various existing energy emergency authorities, and any necessary changes to those authorities to conform those activation levels to the levels established in this Act.

(b) In preparing the report required by subsection (a), the Secretary of Energy shall consult with the Energy Emergency Council and the Energy Advisory Committee.

TITLE VII—MISCELLANEOUS PROVISIONS

ADMINISTRATION AND ENFORCEMENT

SEC. 701. (a) Except as provided in subsection (b), (1) sections 205 through 207 and sections 209 through 211 of the Economic Stabilization Act of 1970 shall apply to the regulations promulgated under this Act, to any other order this Act, and to any action taken by the President under this Act, as if such regulation had been promulgated, such order had been issued, or such action had been taken under the Economic Stabilization Act of 1970, and (2) section 212 (other than 212(b)) and 213 of such Act shall apply to functions under this Act to the same extent such sections would apply to functions under the Economic Stabilization Act of 1970.

(b) The expiration of authority to issue and enforce orders and regulations under section 218 of such Act shall not affect any authority to amend and enforce the regulation or to issue and enforce any order under this Act, and shall not affect any authority under sections 212 and 213 insofar as such authority is made applicable to functions under this Act.

(c)(1)(A) Whoever violates any provision of the regulations promulgated or any order issued under this Act, shall be subject to a civil penalty of not more than $20,000 for each violation.

(B) Whoever willfully violates any provision of such regulation or such order shall be fined not more than $40,000 for each violation.

(2) Any individual director, officer or agent of a corporation or other business who knowingly and willfully authorizes, orders, or performs any of the acts or practices constituting in whole or part a violation of subsection (c)(1) shall be subject to penalties under this section without regard to any penalties to which that corporation or business enterprise may be subject under subsection (c)(1).

AMENDMENT OF DEPARTMENT OF ENERGY ORGANIZATION ACT

SEC. 702. Section 504(a) of the Department of Energy Organization Act is amended by inserting "Petroleum Disruption Management Act of 1981" after "Federal Energy Administration Act".

EXTENSION OF CERTAIN ENERGY POLICY AND CONSERVATION ACT AUTHORITIES

SEC. 703. (a) Section 252(1) of the Energy Policy and Conservation Act is amended by striking "September 30, 1981" and inserting in its place "October 1, 1989".

(b) Section 531 of the Energy Policy and Conservation Act is amended by striking the date "June 30, 1985" in each place that it appears in that section and inserting in each such place "October 1, 1989".

EFFECT ON OTHER LAW

SEC. 704. (a) The regulations promulgated under this Act and any order issued thereunder shall preempt any provisions of any program for the allocation and pricing of crude oil or any refined petroleum product established by any State or local government if such provision is inconsistent with such regulation or any such order.

(b) There shall be available as a defense to any action brought for breach of contract in any Federal or State court arising out of delay or failure to provide, sell, or offer for sale or exchange crude oil or any refined petroleum product, that such delay or failure was caused solely by compliance with the provisions of this Act or with the regulations or any order under this Act.

EXPIRATION

SEC. 705. The provisions of this Act shall cease to have effect on October 1, 1989, but such expiration shall not affect any action or pending proceeding, administrative or civil, not finally determined on such date, nor any administrative or civil action or proceeding, whether or not pending, based on any act committed or liability incurred prior to such expiration date.

SECTION-BY-SECTION ANALYSIS—PETROLEUM DISRUPTION MANAGEMENT ACT OF 1981

Sec. 1. Short Title and Table of Contents.

Sec. 2. Statement of Findings and Purposes.

Sec. 3. Definitions.—

"International energy program" means the agreement between 21 oil consuming nations to share supplies during a shortfall exceeding 7 percent.

"National utilization rate" means the ratio of total crude oil available through domestic production or imports to U.S. refiners to total refining capacity of U.S. refiners. This definition would allow the Secretary to exclude extraordinary pre-disruption inventories so as to encourage the buildup of private reserves.

"Petroleum disruption management program" means any one or combination of four standby regulations designed to reduce the impact of crude oil supply disruptions including the Strategic Petroleum Reserve, Private Dedicated Reserves, National Crude Oil Sharing, Petroleum Product Disruption Management.

"Refiner."

"Refined petroleum product."

"Secretary."

"Severe petroleum supply disruption" means any crude oil or petroleum shortage of significant scope and duration that would have a major adverse impact on the economy, public health and safety or the national defense. During "severe petroleum supply interruptions" the President could seek Congressional activation of any or all four disruption management programs.

"Substantial crude oil supply disruption" means a shortfall with lesser impact than a severe interruption or a shortfall with only regional implications in either case to be managed without resort to a major national crude oil sharing or petroleum product allocation.

"United States."

TITLE I. SEQUENTIAL MANAGEMENT AUTHORITY AND ACTIVATION

The bill outlines various disruption management techniques from a study of tax credits for storage to product allocations that would be used sequentially in response to supply shortages of various magnitudes. This title authorizes a series of steps to put these programs in place on a standby basis and to activate them at the time of disruption. The steps, Presidential promulgation of programs, Congressional approval on a standby basis, activation by joint resolution and sunset, are similar for each program.

Sec. 101. Program Development and Implementation.—

(a) Requires the President within 120 days of enactment to propose four standby programs for the Strategic Petroleum Reserve Distribution Plan, a Private Dedicated Reserve Program, a National Crude Oil Sharing Program and a Petroleum Product Disruption Management Program.

(b) Requires Congressional approval of the proposed programs before they are effective in a standby status. Provides for procedures to amend programs already approved for standby status.

Sec. 102. Approval of Standby Petroleum Disruption Programs.—

(a) Requires that the Strategic Petroleum Reserve Plan be approved according to the provisions of EPCA (Sec. 552). EPCA requires that the plan be approved by an affirmative resolution passing both Houses within 30 days of transmittal. EPCA provides for discharge of the Committee after 20 days, expedited floor procedures and a limit on the debate of 10 hours on the resolution.

(b) Provides that proposed programs for the Private Dedicated Reserve Program, the National Crude Oil Sharing Program and the Petroleum Product Disruption Management Program are only effective in standby status if approved by both Houses through resolution within 30 days of transmittal.

Specifies language for resolutions approving standby regulations.

Provides that such resolutions be considered in the same manner as energy conservation contingency plans under EPCA. These provisions include motion for discharge after 20 days of Committee consideration and expedited floor procedures limiting debate on the resolution to 10 hours.

Requires that if a standby program is not approved, the President shall submit a new plan within 15 days which shall be approved or disapproved according to the same procedures.

Sec. 103. Activation of Disruption Management Programs.—

(a) Provides for the activation of standby petroleum disruption management programs.

Requires a separate joint resolution of approval by Congress to activate each program.

Requires the President to transmit evidence of substantial or severe disruption to Congress or a report indicating that the International Energy Program has been activated. Sunsets each activated program 120 days after activation.

Authorizes Strategic Petroleum Reserve Distribution during substantial or severe disruption or when obligations of international energy program so require.

Authorizes Private Dedicated Reserve Program during substantial disruption.

Authorizes a National Crude Oil Sharing Program only during a severe interruption or in conjunction with International Energy Program.

Authorizes a Petroleum Product Disruption Management Program only during a severe interruption or in conjunction with IEP.

(b) Stipulates that standby programs are not activated unless joint resolution of approval passes the Congress within 6 days after transmittal.

(c) Provides that the President can call Congress into session to consider a joint resolution to activate a standby disruption management program.

(d) Recognizes these provisions as an exercise of the rulemaking powers of each House.

Specifies the language of the activation resolutions.

Provides for referral of activating resolutions to the Committee on Energy and Natural Resources in the Senate and to the Committee on Energy and Commerce in the House.

Provides for discharge of activating resolutions after 2 days of Committee consideration.

Provides for expedited floor procedures in consideration of an activating resolution. Limits debate to 10 hours on the resolution.

(e) Allows activating resolutions to be initiated in the Congress upon sponsorship of a joint resolution of approval by 8 Senators or 25 Congressmen.

(f) Provides that a petroleum disruption management program once activated can only be extended beyond 120 days by reauthorization through a joint resolution of approval according to the procedures described above.

TITLE II.—PRIVATE CRUDE OIL AND PETROLEUM PRODUCT STORAGE INCENTIVES

Sec. 201. Oil Storage Tax Incentives Report.—

Requires the President to submit a report to the Congress on the use of tax incentives to encourage private stockpiling of crude oil and petroleum products during periods of glut and the use of tax incentives to encourage drawdowns of private stocks during disruption.

Although this legislation does not authorize any such tax incentives, the legislation envisions the use of private stocks to manage the first stages of all disruptions and tax incentives to be the only form of government intervention in small disruptions. The storage tax credit would be interrupted and the drawdown tax credit activated according to the provisions of Title I above.

TITLE III.—STRATEGIC PETROLEUM RESERVE AND PRIVATE DEDICATED RESERVE DISTRIBUTION

If reliance on the market and the drawdown of private stocks is not sufficient to prevent significant adverse impact from a crude oil or petroleum disruption, it is intended that the Strategic Petroleum Reserve be used as the primary government response to mitigate adverse impacts on the economy and to protect public health and safety. A Strategic Reserve containing 750 million barrels would allow the U.S. to meet a 20% shortfall for approximately 180 days with a sufficient cushion (100–200 million barrels) to satisfy defense needs.

However, it will be several years before the Strategic Petroleum Reserve reaches the 750 million barrel level. To manage substantial—but not severe—disruptions in the interim, the bill authorizes a limited crude oil allocation program to be used only after private stocks have been drawn down and the SPR is at a minimum security level (as specified by the Secretary).

Sec. 301. Definitions.—

"Crude oil runs to distillation units."

"Designated refiner" means a refiner who has sufficient crude oil available to operate above the national utilization rate (average) who is not a small or independent refiner.

"Independent refiner" means a refiner who produces less than 30 percent of the crude oil input to the refinery.

"Small refiner" means a refiner who controls refinery capacity less than 175,000 barrels per day.

"Qualified refiner" means a refiner who is eligible as a purchaser under the Strategic Petroleum Distribution Plan or the Private Dedicated Reserve Plan. The Secretary of Energy determines eligibility. The refiner must be a small and independent refiner. The refiner must show an insufficiency of crude oil availability that prohibits operation at or above 95 percent of the national utilization rate. The Secretary may by rule require that qualified refiners meet certain specifications such as efficiency, capacity to process heavy and sour crude oil and pre-disruption inventory levels. The Secretary may allow exceptions to the above qualifications where a refiner who would not otherwise be a qualified refiner shows that such designation would be necessary to protect public health and safety.

Sec. 302. Distribution from the Strategic Petroleum Reserve.—

(a) Authorizes the President to distribute up to 300,000 barrels per day for a period to exceed 90 days in a year from SPR without Congressional authorization to mitigate the impact of disruptions that have only regional impacts and do not require activation of any other disruption management programs.

(b) Amends the Energy Policy and Conservation Act to define "severe petroleum supply interruption" and "substantial crude oil supply disruption."

(c) Amends the Energy Policy and Conservation Act and declares it to be government policy to use the Strategic Petroleum Reserve to mitigate impacts resulting from supply disruptions.

(a) Amends the Energy Policy and Conservation Act to require that a new Strategic Petroleum Reserve Plan be submitted to the Congress within 120 days of the enactment of this Act and provides that the plan shall be considered by the Congress according to the provisions of section 552 (30 day two House approval) rather than section 551 (15 day one House veto).

(e) Amends EPCA to provide that a Strategic Petroleum Reserve Plan can only become effective if transmitted according to the provisions of this Act if approved according to the provisions of section 552 of EPCA and if activated according to Title I of this Act.

Amends EPCA to provide that amendments to the Strategic Petroleum Reserve Plan be considered according to section 552 (30 day two House approval) rather than section 551 (15 day one House veto).

(f) Amends EPCA to prescribe the conditions under which crude oil can be distributed from the Strategic Petroleum Reserve.

(g) Describes and defines the rule which the Secretary shall promulgate to provide for distribution of oil from the Strategic Petroleum Reserve. The rule will provide for allocating crude oil to qualified refiners at a price not to exceed the weight-averaged price of all crude oil sold in the U.S. over the previous 60 days.

Sec. 303. Amendment of the Strategic Petroleum Reserve Plan.—

Requires the Secretary to submit an amendment to the Strategic Petroleum Reserve Plan (not the same as the Distribution Plan) within 120 days of enactment to provide for integration of the provisions of this Act and the Energy Policy and Conservation Act.

Sec. 304. Temporary Reserve Storages—

Requires the Secretary of Energy to submit a report on the use of temporary storage (such as empty tankers and tankage) to rapidly increase the level of the SPR.

Sec. 305. Establishment of Private Dedicated Reserve Program—

(a) Requires the President to promulgate regulations for a limited crude oil allocation program which can only be activated by approval of a joint resolution in the Congress after a finding by the President that a substantial disruption exists.

(b) Describes and defines the rule for the Private Dedicated Reserve Program.

Requires designated refiners to provide crude oil which is available in excess of that needed to operate at the national utilization rate. Each and all designated refiners shall be required to make available an equal percentage of their base period runs such that the needs of qualified refiners for operation at 95% of the national utilization rate are met.

Provides that qualified refiners can purchase crude oil sufficient to operate at 95% of the national utilization rate at the weight-averaged price of all crude oil sold in the U.S. over the previous 60 days.

The definition of designated refiners provides that extraordinary inventories acquired and maintained by designated refiners in anticipation of a disruption shall not be available for re-allocation under this program.

(c) Requires the Secretary to consult with the Energy Advisory Committee in designing the Private Dedicated Reserve Program.

Sec. 306. Report on Use of Strategic Petroleum Reserve.—

Requires the Secretary of Energy to submit a report within 180 days specifying the minimum level of the SPR which should be reserved for national defense purposes. This amount (100 to 200 million barrels) would not be available for distribution during a supply disruption.

TITLE IV.—NATIONAL CRUDE OIL SHARING

Sec. 401. National Crude Oil Sharing Program.—

(a) Requires the President to promulgate regulations for a crude oil sharing program to be approved according to Title I of this Act and only activated by approval of a joint resolution in the Congress after a finding by the President that a severe disruption exists or is imminent or the international energy program has been activated.

(b) Describes and defines the rule for the National Crude Oil Sharing Program. Requires refiners to make available for sale all supplies that are in excess of that necessary to operate at the national utilization rate. Assures that refiners without crude oil sufficient to operate at the national utilization rate can purchase excess supplies from other refiners at a price not to exceed the weight-averaged price for all crude oil sold in the U.S. over the previous 60 days. Provides the President with authority to determine product yields of specific refineries during a severe interruption. Provides the President with authority to set utilization rates for specific refineries during a severe interruption.

TITLE V.—PETROLEUM PRODUCT PROGRAMS

Sec. 501. Petroleum Production Disruption Management Programs.—

(a) Requires the President to promulgate regulations for a petroleum product management program according to Title I which can only be activated by approval of a joint resolution in Congress.

(b) Describes and defines the criteria for establishing allocation priorities under the regulations. These criteria include protection of public health, maintenance of public services, maintenance of agricultural operations, preservation of a competitive petroleum industry, regional equity in pricing and supply and economic efficiency.

Provides authority to manage petroleum product prices by limiting margins from refiner through distributor, but provides dollar-for-dollar pass through of any net cost increases.

(c) Authorizes a state set-aside program that can be activated on a state-by-state basis by the President upon request of the Governor.

Sec. 502. Gasoline Rationing.—

Amends EPCA to extend the time period during which the President may propose or carry out a contingency rationing program.

TITLE VI.—ESTABLISHMENT OF ADVISORY, DATA COLLECTION AND COORDINATION FUNCTIONS

Sec. 601. Establishment of Energy Emergency Council.—

(a) Authorizes the creation of a cabinet-level advisory group including the Secretaries of Energy, State, Defense, Agriculture, Commerce, Transportation, Interior and Labor.

(b) Authorizes the Council to advise the President on management of petroleum disruptions and to consult with the Energy Advisory Committee.

Sec. 602. Establishment of Energy Advisory Committee.—

(a) Authorizes the creation of a 10 to 30 member group representing the petroleum industry and petroleum consumers.

(b) Authorizes the Committee to advise the President and the Council on management of petroleum disruptions.

(c) Requires that all records of the Committee be available to the public.

(d) Applies the provisions of the Federal Advisory Committee Act to the activities of the Committee.

Sec. 603. Information Collection and Monitoring.—

(a) Requires a review of existing energy

information collection and monitoring systems to determine whether current sources are sufficient to support the disruption management programs authorized by the Act.

(b) Requires the Secretary to inform the Administrator of the Energy Information Administration on the adequacy of the current systems and the need for changes to support the disruption management programs.

(c) Authorizes the Secretary to collect and maintain adequate information to support the programs authorized by this Act.

(d) Provides a method for the Secretary to seek additional authority to collect and maintain information.

(e) Provides that information collected in support of the disruption management programs shall be available to the public with the exception of proprietary information.

Sec. 604. Coordination with Other Energy Emergency Authorities.—

Requires the Secretary to prepare and transmit to Congress a report on the integration of existing energy emergency authorities with the petroleum disruption management programs authorized by this Act.

TITLE VII.—MISCELLANEOUS PROVISIONS

Sec. 701. Administration and Enforcement.—

Extends existing administration and enforcement procedures to support disruption management programs.

Provides for penalty upon violation of provisions of this Act.

Sec. 702. Amendment to Department of Energy Organization Act.—

Provides an exception procedure to rules and regulations promulgated under authority of this Act.

Sec. 703. Extension of EPCA Authorities.—

Extends the antitrust exemption for participation in IEP through October 1, 1989.

Extends authorization for Titles I (Domestic Supply and SPR) and Title II (Emergency Authorities and International Energy Program) through October 1, 1989.

Sec. 704. Effect on Other Law.—

Preempts other law including any state or local law providing for allocation or price control of crude oil or petroleum.

Sec. 705. Sunset.—

Provides that authority under this Act expires on October 1, 1989.

Mr. ANDREWS. Mr. President, it is with great pleasure that I join today with my distinguished colleague from Minnesota in introducing the Petroleum Disruption Management Act of 1981.

This bill is intended to provide the President with the necessary tools to manage petroleum disruptions of varying magnitudes and causes in a timely and effective manner. Our overriding objective is to minimize adverse short- and long-term effects of petroleum disruptions on the American people and the economy. As a Senator representing a State where agriculture is the dominant industry, I have a particular interest in assuring a dependable supply of petroleum products to that industry.

We must face the harsh reality that this Nation will remain vulnerable to petroleum supply disruptions for the foreseeable future. Our allies will be even more vulnerable. We have lived through four disruptions in the past 8 years, and there is no evidence to suggest that the future holds anything but the continued potential for instabilities in the world petroleum community.

Mr. President, oil is increasingly becoming a potent political weapon, and governments in many producing nations face uncertain tenure. A number of studies have recently pointed out that the United States is even more vulnerable to supply disruptions because the international oil companies no longer have the predominant control at the wellhead in producing nations that existed just a decade past.

The Emergency Petroleum Allocation Act of 1973 is scheduled to expire on September 30, 1981. This act contains authorities which recognize agriculture's priority needs and accords the President the power to deal with petroleum disruptions through actions such as crude oil and products allocation. It is imperative that this Congress and the administration move forward in an expedited fashion so that the President will have appropriate authorities on a standby basis at his disposal for dealing with future disruptions.

Mr. President, we are most fortunate to have a unique opportunity to carry out this legislative process in the relatively calm environment which now exists. We cannot afford to wait until the next emergency to make the difficult decisions before us. The chaos that would occur could destroy our progress toward economic recovery and undoubtedly would lead to bad legislation crafted in the midst of crisis.

The Petroleum Disruption Management Act of 1981 has been carefully written with an eye toward keeping the level of Government involvement in the marketplace at a minimum, dictated by the nature and severity of a particular disruption, while dealing effectively with the problems which occur. Government could not and would not intrude into the petroleum marketplace if there are no disruptions. The decontrolled marketplace would be permitted to operate.

This act provides for the development of a set of management tools designed and placed on the shelf for selection and use by the President in the event of a disruption. Thus, a given program or programs can be activated in a timely fashion and tailored to respond to the problems generated by a particular disruption.

This approach is far superior to waiting until a disruption actually occurs before attempting to construct the actual mechanics in the midst of a crisis atmosphere. It is unlikely that any response developed in such a manner could be timely, and problems would deteriorate more than necessary.

The tools to be developed under this act recognize that disruptions require different responses, depending upon their characteristics and severity. They are also targeted toward minimizing the damaging pressures, on spot market prices in avoiding regional supply imbalances, both of which are prevalent consequences of disruptions.

In examining how disruptions have actually occurred, it is quite evident that they tend to be focused upon certain regions. Thus, very serious problems occur in certain areas long before a disruption reaches crisis levels for the Nation as a whole. I am most familiar with how past disruptions have impacted people in my part of the country.

Looking back to the spring of 1979, farmers and other residents in North Dakota were desperately short of fuel—particularly diesel fuel required for spring planting. My office was swamped with requests for assistance, and our staff worked on this problem around the clock in trying to locate alternate supplies, usually at larcenous prices.

In 1979, diesel fuel had been decontrolled for several years, so Government regulations could not be blamed. The Government was forced back into product allocation through Special Rule No. 9, and some diesel fuel was moved to farmers. We were extremely fortunate to "muddle through" that crisis and still get the crops in and the grain harvested.

This situation was repeated throughout most rural areas in the Midwest and the Great Plains—the country's agricultural heartland. Yet these shortages occurred at a time when the record clearly showed that imports were at a higher level than they had been in the prior year. In addition, crude oil prices jumped 150 percent during the 12 months following the Iranian Revolution. Unfortunately, oil price increases ratcheted by disruptions never returned to previous levels.

Even a casual assessment clearly reveals that such problems evolved unnecessarily, as many refineries serving rural areas suffered sharp reductions in crude oil supplies—again, at a time when there was no real shortage. Some refineries were forced to run at half of capacity. Yet other refiners, operating at close to full capacity, failed to provide diesel fuel to rural areas until ordered to by the Government.

Mr. President, the Petroleum Disruption Management Act of 1981 authorizes use of crude oil from the strategic petroleum reserve for alleviating regional shortages, once the SPR has been filled to adequate levels. The President could also provide for access to crude oil for refiners who have lost supplies through the private dedicated reserve. It is anticipated that the SPR would replace the private reserve function within a few years.

These first two programs are intended to permit the distribution system to operate in a balanced fashion to cope with regional imbalances. In the event of a true national shortage, the national crude sharing program would provide for sharing of crude oil among all regions and areas. In the event that inadequate supplies of petroleum products are available for critical sectors of the economy, the President would have the authority to impose product allocation measures, recognizing home heating oil requirements, agricultural uses, and other specified priority uses.

The SPR, PDR, national crude sharing, and standby product authorities would be developed within 120 days of enactment of this legislation with a review by Congress. Then they will be placed on the shelf until needed. Obviously, it is our common hope that disruptions will not occur and there will be no need.

The President will have the discretionary authority to activate any of these programs. In the event of regional shortages, the President may employ the private dedicated reserve or limited use of

the strategic petroleum reserve. If Congress determines that regional shortages require such action and the President takes no action, the Congress can initiate such action through passage of a joint resolution.

In the event of a severe national supply interruption, the President may act through more extensive use of the strategic petroleum reserve, national crude sharing, or standby product authorities. However, such action can be undertaken only if Congress passes a joint resolution, with the President retaining veto rights.

Mr. President, this system of checks and balances maintains the dual responsibilities of the President and the Congress in determining how petroleum disruptions are to be addressed. It is a system of checks and balances which would minimize the opportunity for unresponsive or overzealous action.

The President would be advised on disruption policy by a Cabinet-level Emergency Energy Council and an industry energy advisory committee, which would include all segments of the petroleum industry, consumers, and priority users. The act would also provide for the information collecting and monitoring necessary for development and implementing of disruption management policies.

No program activated under this act can be operated for more than 120 days without reauthorization. Its authors are determined to avoid perpetuating Government involvement beyond the actual period of disruption.

I am particularly concerned about the impacts of petroleum disruptions upon agriculture and rural America. In the search for appropriate solutions, I have endeavored to express these concerns in a number of instances. For example, 27 of my colleagues have joined me in expressing our views in a resolution relating to assurance of access to crude oil during disruptions for refiners serving the rural petroleum system. The resolution recognizes the predominant role played by farmer-owned oil-refining cooperatives and other independent refiners in satisfying 75 to 80 percent of all U.S. farm fuel needs, as well as the majority of fuel needs in rural communities.

Mr. President, last month I chaired hearings of the Oversight Subcommittee of the Senate Agricultural Committee on the energy needs of agriculture and rural America—in particular, the need to assure uninterrupted fuel supplies to this Nation's agricultural system. The record established during these 2 days of hearings clearly shows that past disruptions have impacted agricultural regions first and hardest, primarily as a result of crude oil supply losses experienced by refiners serving rural markets.

I was particularly impressed, as were many of my colleagues, by the almost universal expression of support shown at these hearings by not only our most prominent general farm organizations, but by commodity groups and many others intimately associated with the entire "food chain"—from production, to processing, to marketing.

I would like to have my colleagues know of this diverse but unanimous expressions of concern and for those of my colleagues who have some familiarity with the frequent competitiveness between certain organizations, I think they will be pleased to learn that on the question of assuring reliable energy supplies to agriculture, there is no disagreement.

We had witnesses and statements from the American Farm Bureau Federation, the National Farmers Union, the National Grange, and the National Council of Farmer Cooperatives.

From commodity groups, we were encouraged by the comments of the National Cotton Council, the National Milk Producers Association, the American Soybean Association, the National Association of Wheat Growers, the International Apple Institute, and both the National and the American Frozen Food organizations.

Among others in the processing and marketing fields, we heard from the National Food Processors Association, and American Bakers Association, the Food Marketing Institute, the Milk Industry Foundation—representing the International Association of Ice Cream Manufacturers. Additionally, my resolution and the thrust of the hearings was supported strongly by the American Association of Engineering Societies and the National Association of the State Departments of Agriculture.

Mr. President, I have every reason to believe that this impressive array of initial supporters and witnesses will be augmented many times over by the spokesmen for the millions of people engaged in the entire food delivery chain. For nothing is more important to our Nation than to continue unabated the delivery of wholesome and plentiful supplies of food at reasonable costs.

It was also made clear at my hearings that continuing market withdrawals from rural areas by major oil companies placed an even heavier responsibility for supplying agricultural needs in the hands of farmer-owned and other independent refiners.

As a result of these hearings, I committed myself to work with the leadership in both Houses of Congress to pursue legislation which would create post-EPAA authorities designed to deal with the needs not only of agriculture but also to minimize unnecessary impacts of disruptions across the economy.

The Petroleum Disruption Management Act of 1981 represents the fruits of these labors, and we believe the most appropriate means of addressing future disruptions.

Mr. President, the following remarks were made by me at the opening of the hearings of the Agriculture Subcommittee:

As I am sure you know, I am a farmer and proud of it. I have been all my life, as was my father and grandfather, and now my son. I am here representing what is probably the most agricultural State in the country—at least as measured in terms of North Dakota's annual gross income generation. As our farmers prosper or suffer, so do all our people.

Less than 3 million farm families produce enough food and fiber to feed and clothe 225 million Americans. These same farm families also export enough agricultural products to pay for half of our $80 billion annual bill for oil imports. The high level of this agricultural productivity depends heavily on critical petroleum fuel supplies. To achieve full food and fiber production, farmers must have fuel when they need it. Indeed, the perishability of food dictates that this holds true for the entire food system.

Farmers have increasingly turned to their own cooperatives to assure themselves of more secure fuel supplies, better quality service, and fairer prices. Farmer-owned refineries now represent only 2.5 percent of the total U.S. refining capacity, but supply about 45 percent of all onfarm petroleum fuels, with distribution of petroleum products occurring in more than 40 States. Cooperatives and other independents combined supply about 75 percent of onfarm use. In addition, many rural communities—the infrastructure so vital to the farm system—rely heavily upon the cooperative petroleum system for their fuel needs. According to the Department of Agriculture, more than 1,000 communities are supplied totally or predominantly by farmer cooperatives.

This responsibility is increasing for cooperatives and other independent petroleum operations due to major oil company withdrawals from sparsely populated, less profitable rural markets. Two of the majors have already completed their pullout in my State of North Dakota.

The rural petroleum system is a fragile one at best, and which is extremely vulnerable to supply disruptions. The system is an efficient one, and alternative suppliers cannot fill this void in a timely fashion when shortages occur. Without continued fuel supplies on a timely basis we are not going to be able to produce grains and other vital food at the phenomenal rate the American public has come to take for granted. It is just that simple.

USDA studies indicate that America's food costs are very sensitive to events in the energy arena. For example, one estimate is that a 10-percent fuel shortage at the farm could lead to as much as a 55-percent increase of farm commodity prices. This cannot be allowed to happen.

Sharp rises in energy costs are also cause for concern. Each 10-percent increase in energy costs across the food system can raise food prices more than 1 percent. Farmers themselves are price takers, and large-energy price increases could impair the ability of many family farms to survive.

Mr. President, we cannot allow a disruption of fuel supplies to agriculture. Mother Nature dictates that timing is critical in the production of food. Should fuel supply disruptions, even of short duration, occur at the wrong time, an entire season's production can be lost. Policymakers must recognize the impact of such an event, not only on the farmer, who makes up less than 5 percent of the population, put upon all of this Nation's consumers and indeed the world community. It would be the height of folly to jeopardize the critical economic activity of the individual farmer and the entire agricultural system in serving one of the most basic of human needs—that of food. In order to continue to perform this vital role, agriculture must have uninterrupted access to essential fuels.

In conclusion, Mr. President, I want my colleagues to know that I have consistently supported and applauded President Reagan's decontrol of petroleum. The signals are clear that a number of positive benefits are resulting. Fuel supplies are currently abundant, and recently the consumer has benefited from slightly lower fuel prices. Petroleum exploration and production activities are moving forward at a record pace. Con-

sumers and industrial users are going to great lengths to conserve energy, and import levels are down considerably. Free enterprise must be encouraged as much as possible. I will do my share to support free enterprise.

The critical remaining task before us now is to plan for future disruptions, learning as much as possible from painful past experiences. We cannot leave a void in this critical dimension of national policy, or make false promises. Nor can we leave the burden of standby authorities to 50 State governments.

I fully intend to work with all my power for passage of the Petroleum Disruption Management Act of 1981. I urge my distinguished colleagues to join with us as cosponsors of this bill in the pursuit of providing our Nation with appropriate means of dealing with petroleum disruptions.

By Mr. METZENBAUM (for himself, Mr. TSONGAS, and Mr. WILLIAMS):

S. 1477. A bill to require the Secretary of Labor to submit an annual report on child day care services; to the Committee on Labor and Human Resources.

By Mr. METZENBAUM (for himself, Mrs. HAWKINS, Mr. TSONGAS, and Mr. WILLIAMS):

S. 1478. A bill to amend the Internal Revenue Code of 1954 to increase the amount of the credit for expenses for household and dependent care services necessary for gainful employment, to provide a credit for employers who provide such services, and for other purposes; to the Committee on Finance.

By Mr. METZENBAUM (for himself, Mr. TSONGAS, and Mr. WILLIAMS):

S. 1479. A bill to amend the Internal Revenue Code of 1954 to exclude from the income of an employee certain adoption expenses paid by an employer, to provide a deduction for adoption expenses paid by an individual, and for other purposes; to the Committee on Finance.

S. 1480. A bill to amend the Internal Revenue Code of 1954 with respect to the treatment of foster children as dependents of taxpayers; to the Committee on Finance.

S. 1481. A bill to amend title II of the Social Security Act to eliminate gender-based distinctions under the old-age, survivors, and disability insurance program; to the Committee on Finance.

STRONGER AMERICAN FAMILIES

Mr. METZENBAUM. Mr. President, I am today introducing the Stronger American Families Act of 1981. a package of five bills designed to address the changing needs of families and children in the areas of child care, adoption, foster care, and social security. Senators HAWKINS, TSONGAS, and WILLIAMS have joined me as cosponsors of various parts of this package. I look forward to working with them and with other Senators to secure its enactment.

The Stronger American Families Act recognizes and responds to the fact that the real world in which American families live in the eighties is very different than it was even a few years ago. The package realistically addresses the changing roles of women, the rising costs of adoption and foster care, the irrational gender-based distinctions in the social security system, and the rapid growth in our population of senior citizens.

Ten years ago, Mr. President, 39 percent of the Nation's children had mothers in the work force. But today, the children of working mothers make up fully 50 percent of all American youngsters below the age of 18.

In the years to come, that percentage is virtually certain to grow for the simple reason that in today's economic climate, fewer and fewer families can get by, much less get ahead, on one income. The working mother is an economic necessity—and she is here to stay.

But unfortunately, Mr. President, the child care facilities available to working families have not expanded to match the movement of mothers into the workforce. In too many cases, children must be left, often for several hours a day, without adequate supervision.

A majority of American families have identified child care as an area in which Government policies must be more responsive. In a recent Gallup poll, 67 percent of those surveyed supported tax credits for businesses to provide on-site child care, and 70 percent supported tax credits to assist families in meeting child care expenses. In selecting items which they believed would most help families in coping with competing demands on work and family responsibility, 28 percent of those polled selected on-site child care facilities.

In order to assist businesses in providing badly needed child care for their employees, this legislation shortens the depreciation time for employer-provided facilities from the current 5 years to 3.

In addition, it excludes from employee income the value of such services provided by employers who choose to contract out day care programs to other organizations.

The bill also recognizes that most working parents are not fortunate enough to be employed by companies that offer their own day care programs. It therefore strengthens substantially the existing day care tax credit for all working parents and provides special assistance to middle- and lower-income families.

Under current law, taxpayers may claim as a tax credit, 20 percent of their first $2,000 in day care expenses. The bill raises the maximum expenses to $2,400 for all taxpayers and, in order to help those who need it most, adds 1 percent to the 20 percent credit for each thousand dollars by which a family's annual income falls below $40,000. The maximum tax credit under this provision is 50 percent of day care expenses for which families earning $10,000 per year or less would be eligible.

Finally, Mr. President, I want to point out that this legislation will be of real assistance to the working parents of handicapped children by permitting them to claim tax credits for the expense of placing such children in special day care programs for the handicapped.

Under existing law, eligibility is limited to the cost of in-home care, an expense so great that parents have been forced to institutionalize children they would prefer to keep at home. That, Mr. President, should not be happening in this country.

QUALITY CARE

In order to monitor the impact of the dependent care amendments on the quality and quantity of child care services the second bill in this package directs the Secretary of Labor to report annually to Congress on the status of child care arrangements. Senators HAWKINS, WILLIAMS, and TSONGAS join me in introducing this legislation.

FOSTER CARE

It is a sad fact, Mr. President, that most kennels charge more to board dogs than most States pay foster parents to board children. And it is also true that the tax code provides inequitable treatment to foster parents as compared to parents caring for their natural children. The intent of this component of the stronger American Families Act, which has the cosponsorship of Senators TSONGAS and WILLIAMS and the endorsement of the National Foster Parents Association, is to end those inequities by permitting foster parents to treat foster children as their dependents for tax purposes.

Mr. President, I believe that we should encourage—not discourage—families that are willing to open their homes to needy children. This tax concession is a small step in that direction.

ADOPTION BENEFITS

At least 30 major companies have in recent years begun to assist their employees with the costs incurred in adopting children. IBM, for example, has had an adoption assistance program since 1972 and has averaged approximately 350 to 400 claims per year. Smith-Kline Corp. initially paid employees $400 per adoption when it initiated its program. Now, Smith-Kline pays $750 and intends to increase the benefit each year until the amount of the benefit is comparable to the cost of a normal obstetric delivery.

More corporations should be encouraged to take such socially responsible positions, but unfortunately, they are today discouraged by the tax code from doing so. Adoption assistance is considered regular income for tax purposes and so the companies giving it incur added costs for social security taxes and an extra burden of paperwork. That should not be—and this bill corrects the inequity by excluding adoption benefits from employee income.

In addition, Mr. President, the bill permits families that adopt to claim the costs of adoption as a tax deduction—that, I believe, is a small but very helpful posture by this Nation to those who take in as their own any of the 120,000 American children who need a home.

I am pleased to say that this component has the cosponsorship of Senators WILLIAMS and TSONGAS and the endorsement of the National Committee for Adoption.

SOCIAL SECURITY AND SEX DISCRIMINATION

In the 1930's, Congress enacted the basic income maintenance program in the United States, social security. The design of the program largely reflects the generally accepted sex roles and lifestyles prevailing at that time. But since the 1930's, American women have moved in large numbers into occupations and have attained levels of education that were in the past available to very few.

In 1940, only 17 percent of all married women held jobs. Today, that figure is fast approaching 50 percent. But even so, the social security system continues to treat women as economic dependents rather than as earners in their own right. The system often leaves women without full protection in the event of death of the husband or divorce. In some areas the system fails to treat the wage record of a woman equally with that of a man by denying benefits to a husband based on his wife's wage record.

Although Congress enacted the Equal Pay Act of 1963 and title VIII of the Civil Rights Act, it has yet to address all of the inequalities in social security benefits.

In 1977, legislation designed to eliminate gender-based distinctions in the Social Security Act overwhelmingly passed the House. The Senate, however, determined that more information was necessary on the impact of the proposed changes and so directed the Department of Health, Education, and Welfare to conduct a study and report to Congress.

That report is now in and the bill I am introducing today is based on its findings.

According to the report there still exist nine gender-based distinctions which are not founded on any supportable rationale. The costs of eliminating these provisions would amount to only $5 million in each of the next few years, with the amount diminishing over time. The Advisory Council on Social Security and Working Women concurs with my view that the time has come to eliminate these last vestiges of discrimination in the social security system.

Mr. President, I ask unanimous consent that section-by-section analysis of the "Stronger American Families Act of 1981" and text of the legislation itself be printed at this point in the RECORD.

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

S. 1477

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, Beginning in calendar year 1982, the Secretary of Labor shall submit an annual report to the Congress concerning the availability and quality of child day care services provided in the United States.

S. 1478

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Dependent Care Amendments Act of 1981".

SEC. 2. INCREASE IN PERCENT OF EXPENSES ALLOWED AS CREDIT.

(a) GENERAL RULE.—Subsection (a) of section 44A of the Internal Revenue Code of 1954 (relating to credit for expenses for household and dependent care services necessary for gainful employment) is amended by striking out "20 percent" and inserting in lieu thereof "the applicable percentage".

(b) APPLICABLE PERCENTAGE DEFINED.—Subsection (b) of section 44A of such Code is amended to read as follows:

"(b) APPLICABLE PERCENTAGE.—For purposes of subsection (a), the term 'applicable percentage' means the greater of—

"(1) 50 percent reduced by one percentage point for each $1,000 amount by which the taxpayer's adjusted gross income exceeds $10,000, or

"(2) 20 percent.".

SEC. 3. CREDIT MADE REFUNDABLE.

(a) GENERAL RULE.—Subsection (b) of section 6401 of the Internal Revenue Code of 1954 (relating to excessive credits treated as overpayments) is amended—

(1) by striking out "and 43 (relating to earned income credit)" and inserting in lieu thereof "43 (relating to earned income credit), and 44A (relating to expenses for household and dependent care services necessary for gainful employment)", and

(2) by striking out "39 and 43" and inserting in lieu thereof "39, 43, and 44A".

(b) AMENDMENT OF SECTION 44A.—Subsection (a) of section 44A of such Code is amended by striking out "the tax imposed by this chapter" and inserting in lieu thereof "the tax imposed by this subtitle".

(c) CONFORMING AMENDMENTS.—

(1) Subsection (a) of section 53 of such Code (relating to limitation based on amount of tax) is amended by adding "and" at the end of paragraph (4), by striking out the comma at the end of paragraph (5) and inserting in lieu thereof a period, and by striking out paragraphs (6) and (7).

(2) Sections 44C(b)(5), 44D(b)(5), 44E(e)(1) 55(c)(4), and 56(c) of such Code are each amended by striking out "and 43" and inserting in lieu thereof "43, and 44A".

(3) Paragraph (2) of section 55(b) of such Code is amended by striking out "and 43" and inserting in lieu thereof ", 43, and 44A".

(4) Subsection (b) of section 6096 of such Code is amended by striking out "44A,".

SEC. 4. INCREASE IN DOLLAR LIMIT.

(a) GENERAL RULE.—Subsection (d) of section 44A of the Internal Revenue Code of 1954 (relating to dollar limit on amount creditable) is amended—

(1) by striking out "$2,000" and inserting in lieu thereof "$2,400", and

(2) by striking out "$4,000" and inserting in lieu thereof "$4,800".

(b) TECHNICAL AMENDMENT.—Paragraph (2) of section 44A(e) of such Code (relating to special rule for spouse who is a student or incapable of caring for himself) is amended—

(1) by striking out "$166" and inserting in lieu thereof "$200", and

(2) by striking out "$333" and inserting in lieu thereof "$400".

SEC. 5. CREDIT ALLOWED FOR CERTAIN SERVICES OUTSIDE TAXPAYER'S HOUSEHOLD.

Subparagraph (B) of section 44A(c)(2) of the Internal Revenue Code of 1954 (defining employment-related expenses) is amended to read as follows:

"(B) EXCEPTION.—Employment-related expenses described in subparagraph (A) which are incurred for services outside the taxpayer's household shall be taken into account only—

"(i) if, in the case of care and services provided by a child care center (as defined in subparagraph (C)) such center complies with all applicable laws and regulations of a State or unit of local government, and

"(ii) if such expenses are incurred for—

"(I) the care of a qualifying individual described in paragraph (1)(A), or

"(II) the care of a qualifying individual described in subparagraph (B) or (C) of paragraph (1) who ordinarily returns to the taxpayer's household each day.

"(C) CHILD CARE CENTER DEFINED.—For purposes of this paragraph, the term 'child care center' means any child care facility which—

"(i) provides child care for more than six children (other than children who reside at the facility), and

"(ii) receives a fee, payment, or grant for providing services for any of the children (regardless of whether such facility is operated for profit).

Such term shall not include a facility which regularly provides care for six, or fewer, children (other than children who reside at the facility) and which serves as the residence of the individual operating the facility.".

SEC. 6. APPLICATION OF EARNED INCOME LIMITATION IN CASE OF INDIVIDUALS ENGAGED IN BUSINESS ON SUBSTANTIALLY FULL-TIME BASIS.

Subsection (e) of section 44A of the Internal Revenue Code of 1954 (relating to earned income limitation) is amended by adding at the end thereof the following new paragraph:

"(3) SPECIAL RULE FOR CERTAIN INDIVIDUALS ENGAGED IN BUSINESS ON SUBSTANTIALLY FULL-TIME BASIS.—

"(A) IN GENERAL.—For purposes of paragraph (1), for each month during which an individual engages in a trade or business on a substantially full-time basis, such individual shall be deemed to have earned income of not less than—

"(i) $200 if subsection (d)(1) applies for the taxable year, or

"(ii) $400 if subsection (d)(2) applies for the taxable year.

"(B) DEFINITION.—For purposes of subparagraph (A), an individual shall be treated as engaged in a trade or business during any month on a substantially full-time basis if, during each week beginning during such month, such individual performs at least 35 hours of services in such trade or business.".

SEC. 7. EXEMPTION FROM TAX FOR CERTAIN ORGANIZATIONS PROVIDING DEPENDENT CARE.

(a) GENERAL RULE.—Section 501 of the Internal Revenue Code of 1954 (relating to exemption from tax on corporations, certain trusts, etc.) is amended by redesignating subsection (j) as subsection (k) and by inserting after subsection (i) the following new subsection:

"(j) TREATMENT OF CERTAIN ORGANIZATIONS PROVIDING DEPENDENT CARE.—For purposes of subsection (c)(3) of this section and sections 170(c)(2), 2055(a)(2), and 2522(a)(2), the term 'educational purposes' includes the providing of nonresidential dependent care of individuals if—

"(1) substantially all of the dependent care provided by the organization is for purposes of enabling individuals to be gainfully employed, and

"(2) the services provided by the organization are available to the general public.".

(b) CROSS REFERENCES.—

(1) Subsection (i) of section 170 of such Code is amended by redesignating paragraphs (1) through (7) as paragraphs (2) through (8), respectively, and by inserting before paragraph (2) (as so redesignated) the following new paragraph:

"(1) For treatment of certain organizations providing dependent care, see section 501(j).".

(2) Subsection (f) of section 2055 of such Code is amended by redesignating paragraphs (2) through (10) as paragraphs (3) through (11), respectively, and by inserting after paragraph (1) the following new paragraph:

"(2) For treatment of certain organizations providing dependent care, see section 501(j).".

(3) Subsection (d) of section 2522 of such Code is amended to read as follows:

"(d) CROSS REFERENCES.—

"(1) For treatment of certain organizations providing dependent care, see section 501(j).

"(2) For examples of certain gifts to or for the benefit of the United States and for rules of construction with respect to certain gifts, see section 2055(f).".

SEC. 8. EXCLUSION OF QUALIFIED HOUSEHOLD AND DEPENDENT CARE SERVICES FROM THE INCOME OF AN EMPLOYEE.

(a) EXCLUSION FROM INCOME.—Part III of subchapter B of chapter 1 of the Internal Revenue Code of 1954 (relating to items specifically excluded from gross income) is amended by redesignating section 128 as section 129 and inserting after section 127 the following new section:

"SEC. 128. QUALIFIED HOUSEHOLD AND DEPENDENT CARE SERVICES.

"Gross income of an employee does not include the value of any qualified household and dependent care services (as defined in section 44F(b)) furnished to such employee by, or on behalf of, his employer.".

(b) EXCLUSION FROM WAGES.—

(1) EMPLOYMENT TAXES AND COLLECTION OF INCOME TAX.—Subtitle C of such Code is amended by striking out "section 127" in section 3121(a)(18) (relating to the Federal Insurance Contributions Act), section 3306(b)(13) (relating to the Federal Unemployment Tax Act), and section 3401(a)(19) (relating to collection of income at source on wages) and inserting in lieu thereof "section 127 or 128".

(2) SOCIAL SECURITY ACT.—Subsection (q) of section 209 of the Social Security Act (defining wages) is amended by striking out "section 127" and inserting in lieu thereof "section 127 or 128".

(c) CONFORMING AMENDMENT.—The table of sections for part III of subchapter B of chapter 1 of such Code is amended by striking out the item relating to section 128 and inserting in lieu thereof the following:

"128. Qualified household and dependent care services.

"129. Cross references to other Acts.".

SEC. 9. ALLOWANCE OF A CREDIT FOR HOUSEHOLD AND DEPENDENT CARE SERVICES PROVIDED BY AN EMPLOYER.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1954 (relating to credits allowable) is amended by inserting after section 44E the following new section:

"SEC. 44F. HOUSEHOLD AND DEPENDENT CARE SERVICES PROVIDED BY EMPLOYER.

"(a) IN GENERAL.—In the case of an employer (as defined in section 3401(d)) who provides qualified household and dependent care services to his employees, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the excess of—

"(1) the expenses paid or incurred by such employer during the taxable year in providing such services to his employees, over

"(2) the amount of remuneration, if any, paid to such employer by his employees for providing such services during the taxable year.

"(b) QUALIFIED HOUSEHOLD AND DEPENDENT CARE SERVICES.—For purposes of this section, the term 'qualified household and dependent care services' means those services which if paid for by the employee would be considered employment-related expenses under section 44A(c)(2).

"(c) CAPITAL EXPENSES.—The expenses which may be taken into account under subsection (a) in determining the amount of the credit shall not include any amount paid or incurred by the employer which is chargeable to capital account.

"(d) APPLICATION WITH OTHER CREDITS.—The credit allowed by subsection (a) shall not exceed the tax imposed by this chapter for the taxable year, reduced by the sum of the credits allowable under a section of this subpart having a lower number or letter designation than this section, other than the credits allowable by sections 31, 39, 43, and 44A. For purposes of the preceding sentence, the term 'tax imposed by this chapter' shall not include any tax treated as not imposed by this chapter under the last sentence of section 53(a).

"(e) DENIAL OF DOUBLE BENEFIT.—No deduction or credit shall be allowed under this chapter with respect to any amount for which a credit is allowed under this section.

"(f) PASS-THROUGH IN THE CASE OF SUBCHAPTER S CORPORATIONS.—Under regulations prescribed by the Secretary, rules similar to the rules of subsections (d) and (e) of section 52 shall apply.".

(b) CONFORMING AMENDMENTS.—

(1) The table of sections for subpart A of part IV of subchapter A of chapter 1 of such Code is amended by inserting after the item relating to section 44E the following:

"Sec. 44F. Household and dependent care services provided by employer.".

(2) Section 6096(b) of such Code (relating to designation of income tax payments to Presidential Election Campaign Fund) is amended by striking out "and 44E" and inserting in lieu thereof "44E, and 44F".

SEC. 10. CERTAIN EXPENDITURES FOR CHILD CARE FACILITIES.

(a) AMORTIZATION.—

(1) IN GENERAL.—Section 188 of the Internal Revenue Code of 1954 (relating to amortization of certain expenditures for child care facilities) is amended to read as follows:

"SEC. 188. AMORTIZATION OF CERTAIN EXPENDITURES FOR CHILD CARE FACILITIES.

"(a) ALLOWANCE OF DEDUCTIONS.—

"(1) IN GENERAL.—At the election of the taxpayer, made in accordance with regulations prescribed by the Secretary, each of the following amounts shall be allowed as a deduction ratably over a period of 36 months:

"(A) An amount equal to the adjusted basis (as defined in section 1011) of any section 188 property of such taxpayer determined at the time such property is initially placed in service.

"(B) Any amount chargeable to capital account incurred by the taxpayer with respect to section 188 property after such property has been placed in service.

Each amount described under subparagraph (A) or (B) shall be reduced by the amount of the deduction, if any, allowed under paragraph (3) which is attributable to any portion of the amount described in such subparagraph.

"(2) PERIOD OF AMORTIZATION.—The period referred to in paragraph (1) shall begin with—

"(A) the month in which the section 188 property is placed in service, or

"(B) in the case of amounts described in paragraph (1)(B), the month after the month in which such basis was acquired.

"(3) ADDITIONAL FIRST YEAR DEPRECIATION.—In addition to any deduction allowed under paragraph (1), there shall be allowed, at the election of the taxpayer, as a deduction for the taxable year in which any section 188 property is placed in service an amount equal to any additional allowance which the taxpayer could elect under section 179 with respect to such property if the taxpayer elected the deduction under section 167 rather than the deduction under paragraph (1).

"(4) APPLICATION WITH OTHER DEDUCTIONS.—The deductions provided by this subsection with respect to any expenditure shall be in lieu of any depreciation deduction otherwise allowable on account of such expenditure.

"(b) DEFINITIONS.—For purposes of this section—

"(1) SECTION 188 PROPERTY.—The term 'section 188 property' means tangible property which—

"(A) is an integral part of a child care facility (as defined by regulations prescribed by the Secretary) in which—

"(i) at least a majority of all the children for whom care is provided during the taxable year (determined over the period of such taxable year) are children of employees of the taxpayer, and

"(ii) the care of each child is provided without charge or for a fee that is reasonably related to the operating costs incurred by the taxpayer in providing services to such child,

"(B) is of a character subject to depreciation, and

"(C) is located within the United States.

"(2) PLACED IN SERVICE.—The term 'placed in service' means placed in a condition or state of readiness and availability to function as section 188 property.

"(3) EMPLOYEES.—In the case of a child care facility operated by two or more employers, the employees of such an employer shall be considered the employees of each employer who operates such facility.".

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to expenditures incurred and property placed in service (as defined in the amendment made by paragraph (1)) after December 31, 1980.

(b) AVAILABILITY OF INVESTMENT CREDIT.—

(1) IN GENERAL.—Paragraph (8) of section 48(a) of such Code (relating to definitions and special rules for the investment credit) is amended by striking out "188,".

(2) USEFUL LIFE.—Paragraph (2) of section 46(c) of such Code (relating to qualified investment) is amended by inserting "(if amortized under section 188, the useful life which would have been used if depreciated under section 167)" after "section 167".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to periods after December 31, 1980, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1954.

(c) REAL PROPERTY AMORTIZED UNDER SECTION 188 SUBJECT TO RECAPTURE UNDER SECTION 1250.—

(1) IN GENERAL.—Subparagraph (D) of section 1245(a)(3) of such Code (relating to gain from dispositions of certain depreciable property) is amended by striking out "188,".

(2) EFFECTIVE DATE—The amendments made by this subsection shall apply to disposition made after December 31, 1980.

SEC. 11. EFFECTIVE DATE.

Except as otherwise provided in this Act, the amendments made by this Act shall apply to taxable years beginning after December 31, 1980.

S. 1479

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

SECTION 1. EXCLUSION FROM THE INCOME OF AN EMPLOYEE OF ANY BENEFITS RECEIVED FROM, OR CONTRIBUTIONS OF AN EMPLOYER TO, AN ADOPTION EXPENSE PLAN.

(a) EXCLUSION FROM INCOME.—Subsection (b) of section 105 of the Internal Revenue Code of 1954 (relating to amounts received under accident and health plans) is amended to read as follows:

"(b) MEDICAL CARE AND ADOPTION EXPENSES.—Except in the case of amounts received by a taxpayer attributable to, and not in excess of, deductions allowed under section 213 (relating to medical, etc., expenses) or section 221 (relating to adoption expenses) for any prior taxable year, gross income does not include—

"(1) amounts referred to in subsection (a) if such amounts are paid, directly or indirectly, to the taxpayer to reimburse the taxpayer for expenses incurred by him for the medical care (as defined in section 213(e)(1)) of the taxpayer, his spouse, and his dependents (as defined in section 152), or

"(2) amounts—

"(A) received by an employee under an adoption expense plan, or

"(B) contributed by an employer on behalf of an employee to an adoption expense plan.".

(b) DISCRIMINATORY PLANS.—Subsection (h) of section 105 of such Code (relating to amounts paid under a discriminatory self-insured medical expense reimbursement plan) is amended—

(1) by striking out "self-insured medical reimbursement plan" each place it appears and inserting in lieu thereof "self-insured reimbursement plan",

(2) by inserting "or adoption benefits" after "health benefits" in clause (iv) of paragraph (3)(B), and

(3) by striking out "Self-Insured Medical Expense Reimbursement Plan" in the caption and inserting in lieu thereof "Self-Insured Reimbursement Plan".

(c) DEFINITION OF SELF-INSURED REIMBURSEMENT PLAN.—Paragraph (6) of section 105(h) of such Code is amended to read as follows:

"(6) SELF-INSURED REIMBURSEMENT PLAN.—For purposes of this section, the term 'self-insured reimbursement plan' means—

"(A) a plan of an employer to reimburse employees for expenses referred to in subsection (b)(1) for which reimbursement is not provided under a policy of accident and health insurance, or

"(B) an adoption expense plan.".

(d) DEFINITION OF ADOPTION EXPENSE PLAN.—Section 105 of such Code is amended by adding at the end thereof the following new subsection:

"(i) ADOPTION EXPENSE PLAN.—For the purposes of this section, an adoption expense plan is a written plan of an employer to reimburse employees for adoption expenses (as defined in section 221(b)) incurred by such employees.".

(e) CONFORMING AMENDMENTS.—

(1) The heading of section 105 of such Code is amended by inserting "; ADOPTION EXPENSE PLANS" after "PLANS".

(2) The table of sections for part III of subchapter 8 of chapter 1 of such Code is amended by inserting "; adoption expense plans" after "plans" in the item relating to section 105.

(3) Paragraph (20) of section 3401(a) of such Code (relating to the collection of income tax at source) is amended—

(A) by striking out "medical care", and

(B) by striking out "self-insured medical reimbursement plan" and inserting in lieu thereof "self-insured reimbursement plan".

SEC. 2. DEDUCTION FOR ADOPTION EXPENSES PAID BY AN INDIVIDUAL.

(a) IN GENERAL.—Part VII of subchapter B of chapter 1 of the Internal Revenue Code of 1954 (relating to additional itemized deductions for individuals) is amended by redesignating section 221 as section 222 and by inserting after section 220 the following new section:

"SEC. 221. ADOPTION EXPENSES.

"(a) ALLOWANCE OF DEDUCTION.—In the case of an individual, there shall be allowed as a deduction the amount of the adoption expenses, not compensated by insurance or otherwise, paid or incurred by the taxpayer during the taxable year.

"(b) ADOPTION EXPENSES DEFINED.—For purposes of this section, the term "adoption expenses" means reasonable and necessary expenses incurred which are directly related to the legal adoption of a child by the taxpayer, including, but not limited to, legal fees, medical expenses, adoption fees, temporary foster care expenses, transportation costs, or expenses related to the pregnancy of the natural mother of such child, when said adoption has been arranged by a public welfare department (or similar State or local public social service agency with legal responsibility for child placement) or by a not-for-profit voluntary adoption agency authorized or otherwise licensed by the State or local government to place children for adoption and when said adoption expenses are not incurred in violation of State or Federal law.

"(c) DENIAL OF DOUBLE BENEFIT.—No amount which is taken into account in computing a deduction or credit under any other provision of this chapter shall be allowed as a deduction under this section.".

(b) ADJUSTED GROSS INCOME.—Section 62 of such Code (defining adjusted gross income) is amended by inserting after paragraph (16) the following new paragraph:

"(17) ADOPTION EXPENSES.—The deduction allowed by section 221.".

(c) CONFORMING AMENDMENT.—The table of sections for such part VII is amended by striking out the item relating to section 221 and inserting in lieu thereof the following:

"Sec. 221. Adoption expenses.
"Sec. 222. Cross references.".

SEC. 3. EMPLOYER CONTRIBUTION TO ADOPTION EXPENSE PLAN TREATED AS AN ORDINARY AND NECESSARY BUSINESS EXPENSE.

Section 162 of the Internal Revenue Code of 1954 (relating to trade or business expenses) is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

"(h) CONTRIBUTIONS TO ADOPTION EXPENSE PLAN.—For purposes of subsection (a), any contribution made by an employer to an adoption expense plan (as defined in section 105(i)) for, or on behalf of, an employee shall be treated as an ordinary and necessary expense incurred in carrying on a trade or business.".

SEC. 4. EFFECTIVE DATE.

The amendments made by this Act shall apply to taxable years beginning after December 31, 1980.

S. 1480

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subsection (b) of section 152 of the Internal Revenue Code of 1954 (relating to rules relating to general definition of dependent) is amended by adding at the end thereof the following new paragraph:

"(6) For purposes of subsection (a), in the case of an individual who—

"(A) for at least 270 days during the calendar year in which the taxable year begins had a foster child (whether or not the same child) whose principal place of abode was the individual's home and who was a member of the individual's household, and

"(B) provided over half of the support for any foster child during any period taken into account with respect to such foster child under subparagraph (A),

such individual shall be treated as having (in addition to any other children of such individual) one child by blood who has not attained the age of 19 before the close of such calendar year and with respect to whom such individual has provided over half of such child's support for such calendar year. For purposes of the preceding sentence, no foster child described in paragraph (2) shall be taken into account under this paragraph. For purposes of determining under this title the amount of expenditures on behalf of a dependent of a taxpayer, amounts paid or incurred on behalf of all foster children described in subparagraph (A) shall be treated as made on behalf of one child.".

(b) The amendment made by this section shall apply to taxable years beginning after December 31, 1980.

S. 1481

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

DIVORCED HUSBANDS

SECTION 1. (a)(1) Section 202(c)(1) of the Social Security Act is amended, in the matter preceding subparagraph (A), by inserting "and every divorced husband (as defined in section 216(d))" before "of an individual", and by inserting "or such divorced husband" after "if such husband".

(2) Section 202(c)(1) of such Act is further amended—

(A) by striking out "and" at the end of subparagraph (B), by redesignating subparagraph (C) as subparagraph (D), and by inserting after subparagraph (B) the following new subparagraph:

"(C) in the case of a divorced husband, is not married, and";

(B) by striking out "after August 1950" in the matter following subparagraph (D) (as so redesignated); and

(C) by striking out "the month in which any of the following occurs:" and all that follows and inserting in lieu thereof the following:

"the first month in which any of the following occurs:

"(E) he dies,

"(F) such individual dies,

"(G) in the case of a husband, they are divorced and either (i) he has not attained age 62, or (ii) he has attained age 62 but has not been married to such individual for a period of 10 years immediately before the divorce became effective,

"(H) in the case of a divorced husband, he marries a person other than such individual,

"(I) he becomes entitled to an old-age or disability insurance benefit based on a primary insurance amount which is equal to or exceeds one-half of the primary insurance amount of such individual, or

"(J) such individual is not entitled to disablity insurance benefits and is not entitled to old-age insurance benefits.".

(3) Section 202(c)(3) of such Act is amended by inserting "(or, in the case of a divorced husband, his former wife)" before "for such month".

(4) Section 202(c) of such Act is further amended by adding after paragraph (3) the following new paragraph:

"(4) In the case of any divorced husband who marries—

"(A) an individual entitled to benefits under subsection (b), (e), (g), or (h) of this section, or

"(B) an individual who has attained the age of 18 and is entitled to benefits under subsection (d), such divorced husband's entitlement to benefits under this subsection shall, notwithstanding the provisions of paragraph (1) (but subject to subsection (s)), not be terminated by reason of such marriage.".

(5) Section 202(c)(2)(A) of such Act is amended by inserting "(or divorced husband)" after "payable to such husband".

(6) Section 202(b)(3)(A) of such Act is amended by striking out "(f)" and inserting in lieu thereof "(c), (f),".

(7) Section 202(c)(1)(D) of such Act (as redesignated by paragraph (2) of this subsection) is amended by striking out "his wife" and inserting in lieu thereof "such individual".

(b)(1) Section 202(f)(1) of such Act is amended, in the matter preceding subparagraph (A), by inserting "and every surviving

divorced husband (as defined in section 216 (d))" before "of an individual", and by inserting "or such surviving divorced husband" after "if such widower".

(2) Section 202(f)(1) of such Act is further amended by striking out "his deceased wife" in subparagraph (D) and in the matter following subparagraph (F) and inserting in lieu thereof "such deceased individual".

(3) Paragraphs (2), (3), (6), and (7) of section 202(f) of such Act are each amended by inserting "or surviving divorced husband" after "widower" wherever it appears.

(4)(A) Paragraph (3)(A) of section 202(f) of such Act is further amended by striking out "his deceased wife" and by inserting in lieu thereof "such deceased individual".

(B) Paragraph (3)(B) of section 202(f) of such Act is amended by striking out "deceased wife" each place it appears and inserting in lieu thereof "deceased individual", and by striking out "such wife" and inserting in lieu thereof "such deceased individual".

(5) Section 202(f)(4) of such Act is further amended by striking out "remarries" and inserting in lieu thereof "or a surviving divorced husband, marries", and by inserting "or surviving divorced husband's" after "widower's".

(6) Section 202(e)(3)(A) of such Act is amended by striking out "(f)" and inserting in lieu thereof "(c), (f),".

(7) Section 202(g)(3)(A) of such Act is amended by inserting "(c)," before "(f),".

(8) Section 202(h)(4)(A) of such Act is amended by inserting "(c)," before "(e),".

(c)(1) Section 216(d) of such Act is amended by redesignating paragraph (4) as paragraph (6), and by inserting after paragraph (3) the following new paragraphs:

"(4) The term 'divorced husband' means a man divorced from an individual, but only if he had been married to such individual for a period of 10 years immediately before the date the divorce became effective.

"(5) The term 'surviving divorced husband' means a man divorced from an individual who has died, but only if he had been married to the individual for a period of 10 years immediately before the divorce became effective.".

(2) The heading of section 216(d) of such Act is amended to read as follows:

"DIVORCED SPOUSES; DIVORCE".

(d)(1) Section 205(b) of such Act is amended by inserting "divorced husband," after "husband," and "surviving divorced husband," after "widower,".

(2) Section 205(c)(1)(C) of such Act is amended by inserting "surviving divorced husband," after "wife,".

FATHER'S INSURANCE BENEFITS

SEC. 2. (a) Section 202(g) of the Social Security Act is amended—

(1) by striking out "widow" wherever it appears and inserting in lieu thereof "surviving spouse";

(2) by striking out "widow's" wherever it appears and inserting in lieu thereof "surviving spouse's";

(3) by striking out "wife's insurance benefits" in paragraph (1)(D) and inserting in lieu thereof "a spouse's insurance benefit";

(4) by striking out "he" in paragraph (1)(D) and inserting in lieu thereof "such individual";

(5) by striking out "her" wherever it appears and inserting in lieu thereof "his or her";

(6) by striking out "she" wherever it appears and inserting in lieu thereof "his or she";

(7) by striking out "mother" wherever it appears and inserting in lieu thereof "parent";

(8) by inserting "or father's" after "mother's" wherever it appears;

(9) by striking out "after August 1950"; and

(10) by inserting "this subsection or" before "subsection (a)" in paragraph (3)(A).

(b) The heading of section 202(g) of such Act is amended by inserting "and Father's" after "Mother's".

(c) Section 216(d) of such Act (as amended by section 1(c)(1) of this Act) is further amended by redesignating paragraph (6) as paragraph (8), and by inserting after paragraph (5) the following new paragraphs:

"(6) The term 'surviving divorced father' means a man divorced from an individual who has died, but only if (A) he is the father of her son or daughter, (B) he legally adopted her son or daughter while he was married to her and while such son or daughter was under the age of 18, (C) she legally adopted his son or daughter while he was married to her and while such son or daughter was under the age of 18, or (D) he was married to her at the time both of them legally adopted a child under the age of 18.

"(7) The term 'surviving divorced parent' means a surviving divorced mother as defined in paragraph (3) of this subsection or a surviving divorced father as defined in paragraph (6).".

(d) Section 202(c)(1) of such Act (as amended by section 1(a)(2) of this Act) is further amended by inserting "(subject to subsection (s))" before "be entitled to" in the matter following subparagraph (D) and preceding subparagraph (E).

(e) Section 202(c)(1)(B) of such Act is amended by inserting after "62" the following: "or (in the case of a husband) has in his care (individually or jointly with such individual) at the time of filing such application a child entitled to child's insurance benefits on the basis of the wages and self-employment income of such individual".

(f) Section 202(c)(1) of such Act (as amended by section 1(a)(2) of this Act) is further amended by redesignating the new subparagraphs (I) and (J) as subparagraphs (J) and (K), respectively, and by adding after subparagraph (H) the following new subparagraph:

"(I) in the case of a husband who has not attained age 62, no child of such individual is entitled to a child's insurance benefit,".

(g) Section 202(f)(1)(C) of such Act is amended by inserting "(i)" after "(C)", by adding "or" after "223,", and by inserting at the end thereof the following new clause:

"(ii) was entitled, on the basis of such wages and self-employment income, to father's insurance benefits for the month preceding the month in which he attained age 65,".

(h) Section 202(f)(6) of such Act is amended by striking out "or" at the end of subparagraph (A), by adding "or" after the comma at the end of subparagraph (B), and by adding after subparagraph (B) the following new subparagraph:

"(C) the last month for which he was entitled to father's insurance benefits on the basis of the wages and self-employment income of such individual,".

REMARRIAGE OF SURVIVING SPOUSE BEFORE AGE SIXTY

SEC. 3. Section 202(f)(1)(A) of the Social Security Act is amended by striking out "has not remarried" and inserting in lieu thereof "is not married".

CREDIT FOR CERTAIN MILITARY SERVICE

SEC. 4. Section 217(f) of the Social Security Act is amended by striking out "widow" each place it appears and inserting in lieu thereof "surviving spouse", by striking out "his" the first three times it appears in paragraph (1) and inserting in lieu thereof "such veteran's", and by striking out "her" each place it appears in paragraph (2) and inserting in lieu thereof "his or her".

TRANSITIONAL INSURED STATUS

SEC. 5. (a) Section 227(a) of the Social Security Act is amended—

(1) by striking out "wife" wherever it appears and inserting in lieu thereof "spouse";

(2) by striking out "wife's" wherever it appears and inserting in lieu thereof "spouse's";

(3) by striking out "she" wherever it appears and inserting in lieu thereof "he or she";

(4) by striking out "his" wherever it appears and inserting in lieu thereof "his or her"; and

(5) by inserting "or section 202(c)" after "section 202(b)" wherever it appears.

(b) Section 227(b) and section 227(c) of such Act are amended—

(1) by striking out "widow" wherever it appears and inserting in lieu thereof "surviving spouse";

(2) by striking out "widow's" wherever it appears and inserting in lieu thereof "surviving spouse's";

(3) by striking out "her" wherever it appears and inserting in lieu thereof "the"; and

(4) by inserting "or section 202(f)" after "section 202(e)" wherever it appears.

(c) Section 216 of such Act (as amended by the preceding provisions of this Act) is further amended by inserting before subsection (b) the following new subsection:

"SPOUSE: SURVIVING SPOUSE

"(a)(1) The term 'spouse' means a wife as defined in subsection (b) or a husband as defined in subsection (f).

"(2) The term 'surviving spouse' means a widow as defined in subsection (c) or a widower as defined in subsection (g).".

EQUALIZATION OF BENEFITS UNDER SECTION 228

SEC. 6. (a) Section 228(b)(2) of the Social Security Act is amended—

(1) by striking out "the husband's benefit" and inserting in lieu thereof "each of their benefits"; (2) by striking out "$64.40" and inserting in lieu thereof "$48.30"; and

(3) by striking out everything after "section 215(i)" the first time it appears and inserting in lieu thereof a period.

(b) Section 228(c)(3) of such Act is amended to read as follows:

"(3) In the case of a husband or wife, both of whom are entitled to benefits under this section for any month, the benefit amount of each, after any reduction under paragraph (1), shall be further reduced (but not below zero) by the excess (if any) of (A) the total amount of any periodic benefits under governmental pension systems for which the other is eligible for such month, over (B) the larger of $48.30 or the amount most recently established in lieu thereof under section 215(i).".

(c) The Secretary shall increase the amounts specified in section 228 of the Social Security Act, as amended by this section, to take account of any general benefit increases (as referred to in section 215(i)(3) of such Act), and any increases under section 215(i) of such Act which occur after June 1974.

ILLEGITIMATE CHILDREN

SEC. 7. (a) Section 216(h)(3) of the Social Security Act is amended by inserting "mother or" before "father" wherever it appears, by striking out "his" wherever it appears and inserting in lieu thereof "his or her", and by striking out "he" in subparagraph (E) and inserting in lieu thereof "he or she".

(b) Section 216(h)(3)(A)(i) of such Act is amended by striking out "daughter," at the end of clause (III) and all that follows and inserting in lieu thereof "daughter; or".

(c) Section 216(h)(3)(A)(ii) of such Act is amended by striking out everything after

"time" and inserting in lieu thereof "such applicant's application for benefits was filed;".

(d) Section 216(h)(3)(B)(i) of such Act is amended by striking out "daughter," at the end of clause (III) and all that follows and inserting in lieu thereof "daughter; or".

(e) Section 216(h)(3)(B)(ii) of such Act is amended by striking out "such period of disability began" and inserting in lieu thereof "such applicant's application for benefits was filed".

TREATMENT OF SELF-EMPLOYMENT INCOME OF MARRIED COUPLES

SEC. 8 (a) Section 211(a)(5)(A) of the Social Security Act is amended to read as follows:

"(A) If two individuals are husband and wife and either of them derives any income from a trade or business (other than a trade or business carried on by a partnership), all of the gross income and deductions attributable to such trade or business shall be treated as the gross income and deductions of the spouse who exercises the greater management and control of the trade or business; except that if each spouse exercises equal management and control of the trade or business, or the two spouses elect to be treated for purposes of this subparagraph as exercising equal management and control of the trade or business, such income and deductions shall be evenly divided between them.".

(b) Section 1402(a)(5)(A) of the Internal Revenue Code of 1954 is amended to read as follows:

"(A) two individuals are husband and wife and either of them derives any income from a trade or business (other than a trade or business carried on by a partnership), all of the gross income and deductions attributable to such trade or business shall be treated as the gross income and deductions of the spouse who exercises the greater management and control of the trade or business; except that if each spouse exercises equal management and control of the trade or business, or the two spouses elect to be treated for purposes of this subparagraph as exercising equal management and control of the trade or business, such income and deductions shall be evenly divided between them; and".

(c) The amendments made by this section apply with respect to taxable years beginning after December 1981.

EFFECT OF MARRIAGE ON CHILDHOOD DISABILITY BENEFITS AND ON OTHER DEPENDENTS' OR SURVIVORS' BENEFITS

SEC. 9. (a) Sections 202(b)(3), 202(d)(5), 202(e)(3), 202(g)(3), and 202(h)(4) of the Social Security Act are each amended by striking out "; except that" and all that follows and inserting in lieu thereof a period.

(b) The amendments made by subsection (a) shall apply with respect to benefits under title II of the Social Security Act for months after December 1981, but only in cases where the "last month" referred to in the provision amended is a month after December 1981.

CONFORMING AMENDMENTS

SEC. 10. (a) Section 202(b)(3)(A) of the Social Security Act (as amended by section 1(a)(6) of this Act) is further amended by inserting "(g)," after "(f),".

(b) Section 202(q)(3) of such Act is amended by inserting "or surviving divorced husband" after "widower" in subparagraphs (E), (F), and (G).

(c) Section 202(g)(5) of such Act is amended—

(1) by inserting "husband's or" before "wife's" each place it appears;

(2) by inserting "he or" before "she" each place it appears;

(3) by inserting "his or" before "her" each place it appears;

(4) by striking out "the woman" in subparagraph (B)(ii) and "a woman" in subparagraph (C) and inserting in lieu thereof "the individual" and "an individual", respectively; and

(5) in subparagraph (D), by inserting "or widower's" after "widow's", by inserting "wife or" before "husband" each place it appears, by inserting "wife's or" before "husband's" each place it appears, and by inserting "father's or" before "mother's".

(d)(1) Section 202(q)(6)(A)(i) of such Act is amended by striking out "or husband's" in subdivision (I), and by inserting "or husband's" after "wife's" in subdivision (II).

(2) Section 202(q)(7) of such Act is amended, in subparagraph (B), by inserting "or husband's" after "wife's", by inserting "he or" before "she", and by inserting "his or" before "her", and in subparagraph (D) by inserting "or widower's" after "widow's".

(e)(1) Section 202(s)(1) of such Act is amended by inserting "(c)(1)," after "(b)(1),".

(2) Section 202(s)(2) of such Act is amended by striking out "Subsection (f)(4), and so much of subsections (b)(3), (d)(5), (e)(3), (g)(3), and (h)(4), of this section as precedes the semicolon," and inserting in lieu thereof "Subsections (b)(3), (d)(5), (c)(4), (e)(3), (f)(4), (g)(3), and (h)(4) of this section".

(3) Section 202(s)(3) of such Act is amended by striking out "So much of subsections (b)(3), (d)(5), (e)(3), (g)(3), and (h)(4) of this section as follows the semicolon, the" and inserting in lieu thereof "The".

(f) The third sentence of section 203(b) of such Act is amended by inserting "or father's" after "mother's".

(g)(1) The text of section 203(c) of such Act is amended to read as follows:

"(c) Deductions, in such amounts and at such time or times as the Secretary shall determine, shall be made from any payment or payments under this title to which an individual is entitled, until the total of such deductions equals such individual's benefits or benefit under section 202 for any month—

"(1) in which such individual is under the age of 70 and on seven or more different calendar days of which such individual engaged in noncovered remunerative activity outside the United States;

"(2) in which such individual, if a wife or husband under age 65 entitled to a wife's or husband's insurance benefit, did not have in his or her care (individually or jointly with his or her spouse) a child of such spouse entitled to a child's insurance benefit and such wife's or husband's insurance benefit for such month was not reduced under the provisions of section 202(g);

"(3) in which such individual, if a widow or widower entitled to a mother's or father's insurance benefit, did not have in his or her care a child of his or her deceased spouse entitled to a child's insurance benefit; or

"(4) in which such an individual, if a surviving divorced mother or father entitled to a mother's or father's insurance benefit, did not have in his or her care a child of his deceased former spouse who (A) is his or her son, daughter, or legally adopted child, and (B) is entitled to a child's insurance benefit on the basis of the wages and self-employment income of such deceased former spouse.

For purposes of paragraphs (2), (3), and (4) of this subsection, a child shall not be considered to be entitled to a child's insurance benefit for any month in which paragraph (1) of section 202(s) applies or an event specified in section 222(b) occurs with respect to such child. Subject to paragraph (3) of such section 202(s), no deductions shall be made under this subsection from any child's insurance benefit for the month in which the child entitled to such benefit attained the age of 18 or any subsequent month; nor shall any deduction be made under this subsection from any widow's insurance benefits for any month in which the widow or surviving divorced wife is entitled and has not attained age 65 (but only if she became so entitled prior to attaining age 60), or from any widower's insurance benefit for any month in which the widower or surviving divorced husband is entitled and has not attained age 65 (but only if he became so entitled prior to attaining age 60).".

(2) With respect to taxable years ending on or before December 31, 1981, the number "70" in section 203(c)(1) of the Social Security Act (as amended by paragraph (1) of this subsection) shall be deemed to be "72".

(h) Section 203(d) of such Act is amended by inserting "divorced husband," after "husband," in paragraph (1), and by inserting "or father's" after "mother's" each place it appears in paragraph (2).

(i)(1) Section 205(b) of such Act (as amended by section 1(d)(1) of this Act) is further amended by inserting "surviving divorced father," after "mother,".

(2) Section 205(c)(1)(C) of such Act (as amended by section 1(d)(2) of this Act) is further amended by inserting "surviving divorced father," after "surviving divorced mother,".

(j) Section 216(f) of such Act is amended by inserting "(c)," before "(f)" in clause (3)(A).

(k) Section 216(g) of such Act is amended by inserting "(c)," before "(f)" in clause (6)(A).

(l) Section 222(b)(1) of such Act is amended by striking out "or surviving divorced wife" and inserting in lieu thereof ", surviving divorced wife, or surviving divorced husband".

(m) Section 222(b)(2) of such Act is amended by inserting "or father's" after "mother's" each place it appears.

(n) Section 222(b)(3) of such Act is amended by inserting "divorced husband," after "husband,".

(o) Section 222(d)(1) of such Act is amended by inserting "and surviving divorced husbands" after "for widowers" in the matter following clause (iii).

(p) Section 223(d)(2) of such Act is amended by striking out "or widower" where it appears in subparagraphs (A) and (B) and inserting in lieu thereof "widower, or surviving divorced husband".

(q) Section 225 of such Act is amended by inserting "or surviving divorced husband" after "widower".

(r)(1) Section 226(e)(3) of such Act is amended to read as follows:

"(3) For purposes of determining entitlement to hospital insurance benefits under subsection (b), any disabled widow age 50 or older who is entitled to mother's insurance benefits (and who would have been entitled to widow's insurance benefits by reason of disability if she had filed for such widow's benefits), and any disabled widower age 50 or older who is entitled to father's insurance benefits (and who would have been entitled to widower's insurance benefits by reason of disability if he had filed for such widower's benefits), shall, upon application for such hospital insurance benefits, be deemed to have filed for such widow's or widower's benefits.".

(2) For purposes of determining entitlement to hospital insurance benefits under section 226(e)(3) of the Social Security Act, as amended by paragraph (1) of this subsection, an individual becoming entitled to such hospital insurance benefits as a result of the amendment made by such paragraph shall, upon furnishing proof of such disability within 12 months after the month in which this Act is enacted, under such procedures as the Secretary of Health and Human Services may prescribe, be deemed to have been entitled to the widow's or widower's benefits

referred to in such section 226(e)(3), as so amended, as of the time such individual would have been entitled to such widow's or widower's benefits if he or she had filed a timely application therefor.

EFFECTIVE DATE

SEC. 11. Except as otherwise specifically provided in this Act, the amendments made by this Act shall apply with respect to monthly benefits payable under title II of the Social Security Act for months after December 1981.

SECTION-BY-SECTION ANALYSIS

A. DEPENDENT CARE AMENDMENTS

Section 2—Increase in credit percentage

The Internal Revenue Code currently permits a working individual to take a tax credit for day care costs equal to 20 percent of the expense, up to 20 percent of $2,000 (or $4,000 if the family has expenses for two or more dependents). Thus, the maximum credit, for all incomes, is $400 for one dependent, $800 for two or more.

This bill replaces the current credit of 20 percent of allowable expenses with a sliding credit based on family income. Families with incomes of $10,000 or less receive a 50 percent credit, with the credit reduced by 1 percent for each $1,000 increase in income—until the credit equals 20 percent. As income exceeds $40,000, the credit remains equal to the existing 20 percent level. This scale targets greater tax relief to those most in need of financial assistance in pursuit of employment.

Section 3—Refundable credit

Currently, the day care tax relief is applied as a credit against taxes owed. This bill would make the benefit refundable in cash to those families whose tax liability is less than the value of the credit. Allowing the credit to be refundable will assist mainly two dependent families with incomes below $20,000 and single dependent families with incomes below $14,000.

Section 4—Increase in allowable expenses

The bill increases the dependent care expenses upon which a taxpayer may apply the credit from $2,000 to $2,400 for families with one dependent receiving care, and from $4,000 to $4,800 for families with two or more dependents receiving care. Because inflation has increased the average expense for child care from that prevailing in 1976, when Congress established the current limits, this bill reflects the existing weekly average care facility fee of $50.

Section 5—Service outside taxpayer's household

Existing law enables taxpayers to take advantage of the tax credit for dependents 15 years of age or older if they are physically or mentally incapable of caring for themselves. Currently, families may utilize out-of-home care only for dependents under age 15. Therefore, under existing law, a handicapped dependent over age 15 must receive care in the home. The bill responds to the interest in encouraging families to care for elderly and handicapped dependents without institutionalization by permitting qualified dependents 15 years of age or older to receive care outside the home. For care provided in a child care center, the center must comply with all state and local laws and regulations in order for a taxpayer to utilize the credit.

Section 6—Coverage for parent with low income

The dependent care expenses which a taxpayer may consider for credit computation cannot exceed the income of the spouse who earns the least. Thus, under current law, a parent who engages in substantial full-time employment or farming, but because of the nature of his or her job earns little or no income, cannot take full advantage of the dependent care credit. This bill treats parents engaged in substantially full-time employment, but who receive little or no income, as if they had earned income for the purpose of computing the dependent care credit.

Section 7—Tax exempt status

The bill eliminates the requirement that a non-profit day care facility provide some educational purpose to qualify for tax exempt status. This change will permit non-profit facilities to more readily solicit charitable contributions.

Section 8—Exclusion from income

The bill excludes the value of dependent care provided by employers from the gross income of the employee. Although the IRS does not currently litigate this issue because of a temporary congressional ban on IRS activity to expand the concept of in-kind compensation, under general tax theory employees should include in their gross income the value of dependent care services provided by employers.

Section 9—Employer credit

To encourage the expansion of on-premise facilities and the provision of quality care services, this bill provides a credit for all non-capital expenses incurred by an employer in providing care to the dependents of its employees. The employer could not generate a profit from these activities in order to receive a credit. This credit treats the non-profit on-premise facility similar to community non-profit operations, without requiring employers to create a separate entity to operate their facilities. This credit also enables small businesses to contract with community facilities for the care of their employees' dependents.

Section 10—Rapid amortization for child-care facilities

To encourage the expansion of on-premise facilities, the bill provides incentives for employers to make capital investments in dependent care. The bill reduces the current special 5-year depreciation period for these capital costs to a 3-year period. The existing 5-year provision expires at the end of this year. By electing to apply the existing depreciation provision, an employer loses the opportunity to take first year depreciation and an investment tax credit which the code provides for other capital expenditures. The bill eliminates this discrimination against child care facilities depreciated in this rapid manner. The bill also reduces the requirement that 80 percent of the children cared for by a facility depreciated in the rapid manner must be children of employees; the bill requires that only a majority of the children be those of the employees. Any fees charged by an on-premise facility cannot exceed reasonable operating expenses to qualify for accelerated depreciation.

B. ADOPTION EXPENSE AMENDMENTS

Section 1—Exclusion from income of employees

Under Current Law, the value of adoption benefits provided by employers must be included in computing the income of an employee. This bill permits an employee to exclude from his or her income the value of any adoption benefit. This exclusion from income parallels the treatment of employer-provided medical insurance which covers the cost of pregnancy related expenses.

Section 2—Deductions for adoption expenses

Under current law, expenses related to an adoption such as legal bills, adoption fees, and medical expenses of the natural mother are not deductible. This bill enables a taxpayer to deduct the reasonable and necessary expenses which are directly related to the adoption of a child. This provision will encourage the adoption of foster children and reduce the economic barriers to adoption for prospective parents. The adoption must be arranged by a public agency or a state authorized or licensed not-for-profit voluntary adoption agency. The stipulation on the placement agency is intended to protect the welfare of the child by assuring that placements are not made by totally unqualified organizations.

Section 3—Employer contributions deductible

This bill treats expenses incurred by an employer in providing adoption benefits to its employees as ordinary and necessary business expenses, and thus deductible as a trade or business expense. Under current law, an employer can take a deduction only by including the value of the benefit in the wages of the employee. This section treats adoption benefits as a true fringe benefit rather than as a form of wages for tax purposes.

C. FOSTER CARE AMENDMENTS

Under current law, a taxpayer may take a dependent deduction only if he or she provides over half the support to a child during the taxable year. However, taxpayers who provide support as foster parents to many children throughout the year, each for a short period of time, usually cannot qualify for a dependent deduction because they do not provide over half for a single child during the year.

This bill amends the definition of "dependent" by permitting a taxpayer to be treated as having one dependent if the taxpayer has a foster child in the home for at least 270 days during the taxable year, regardless as to whether or not it is the same child, and provides over half the support for each child used in computing the period. This bill would thus enable taxpayers acting as foster parents for a substantial period during the year to qualify for a dependent exemption and to take advantage of deductions for medical expenses incurred for the care of foster children. This change in the definition of dependent injects greater equity into the tax code by treating all taxpayers similarly, regardless of whether the support they provide is for their own or foster children.

D. SOCIAL SECURITY AMENDMENTS

Section 1—Divorced husband benefits

Section 1 would equalize the treatment of divorced spouses. Under current law, a divorced woman qualifies for benefits on a former husband's wage record when she reaches age 62, at 60 if her former husband is deceased, or at age 50 if she is a disabled widow. A divorced man, however, qualifies for benefits on a former wife's wage record when he reaches age 62 and his former wife is still living. This provision would make the eligibility criteria for men the same as those now existing for women.

A report issued by HHS estimates that this change would affect about 500 men and cost about $1 million in additional benefits in each of the first five years. The long-range program and administrative costs would be negligible.

Section 2—Father's insurance benefits

This provision, which equalizes the treatment of spouses caring for young children, has the broadest impact of any of the provisions. Currently, a mother caring for young children receives benefits for herself and children if her husband (or former husband) is deceased or receiving disability or retirement benefits. A father receives benefits only if his wife (or former wife) is deceased. Section 2 extends benefits to fathers caring for young children if his wife (or former wife) is disabled or retired.

HHS estimates that 2,000 men would become newly eligible for benefits based on earnings of their retired, deceased, or disabled wives. These additional benefits would average between $3 and $4 million a year for the first five years.

Section 3—Remarriage of surviving spouse before age sixty

A widow under existing law qualifies for benefits based on a deceased first husband's earnings if she has remarried before age 60 and is divorced or widowed from her second husband when she applies for benefits. A widower, however, cannot receive such benefits based on a first wife's earnings if he has remarried before age 60, even though the later marriage has terminated. This section enables widowers to qualify for survivor benefits on the same basis as widows.

This provision affects very few widowers since most are insured on the basis of their own earnings.

Section 4—Credit for certain military service

Currently a widow can waive a payment of a civil service survivor's annuity based on whole or in part on credit for military service performed prior to 1957. A widow can apply these credits to qualify for, or raise, her social security widow's benefit. A widower, however, cannot waive payment of such an annuity in order to credit his earnings record. This provision puts no financial demand on the social security trust funds as military service credits are provided out of general revenues.

Section 5—Transitional insured status

Some individuals had no opportunity to qualify for social security retirement benefits because of their age when the program began (eg. those born in 1898 or before). In order to assure some retirement income to those people, Congress enacted a special monthly payment provision for persons in this age category. Currently, wives and widows of men qualifying under this provision receive a benefit based on the husband's record; no benefits are provided to husbands and widowers of women eligible for the benefit. This section eliminates this distinction, enabling men to qualify for the benefit.

Today, very few persons qualify for this benefit and only a few additional persons would receive funds under this change. In time, this provision is made ineffective as persons born prior to 1891 become deceased.

Section 6—Equalization of special age 72 benefits

Under current law, individuals attaining 72 before 1968 qualify for a special transitional benefit. An entitled individual receives a monthly benefit of $117. However, when a husband and wife each qualify on their own merits, the husband receives $117 while the wife receives $58.50 (one-half the benefit she would receive if she were single). This section equalizes benefits by providing for full payment of $117 to each qualified individual regardless of marriage status or sex.

Equalizing benefits costs approximately one-half million dollars, with the cost declining to zero as qualifying individuals become deceased. In addition, this change does not place an additional burden on trust fund moneys since general revenues provide 98 percent of its funding.

Section 7—Illegitimate children

Current law applies the interstate inheritance statute of the applicant's residence in determining whether the applicant qualifies as a child of the insured. In those states in which an illegitimate child cannot inherit from the estate of his parent, the law establishes the relationship of parent and child. There are two means of establishing paternity which cannot be used to establish maternity. This provision eliminates the differing standards of evidence, permitting methods used to establish paternity to also establish maternity.

Section 8—Self employment income

In some states, the entire amount of self-employment income of a couple is considered, for social security purposes, to be the husband's income. In other states, all of the income is credited to whichever spouse is more active in the business.

This section of this bill offers couples engaged in self-employment two options. First, they may split their income equally among themselves. Second, the spouse who exercises the greatest management and control can have the full amount credit to his or her account. This section provides equal credit for equal work and enables women to become covered for disability and retirement on the same basis as men.

Section 9—Childhood disability benefits

Existing law discourages people who were disabled as children from marrying and returning to work. Because their disabilities occurred before they reached working age, these early disabled individuals receive benefits based on a parent's wage record.

Currently, if two such disabled persons marry and the husband's health improves, the disabled wife loses her benefits. However, if the wife's health improves, the husband's benefits continue. This section in the proposed bill eliminates the bias against the importance of wives' earnings.

Mrs. HAWKINS. Mr. President, I rise to join the distinguished Senator from Ohio (Mr. METZENBAUM) in introducing legislation entitled the Dependent Care Amendments Act of 1981. We propose to amend the Internal Revenue Code to assist workingwomen in obtaining reliable quality child care.

By 1978, more than half of 16.1 million mothers with children under the age of 18 were in the labor force. Of these working mothers, 5.8 million had children under the age of 6. By 1990, two-thirds of all mothers with children under age 6 will be in the work force, and three-fourths of all two-parent families will have both parents in the work force.

This tremendous increase in the numbers of workingwomen has obviously led to the expansion of Government spending and support for child care services, with aid being focused on lower income Americans. In 1978, the Federal Government spent over $2.5 billion on child care. About 90 percent, or $1.8 billion, was in the form of direct Federal support through six Federal programs: First, title XX; second, Head Start; third, child care food program; fourth, title I; fifth, AFDC work expense allowance; and sixth, work incentive program. All of these Federal programs target their child care services to low-income Americans. Only the remaining 10 percent in indirect Federal subsidies, through the dependent care tax credit and the amortization of child care facilities, assist middle class working mothers.

While this Federal outlay is large, it is only 25 percent of the estimated U.S. expenditures for child care. The brunt of the financial burden of child care continues to be borne by the families of working mothers. Many of these mothers are working not for their own career advancement, but out of economic necessity. Increasingly, these women are middle class citizens trying to make ends meet.

Yet in the existing economic climate, women in the middle class, suffering under an ever-increasing burden of inflation, are discouraged from entering the workforce and increasing our Nation's productivity, because of the cost of child care. The legislation we are offering today would ease this financial burden by increasing the dependent care credit by providing for rapid amortization of child care facilities over 3 years instead of 5. Our bill seeks to aid working mothers with minor children who are forced to work outside the home. Since the Federal Government funding for child care primarily serves low-income families, there is a growing need to assist middle class mothers who are entering the workforce out of economic necessity.

With two important differences, this legislation is identical to H.R. 1894, introduced in the House of Representatives by Representative BARBER CONABLE, the ranking Republican on the House Ways and Means Committee. Our bill would add a provision excluding the value of qualified household and dependent care services from the definition of income for tax purposes. Under current law, employer contributions to child care services for employees are treated by the IRS in different ways depending on the circumstances of the contribution.

In some cases, the IRS may consider child care services as income to employees, rather than as a general benefit to attract employees and therefore not income. This provision will end the confusion over the taxability of child care services and benefit the women who are working out of economic necessity and cannot afford to be taxed for these services.

The second change from the Conable bill is a provision that amends section 188(a) of the Internal Revenue Code to allow rapid amortization of child care facilities over a 3-year period instead of the current 5-year period. This amendment seeks to encourage industries to establish onsite child care facilities for their employees. Industries that have established child care services for their employees have found that the child care centers resulted in lower job turnover, lower absenteeism and tardiness, improved employee morale and improved recruitment of new employees.

Despite these benefits, there are currently only 15 child care centers sponsored by industries in the United States. The current 60-month amortization of child care facility expenses has not proven to be as advantageous to some employers as the usual tax incentives, so we are shortening the time period for amortization in an attempt to encourage the establishment of child care centers by industry.

There are those who will argue that this proposal runs counter to the urgent need for Government austerity manifested in the Reagan budget proposals. That argument misunderstands the nature of the economy and the tax system. It is part of the argument that holds that all income is by rights the property of the Government, except for that portion that the Government deigns to permit the worker to keep. In other words, this legislation creates a tax expenditure.

This argument further holds that we can balance the budget by increasing taxes, something we have been trying to do for years, with remarkably little success. I would argue exactly the opposite: It is only by reducing tax burdens that

we will generate the economic activity which will permit us to balance the budget.

In this case, Mr. President, we would, in effect, extend the investment tax credit to individual workers. For the woman with small children in the home, an investment is required before she can become economically productive. The investment must take the form of some kind of payment for child care facilities. This legislation would improve the applicability of that investment tax credit to individuals, and to the industries, and to the industries which will be building the facilities for their workers.

Mr. President, this legislation is needed, desirable, productivity enhancing, and a matter of equity. I urge Senators interested in these concepts to work with me in enacting this and similar legislation targeted to the problems of working mothers.

Mr. METZENBAUM. Mr. President, I commend the distinguished Senator from Florida for a very able and incisive statement on this subject. I know that she has had a good deal of experience and background along this line in private life, and we are pleased to have her support, assistance, and cooperation in connection with the proposed legislation.

● Mr. TSONGAS. Mr. President, today I am pleased to join Senator METZENBAUM in introducing three bills that support American families. They will improve our networks of day care, foster care, and adoption without any increase in Federal spending.

This legislation deals with realities faced by American families:

Single-parent households are increasing. Families with two wage earners are increasing. Yet day care facilities are far too limited. The cost of quality day care is skyrocketing.

All children deserve families that care for them. Yet some children remain in institutions because potential parents cannot afford to care for them.

We must devise cost-effective policies that face these realities.

DAY CARE

More and more women are joining the work force, motivated by a mix of economic survival and personal fulfillment. More than 6 million children of preschool age have mothers who work, yet only 2 percent of the kids are in day care centers. For some women, day care can mean the difference between self-support and welfare.

The Dependent Care Amendments Act of 1981 increases the current child care tax credit based on ability to pay. This is vital to low-income families who are losing benefits as the Federal budget is cut. In addition, the bill raises incentives for industry to provide day care. It also fills in gaps in the tax credit structure for older handicapped children and adults who are cared for outside of the home.

I believe that Federal incentives for day care are cost-effective because they increase employment and tax revenues. The help out families and help our economy as well.

FOSTER CARE AND ADOPTION

The foster care amendment also would strengthen the American family. It improves the chances for a child to find a solid, supportive family rather than enduring a childhood of revolving door. It emphasizes the temporary nature of foster care while recognizing this troubling time in a child's life.

The fact is that the financial burdens of foster care are far greater than foster care stipends. Most foster families spend a great deal more than is allotted. Families that would give foster children the love and support they need may be unable to offer it, or to stay with it over time.

This bill attacks the shortage of quality foster homes by letting families claim as dependents any foster children in their home for at least 260 days. It is a sensible, overdue initiative to help children grow up in a stable, family unit.

The adoption amendment provides some tax relief for adoption expenses. The cost of adoptions continue to rise. In an era when the Congress has cut spending in many family assistance programs we must provide a different kind of assistance to families who would like to open their homes to children through adoption. The bill not only addresses the expenses incurred by the adoptive family, it makes adoption expenses paid by an employer tax exempt.

Mr. President, strong family units are vital to America's future. I know my colleagues are united in this belief, and I urge bipartisan support for these cost-effective efforts to make American families stronger.●

By Mr. HOLLINGS (for himself and Mr. WEICKER):

S. 1482. A bill to amend certain provisions of the act of May 27, 1970, to provide a procedure for determining whether a plan for the Federal Government to participate in an international exposition should include construction of a Federal pavilion, whether such Federal pavilion should be a permanent structure, and for other purposes; to the Committee on Foreign Relations.

CONSTRUCTION OF PAVILIONS FOR INTERNATIONAL EXPOSITIONS

● Mr. HOLLINGS. Mr. President, last year, as chairman of the Subcommittee on State, Justice, Commerce Appropriations, I asked the General Accounting Office to look into the financial management of the Knoxville International Energy Exposition, or "Expo '82" which is now known as the 1982 World's Fair. I was prompted to request this investigation because of allegations concerning the way contracts were being awarded that involved Federal funds.

On March 20, 1981, the GAO submitted their report which indicated that sufficient controls have been established to prevent exorbitant profits from being realized by the developers and contractors in connection with the World's Fair. However, the GAO also made a series of recommendations to the Congress that will avoid unnecessary expenditures and maximize residual use of U.S. pavilions constructed as part of such expositions in the future. I rise today to introduce legislation to carryout those recommendations and urge that it be promptly enacted. I am pleased that Senator WEICKER, who now chairs the State-Justice Subcommittee, is joining me in submitting these critically needed reforms.

As the Senators will recall, I opposed the Federal participation in "Expo '82." While the recent resuscitation efforts by the new administration will apparently insure a viable program in Knoxville next year, the events over the last 2 years are a case study of what is wrong with the current law governing U.S. participation in international expositions.

When we first got into this project it was evident that a key purpose of the fair was to redevelop a railroad yard adjacent to Knoxville's downtown business district as a site for new office buildings, hotels, and civic buildings. The involvement of one prominent Tennessee banker was particularly evident to the point that Federal participation would not have been authorized except for his associations with the Carter administration. Senator WEICKER and I were both concerned that this fair had no real purpose, inasmuch as it was called an international energy exposition, an area that America has precious little to exhibit.

Even if there was a better theme, it is disturbing that these international expositions were becoming scantily disguised efforts to develop rundown areas with massive infusions of Federal funds under the name of a world's fair. In this particular case, GAO has established that the total Federal investment is now more than $44 million of which $21 million is associated with the Federal pavilion, and the remaining $23 million composed of an assortment of grants from the Departments of Housing and Urban Development, Commerce, Energy, Interior, as well as the Appalachian Regional Commission for various improvements and construction of buildings at the fair site.

The total funding of the fair is $177 million, and the remaining $133 million consists of less than $15 million in developers' equity and survey funds. The bulk of the non-Federal funds is city and industrial bonds, as well as $45 million in loans by national and Knoxville banks.

Mr. President, not only was "Expo '82" premised on the wrong theme and shakey financing, but no clear afteruse of the $12,300,000 Federal pavilion has been established. As the GAO report clearly shows, there was little cooperation between the Department of Commerce and the General Services Administration in the development of this project. GSA had determined that the Federal Government had a definite need for 100,000 square feet of office space in Knoxville, but due to lack of cooperation from Commerce—which apparently was hellbent on giving the building to the University of Tennessee—gave up in trying to get the pavilion designed for Federal afteruse.

GSA decided to convert the post office and courthouse building in Knoxville, and in addition adapt several historic buildings in downtown Knoxville to

satisfy its space requirements. Within the last few weeks we have learned that the University of Tennessee does not plan to take the building which the Department of Energy has said is not even energy efficient in itself.

Since 1962 there have been five World's Fairs, of which three have been held in the United States, excluding the Hemis Fair at San Antonio in 1968 which apparently was not designated as a World's Fair even though our involvement amounted to $6,800,000.

As the Senators will recall, the Federal Government wound up paying $530,000 to demolish the $10,400,000 Federal building constructed for the 1964 New York World's Fair when no one would take it off of the Government's hands. Hopefully, we will not have to repeat that tragic event in Knoxville, but it is imperative that before we become involved in another World's Fair, we must strengthen the laws governing our participation to insure that a permanent facility is absolutely required and that the residual use of the facility is clearly documented.

Mr. President, we are going to be into another World's Fair quicker than you might expect, for on April 17, 1981, President Reagan authorized the U.S. participation in the 1984 Louisiana World Exposition in New Orleans. The Federal participation in this World's Fair is to be limited to $10,000,000. However, the current estimates for the Federal pavilion range from $20,000,000 to $40,000,000. We certainly should be skeptical of holding the U.S. participation to $10,000,000.

Before we become involved in another World's Fair just 2 years after Knoxville, I believe that the Congress should review and develop a more comprehensive policy than now governs our participation in such events. I am informed that under current rules and regulations the United States can host a World's Fair every 2 years if it so desires. There are those who believe that frequently holding such events in the United States can be an important part of the Government's trade promotion activities. Congress may eventually share that judgment, but at the moment Congress has not been involved in any such decision.

The Secretary of Commerce will soon be transmitting the legislation authorizing U.S. participation at the 1984 Louisiana World Exposition, and I call on the Committee on Foreign Relations to use that opportunity to carefully develop a rational policy for Federal participation in such events. In that regard I call to the attention of the Senate on an article entitled "Are Fairs Obsolete?" that appeared in the New York Times of June 3, 1981. I shall ask unanimous consent that the article be printed in the RECORD at the conclusion of my remarks.

Mr. President, at the minimum I believe that the Congress should amend Public Law 91-269 which presently governs U.S. participation in international expositions along the lines recommended in the GAO report of March 20, 1981. Accordingly, we are submitting amendments similar to those proposed in that report providing for full documentation by the Secretary of Commerce, as well as the Administrator of the General Services Administration, that a permanent structure is required for the U.S. Pavilion. Furthermore, these amendments would insure that the residual needs of the Government are met in the design of the Pavilion, and that the appropriation for the construction of the building includes funds necessary to convert the Pavilion to the identified Federal need.

Mr. President, I wish to acknowledge the assistance of Jimmy Behling who interned in my office last month and was of great assistance in the preparation of this statement. I ask unanimous consent that the bill and the article es referred to earlier be printed in the RECORD.

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

S. 1482

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 3 of the Act of May 27, 1970 (84 Stat. 272; 22 U.S.C. 2803) is amended by—

(1) striking out "The" and inserting in lieu thereof "(a) The";

(2) redesignating clauses (a), (b), and (c) as clauses (1), (2) and (3) respectively;

(3) striking out all after the period where it first appears in clause (3) as redesignated in clause (2) of this Act and inserting in lieu thereof the following: "The Secretary of Commerce shall include in such plan any documentation described in subsection (b)(1)(A) of this section, a rendering of any design described in subsection (b)(1)(B) of this section, and any recommendation based on the determination under subsection (b)(1)(C) of this section."; and

(4) by adding at the end thereof the following new subsections:

"(b)(1) In developing a plan under subsection (a)(3) of this section the Secretary of Commerce shall consider whether the plan should include the construction of a Federal pavilion. If the Secretary of Commerce determines that a Federal pavilion should be constructed, he shall request the Administrator of General Services (hereafter in this section referred to as the 'Administrator') to determine, in consultation with such Secretary, whether the Federal Government needs a permanent structure in the area of the exposition. If the Administrator determines that any such need exists—

"(A) the Administrator shall fully document such determination, including the identification of the need, and shall transmit such documentation to the Secretary of Commerce;

"(B) the Secretary of Commerce, in consultation with the Administrator, shall design a pavilion which satisfies the needs of the Federal Government for—

"(i) participation in the exposition; and

"(ii) permanent use of such pavilion after the termination of participation in the exposition; and

"(C) the Secretary of Commerce shall determine whether the Federal Government should be deeded a satisfactory site for the Federal pavilion in fee simple, free of all liens and encumbrances, as a condition of participation in the exposition.

"(2) Notwithstanding paragraph (1)(B) of this subsection, if the Secretary of Commerce, in consultation with the Administrator, determines that no design of a Federal pavilion will satisfy both needs described in paragraph (1)(B) of this subsection, the Secretary shall design a temporary Federal pavilion.

"(c) Upon authorization of the Congress approving the participation and the proposal submitted under subsection (a) of this section, there shall be authorized to be appropriated such sums as may be necessary—

"(1) to construct a Federal pavilion in accordance with the plan prepared pursuant to subsection (a)(3) of this section;

"(2) if the Federal pavilion is not temporary, to modify such Federal pavilion after termination of participation in the exposition if modification is necessary to adapt such pavilion for use by the Federal Government to satisfy a need described in subsection (b)(1)(B)(ii) of this section; and

"(3) if the Federal pavilion is temporary, to dismantle, demolish, or otherwise dispose of such Federal pavilion after termination of Federal particiaption in the exposition.

"(d) For the purposes of this section—

"(1) a Federal pavilion shall be considered to satisfy both needs described in subsection (b)(1)(B) of this section if the Federal pavilion which satisfies the needs described in paragraph (1)(B)(i) of such subsection can be modified after completion of the exposition to satisfy the needs described in paragraph (1)(B)(ii) of such subsection; and

"(2) a Federal pavilion is temporary if the Federal pavilion is designed to satisfy the minimum needs of the Federal Government described in subsection (b)(1)(B)(i) of this section and is intended for disposal by the Federal Government after the termination of participation in the exposition.".

ARE FAIRS OBSOLETE?

(By Howard P. Segal)

ANN ARBOR, MICH.—Is it time to end world's fairs?

Scholars of fairs, gathered at a symposium last fall at the Queens Museum, in Flushing Meadows, N.Y., commemorating the 1939-40 New York World's Fair, agreed that "The World of Tomorrow"—the theme of that fair—was the boldest in a succession of world's fairs dating back to London's Crystal Palace Exhibition of 1851.

Although other international expositions from 1851 onward displayed no-less-impressive exhibits than New York's did, the 1939-40 fair alone announced the prospect of creating a veritable utopia in the very near future—by 1960, to be exact. The most famous exhibit, the General Motors Futurama, designed by Norman Bel Geddes, showed "The World of Tomorrow" as almost within his and other planners' grasp. For them, as for scores of other utopian prophets beginning with Francis Bacon in the 17th century and continuing through, among others, Buckminster Fuller today, technology held the key to transforming utopia from the "impossible" to the "possible" and even the "probable."

Forty years later, those at the symposium reflected on the considerable gap between what had been predicted in 1939-40 and what had been achieved. As with so many other technological utopias—and not only fairs but model communities and visionary writings, too—the problem has been twofold: the inability to predict the "real" future technologically and non-technologically, and the inability to translate actual technological advances into equivalent social advances. Thus, Norman Bel Geddes, Henry Dreyfuss, Raymond Loewy, and Walter Dorwin Teague—the four major industrial designers of the New York fair—were excessively optimistic both in their shared chronology for the future and in their shared assumption that technology would solve nearly all future problems. By 1960, American society resembled Futurama and its peer exhibits only in bare outline—in its sleek skyscrapers and superhighways. Much remained to be filled in and obviously still does.

Of the numerous symposium participants, only one appeared confident that the future really could still be so fashioned and thus improved: the Knoxville Fair representative, who gave a lively talk on "From Out of History Comes Energy Expo '82—the Knoxville

World's Fair." Moreover, he exuberantly named all definite or possible sites for world's fairs between 1981 and 2001.

Among planners of coming fairs there seems little concern for the future of fairs as social and cultural artifacts. Apart from the always sensitive question of finances, isn't there a no-less-weighty question of the utility of world's fairs as conveyors both of ideals and of technical information? Just as postage stamp, peace ships, and peace congresses no longer are viewed as efficient means of achieving international harmony, perhaps world's fairs ought not to be so viewed. Simply bringing together masses of people into one geographical space is hardly a serious route to that admirable goal. Other means to world peace more suitable to the late 20th century should be sought.

Technology comes readily to mind, whether a military deterrent or in more positive forms. Yet it is the advance of technology since 1939–40 that has probably rendered fairs obsolete. The revolution in electronics and information processing, barely envisioned in 1939–40, has made possible instantaneous visual communication throughout most of the globe and has drastically reduced the amount of time elapsing between generations of computers and other machines. Hence, the other principal purpose of international expositions—bringing technological advances to the attention of the largest number of people in the most effective way—has likewise been severely undermined.

This is not to say that the mundane international trade fairs, as distinct from world's fairs, that predated even the Crystal Palace Exhibition, and that persist today, are necessarily obsolete. Nor are the amusement parks that accompanied world's fairs. But they have no serious social and cultural pretensions. Rather, it is to say that the international extravaganzas exemplified by the 1939–40 fair may, like its streamlined style, no longer be appropriate to contemporary society.

Those who, like the Knoxville Fair representative, claim that history is fundamentally continuous, and that forms of social, cultural, and technological expression should therefore be continuous as well, ought to reconsider these assumption. World's fairs have not always been with us, and need not be, particularly if they no longer serve their intended purposes. The same technological progress that inspired so many fair deisgners and patrons may have ultimately rendered the object of their affections irrelevant to the future.●

ADDITIONAL COSPONSORS

S. 170

At the request of Mr. PACKWOOD, the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. 170, a bill to amend the Internal Revenue Code of 1954 to allow the charitable deduction to taxpayers whether or not they itemize their personal deductions.

S. 561

At the request of Mr. CRANSTON, the Senator from Arizona (Mr. DECONCINI) was added as a cosponsor of S. 561, a bill to extend the authorization of the appropriations for programs under the Child Abuse Prevention and Treatment Act and the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978, and for other purposes.

S. 569

At the request of Mr. JEPSEN, the Senator from Maine (Mr. COHEN) was added as a cosponsor of S. 569, a bill to amend the Internal Revenue Code of 1954 to provide an investment tax credit for certain soil and water conservation expenditures.

S. 584

At the request of Mr. HATCH, the Senator from North Carolina (Mr. HELMS), the Senator from New Mexico (Mr. SCHMITT), and the Senator from New Mexico (Mr. DOMENICI) were added as cosponsors of S. 584, a bill to amend section 1979 of the Revised Statutes (42 U.S.C. 1983), relating to civil actions for the deprivation of rights, to limit the applicability of that statute to laws relating to equal rights.

S. 585

At the request of Mr. HATCH, the Senator from New Mexico (Mr. SCHMITT), the Senator from North Carolina (Mr. HELMS), and the Senator from New Mexico (Mr. DOMENICI) were added as cosponsors of S. 585, a bill to provide a special defense to the liability of political subdivisions of States under section 1979 of the Revised Statutes (42 U.S.C. 1983) relating to civil actions for the deprivation of rights.

S. 756

At the request of Mr. HOLLINGS, the Senator from Nevada (Mr. CANNON) was added as a cosponsor of S. 756, a bill to amend Military Selective Service Act to provide for the reinstitution of the registration and classification of persons under such act and to reinstate the authority of the President to induct persons involuntarily into the Armed Forces, and for other purposes.

S. 791

At the request of Mr. MITCHELL, the Senator from Maine (Mr. COHEN) was added as a cosponsor of S. 791, a bill to amend the Internal Revenue Code of 1954 to exclude certain service performed on fishing boats from coverage for purposes of unemployment compensation.

S. 881

At the request of Mr. RUDMAN, the Senator from Texas (Mr. BENTSEN), the Senator from Ohio (Mr. GLENN), the Senator from Massachusetts (Mr. TSONGAS), the Senator from Utah (Mr. GARN), the Senator from Kansas (Mr. DOLE), the Senator from Michigan (Mr. RIEGLE), the Senator from New Jersey (Mr. BRADLEY), the Senator from Texas (Mr. TOWER), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Oregon Mr. HATFIELD), the Senator from Virginia (Mr. WARNER), the Senator from Pennsylvania (Mr. HEINZ), the Senator from Rhode Island (Mr. CHAFEE), the Senator from New York (Mr. MOYNIHAN), the Senator from New York (Mr. D'AMATO), the Senator from Missouri (Mr. DANFORTH), the Senator from Illinois (Mr. PERCY), the Senator from Arizona (Mr. GOLDWATER), the Senator from Nebraska (Mr. ZORINSKY), the Senator from Rhode Island (Mr. PELL), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Alaska (Mr. MURKOWSKI), the Senator from New Hampshire (Mr. HUMPHREY), the Senator from Oklahoma (Mr. BOREN), the Senator from Vermont (Mr. LEAHY), the Senator from Florida (Mrs. HAWKINS), the Senator from Maryland (Mr. SARBANES), the Senator from Connecticut (Mr. DODD), the Senator from North Dakota (Mr. BURDICK), the Senator from Arkansas (Mr. PRYOR), the Senator from Wyoming (Mr. SIMPSON), the Senator from South Dakota (Mr. ABDNOR), the Senator from Ohio (Mr. METZENBAUM), the Senator from Pennsylvania (Mr. SPECTER), the Senator from Wisconsin (Mr. KASTEN), the Senator from Kentucky (Mr. FORD), the Senator from Vermont (Mr. STAFFORD), the Senator from Illinois (Mr. DIXON), the Senator from Florida (Mr. CHILES), the Senator from Minnesota (Mr. DURENBERGER), the Senator from New Jersey (Mr. WILLIAMS), the Senator from Delaware (Mr. ROTH), the Senator from Arizona (Mr. DECONCINI), the Senator from Hawaii (Mr. INOUYE), the Senator from Indiana (Mr. LUGAR), the Senator from Montana (Mr. MELCHER), the Senator from Nevada (Mr. CANNON), the Senator from New Mexico (Mr. DOMENICI), the Senator from Maine (Mr. COHEN), the Senator from Hawaii (Mr. MATSUNAGA), the Senator from Tennessee (Mr. SASSER), the Senator from California (Mr. CRANSTON), the Senator from Iowa (Mr. GRASSLEY), the Senator from Maryland (Mr. MATHIAS), the Senator from Iowa (Mr. JEPSEN), the Senator from Nebraska (Mr. EXON), the Senator from South Dakota (Mr. PRESSLER), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Alabama (Mr. HEFLIN), the Senator from Maine (Mr. MITCHELL), the Senator from Arkansas (Mr. BUMPERS), the Senator from Mississippi (Mr. COCHRAN), the Senator from North Dakota (Mr. ANDREWS), the Senator from West Virginia (Mr. RANDOLPH), the Senator from West Virginia (Mr. ROBERT C. BYRD), the Senator from North Carolina (Mr. EAST), the Senator from Mississippi (Mr. STENNIS), the Senator from Alabama (Mr. DENTON), the Senator from Kansas (Mrs. KASSEBAUM), the Senator from Michigan (Mr. LEVIN), the Senator from North Carolina (Mr. HELMS), the Senator from Wyoming (Mr. WALLOP), the Senator from Washington (Mr. GORTON), and the Senator from Colorado (Mr. HART) were added as cosponsors of S. 881, a bill to amend the Small Business Act to strengthen the role of the small innovative firms in federally funded research and development, and to utilize Federal research and development as a base for technological innovation to meet agency needs and to contribute to the growth and strength of the Nation's economy.

S. 888

At the request of Mr. DURENBERGER, the Senator from North Dakota (Mr. BURDICK) was added as a cosponsor of S. 888, a bill to provide effective programs to assure equality of economic opportunities for women and men, and for other purposes.

S. 900

At the request of Mr. HEINZ, the Senator from Louisiana (Mr. LONG), the Senator from Arizona (Mr. DECONCINI), and the Senator from South Carolina

(Mr. THURMOND) were added as cosponsors of S. 900, a bill to assure that job skills training, and employment opportunities are furnished through Opportunities Industrialized Centers and other community based organizations of demonstrated effectiveness in certain block grant programs involving the creation of urban jobs in enterprise zones, and for other purposes.

S. 1086

At the request of Mr. DENTON, the Senator from South Dakota (Mr. PRESSLER) was added as a cosponsor of S. 1086, a bill to extend and revise the Older Americans Act of 1965, and for other purposes.

S. 1166

At the request of Mr. WEICKER, the Senator from Pennsylvania (Mr. SPECTER), and the Senator from Illinois (Mr. PERCY) were added as cosponsors of S. 1166, a bill to provide weatherization assistance to States in the form of energy grants.

S. 1215

At the request of Mr. PROXMIRE, the Senator from Florida (Mr. CHILES) was added as a cosponsor of S. 1215, a bill to clarify the circumstances under which territorial provisions in licenses to distribute and sell trademarked malt beverage products are lawful under the antitrust laws.

S. 1230

At the request of Mr. CRANSTON, the Senator from Rhode Island (Mr. CHAFEE) was added as a cosponsor of S. 1230, a bill to provide for the minting of commemorative coins to support the 1984 Los Angeles Olympic Games.

S. 1236

At the request of Mr. HEINZ, the Senator from Pennsylvania (Mr. SPECTER), the Senator from Florida (Mr. CHILES), and the Senator from Texas (Mr. BENTSEN) were added as cosponsors of S. 1236, a bill to amend sections 5701(a)(2) and 5702(m) of the Internal Revenue Code of 1954 to modify the base on which the tax on large cigars is imposed and to achieve a phased reduction in the tax rate.

S. 1347

At the request of Mr. HEINZ, the Senator from Idaho (Mr. SYMMS), the Senator from New York (Mr. D'AMATO), the Senator from Vermont (Mr. STAFFORD), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Maryland (Mr. MATHIAS), the Senator from Florida (Mrs. HAWKINS), the Senator from California (Mr. HAYAKAWA), the Senator from Arizona (Mr. DECONCINI), and the Senator from Hawaii (Mr. MATSUNAGA), were added as cosponsors of S. 1347, a bill to amend the Internal Revenue Code of 1954 to extend for 1 year the credit against tax for employment of members of targeted groups.

S. 1348

At the request of Mr. SASSER, the Senator from Alabama (Mr. HEFLIN) was added as a cosponsor of S. 1348, a bill to amend the Internal Revenue Code of 1954 to clarify certain requirements which apply to mortgage subsidy bonds.

S. 1394

At the request of Mr. DECONCINI, the Senator from Oklahoma (Mr. NICKLES), and the Senator from New Mexico (Mr. SCHMITT) were added as cosponsors of S. 1394, a bill to improve the ability of the Secret Service to protect the President and other designated protectees.

S. 1448

At the request of Mr. MATHIAS, the Senator from California (Mr. CRANSTON) was added as a cosponsor of S. 1448, a bill to provide for the issuance of a postage stamp to commemorate the seventieth anniversary of the founding of the Girl Scouts of the United States of America.

S. 1459

At the request of Mr. SCHMITT, the Senator from Iowa (Mr. GRASSLEY) was added as a cosponsor of S. 1459, a bill to amend the Internal Revenue Code of 1954 to increase the amount of the partial exclusion of dividends and interests and to make such exclusion permanent.

S. 1462

At the request of Mr. DECONCINI, the Senator from Nevada (Mr. CANNON) was added as a cosponsor of S. 1462, a bill to establish the Arid Lands Renewable Resources Corporation.

SENATE JOINT RESOLUTION 10

At the request of Mr. HUDDLESTON, the Senator from New Jersey (Mr. BRADLEY) was added as a cosponsor of Senate Joint Resolution 10, a joint resolution to establish a Commission on Presidential Nominations.

SENATE JOINT RESOLUTION 42

At the request of Mr. THURMOND, the Senator from Mississippi (Mr. COCHRAN), the Senator from Nevada (Mr. LAXALT), the Senator from North Carolina (Mr. HELMS), the Senator from Utah (Mr. HATCH), the Senator from Idaho (Mr. MCCLURE), the Senator from New Mexico (Mr. DOMENICI), the Senator from Florida (Mrs. HAWKINS), the Senator from California (Mr. HAYAKAWA), the Senator from Kansas (Mr. DOLE), the Senator from Iowa (Mr. GRASSLEY), the Senator from Arizona (Mr. DECONCINI), the Senator from New York (Mr. MOYNIHAN), the Senator from North Dakota (Mr. BURDICK), the Senator from Alabama (Mr. HEFLIN), the Senator from Florida (Mr. CHILES), the Senator from Arkansas (Mr. BUMPERS), and the Senator from North Carolina (Mr. EAST) were added as cosponsors of Senate Joint Resolution 42, a joint resolution designating the third Sunday in September as "National Ministers Day."

SENATE JOINT RESOLUTION 62

At the request of Mr. DOLE, the Senator from Tennessee (Mr. SASSER) was added as a cosponsor of Senate Joint Resolution 62, a joint resolution to authorize and request the President to designate the week of September 20 through 26, 1981, as "National Cystic Fibrosis Week."

SENATE JOINT RESOLUTION 78

At the request of Mr. THURMOND, his name was added as a cosponsor of Senate Joint Resolution 78, a joint resolution to provide for the designation of October 2, 1981, as "American Enterprise Day."

SENATE CONCURRENT RESOLUTION 24

At the request of Mr. GLENN, the Senator from California (Mr. CRANSTON) was added as a cosponsor of Senate Concurrent Resolution 24, a concurrent resolution submitting a proposal to Improve the International Nonproliferation Regime.

SENATE RESOLUTION 87

At the request of Mr. HEINZ, the Senator from Florida (Mrs. HAWKINS), the Senator from Connecticut (Mr. WEICKER), the Senator from Virginia (Mr. WARNER), the Senator from South Carolina (Mr. THURMOND), the Senator from West Virginia (Mr. ROBERT C. BYRD), and the Senator from Massachusetts (Mr. KENNEDY) were added as cosponsors of Senate Resolution 87, a resolution expressing the sense of the Senate that the Congress not enact legislation to tax social security benefits, and for other purposes.

SENATE RESOLUTION 167

At the request of Mr. DOLE, the Senator from Arizona (Mr. GOLDWATER), the Senator from Indiana (Mr. LUGAR), and the Senator from Iowa (Mr. GRASSLEY) were added as cosponsors of Senate Resolution 167, a resolution to commend the disabled individuals who climbed Mount Ranier, Wash., during the summer of 1981.

NOTICES OF HEARINGS

SUBCOMMITTEE ON ENERGY REGULATION

Mr. HUMPHREY. Mr. President, I would like to announce for the information of the Senate and the public, the scheduling of a public hearing before the Subcommittee on Energy Regulation regarding the Federal Energy Regulatory Commission licensing procedures affecting hydroelectric development in New England. This oversight hearing will be held on Friday, August 7, beginning at 10 a.m. at the Franklin Pierce Energy Institute in Concord, N.H.

Those wishing to testify or who wish to submit written statements for the hearing record should write to the Committee on Energy and Natural Resources, Subcommittee on Energy Regulation, room 3104 Dirksen Senate Office Building, Washington, D.C. 20510.

For further information regarding this hearing, you may wish to contact Mr. Howard Useem of the subcommittee staff at 224-5205.

SUBCOMMITTEE ON WATER AND POWER

Mr. MURKOWSKI. Mr. President, I would like to announce for the information of the Senate and the public, the scheduling of a public hearing before the Subcommittee on Water and Power regarding the potential for hydroelectric development in Alaska and related regulatory factors. This oversight hearing will be held on Monday, August 17, beginning at 9 a.m. in the Anchorage Federal Office Building in Anchorage, Alaska.

Those wishing to testify or who wish to submit written statements for the hearing record should write to the Com-

mittee on Energy and Natural Resources, Subcommittee on Water and Power, room 3104 Dirksen Senate Office Building, Washington, D.C. 20510.

For further information regarding this hearing, you may wish to contact Mr. Russ Brown of the subcommittee staff at 224-2366.

SUBCOMMITTEE ON INTERNATIONAL FINANCE AND MONETARY POLICY AND SUBCOMMITTEE ON SECURITIES

Mr. GARN. Mr. President, the Subcommittee on International Finance and Monetary Policy and the Subcommittee on Securities of the Committee on Banking, Housing, and Urban Affairs will hold a joint hearing on S. 708 on July 23, 1981. The hearing will be held in room 5302 of the Dirksen Senate Office Building, beginning at 2 p.m.

S. 708, the "Business Accounting and Foreign Trade Simplification Act," has been the subject of three previous hearings of the two subcommittees.

For further information about the hearing, interested persons should contact Paul Freedenberg or John Daniels of the Banking Committee staff at 224-7391.

SUBCOMMITTEE ON INTERGOVERNMENTAL RELATIONS

Mr. DURENBERGER. Mr. President, I would like to announce that the Subcommittee on Intergovernmental Relations of the Governmental Affairs Committee has scheduled 2 days of oversight hearings on the commerce clause and the severance tax. The hearings will be conducted at 9 a.m. on July 15 and July 16 in room 3302, Dirksen Senate Office Building.

Those wishing to submit written statements to be included in the printed record of the hearings should send five copies to Ruth M. Doerflein, clerk, Subcommittee on Intergovernmental Relations, room 507, Carroll Arms Building, Washington, D.C. 20510.

For further information on the hearings, you may contact Larry Hunter of the subcommittee staff on 224-6716.

COMMITTEE ON THE BUDGET

Mr. DOMENICI. Mr. President, the Senate Budget Committee business meeting scheduled for Wednesday, July 15, 1981 at 2 p.m. in room 6202 has been canceled.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. McCLURE. Mr. President, I would like to announce for the information of the Senate and the public the scheduling of a public hearing before the Committee on Energy and Natural Resources to consider S. 1475, a bill to extend the expiration date of section 252 of the Energy Policy and Conservation Act. The hearing is scheduled for Monday, July 20, beginning at 10 a.m. in room 3110 of the Dirksen Senate Office Building.

Those wishing to testify or who wish to submit written statements for the hearing record should write to the Committee on Energy and Natural Resources, room 3104, Dirksen Senate Office Building, Washington, D.C. 20510.

For further information regarding this hearing, you may wish to contact Mr. David Doane of the committee staff at 224-7144.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON ENVIRONMENTAL POLLUTION

Mr. BAKER. Mr. President, I ask unanimous consent that the Subcommittee on Environmental Pollution of the Committee on Environment and Public Works be authorized to meet during the session of the Senate today at 3:30 to continue their markup of water pollution amendments.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate today to vote on the following nominations:

Richard D. Erb to be Executive Director International Monetary Fund (IMF).

Edward L. Rowny to be Special Representative for Arms Control and Disarmament with rank of Ambassador.

William L. Swing to be Ambassador to Republic of Liberia.

Parker W. Borg to be Ambassador to Republic of Mali.

Julius W. Walker to be Ambassador to Upper Volta.

Vernon A. Walters to be Ambassador at Large.

H. Monroe Browne to be Ambassador to New Zealand.

Richard L. Walker to be Ambassador to South Korea.

And to hear brief testimony and vote on the following treaties:

Treaty with Canada on Pacific Coast Albacore Tuna Vessels and Port Privileges(97-13).

International Convention Against the Taking of Hostages (Ex. N, 96-2).

Convention on the Physical Protection of Nuclear Material (Ex. H, 96-2).

The 1979 amendments to the Inter-Governmental Maritime Consultative Organization (IMCO) Convention (Ex. K. 96-2).

Revised Customs Convention on the International Transport of Goods Under Cover of TIR Carnets (1975 TIR Convention) (Ex. M, 95-1).

Treaty with the Republic of Colombia concerning the Status of Quita Sueno, Roncador, and Serrana (Ex. A, 93-1).

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

SUBCOMMITTEE ON ENERGY CONSERVATION AND SUPPLY

Mr. BAKER. Mr. President, I ask unanimous consent that the Subcommittee on Energy Conservation and Supply of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Wednesday, July 15, to hold hearings on S. 1166, the National Home Weatherization Act.

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

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet during the session of the Senate on Thursday, July 16, to hold hearings on the issue of preventive medicine and health promotion.

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

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet during the session of the Senate on Friday, July 17, to hold confirmation hearings on the nomination of the following:

Donald Senese to be Assistant Secretary for Education Research;

Daniel Oliver to be General Counsel, Department of Education;

Thomas Melady to be Assistant Secretary for Postsecondary Education;

Anne Graham to be Assistant Secretary for Legislation and Public Affairs, Department of Education;

George Conn to be Commissioner, Rehabilitation Services Administration;

Thomas Lias to be Assistant Director, ACTION;

William Mayer to be Administrator, Alcohol, Drug Abuse, and Mental Health Administration; and

Robert Rowland to be a member of the Occupational Safety and Health Review Commission.

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

ADDITIONAL STATEMENTS

SPIRITUAL FOUNDATION OF AMERICA

● Mr. CANNON. Mr. President, on July 5, 1981, as a fitting conclusion to ceremonies celebrating our Nation's 205th birthday, President Ezra Taft Benson, president of the council of the Twelve Apostles of the Church of Jesus Christ of Latter-day Saints, gave a fireside address in Las Vegas, Nev.; reminding us of the great importance of the spiritual foundation on which this great Nation of ours is based. That address carried an uplifting message, and I ask that the text of the message be printed in full in the RECORD.

The address follows:

SPIRITUAL FOUNDATION OF AMERICA

Brothers and Sisters: I use this salutation to include all assembled, for we are all children of one Eternal Father in the Spirit—brothers and sisters all.

It is an honor and a privilege for me to stand before you this evening. I do so gratefully and humbly; grateful for the opportunity to be in your presence, and humbled by the responsibility to say something that may be uplifting and of value to you.

This evening, I speak about the spiritual foundation of America.

I choose to speak on this subject because of my firm conviction that, unless we get our spiritual house in order, what we do in an economic or any other sense will not matter much.

Our nation had a spiritual beginning.

That must never be forgotten or doubted. Lest we forget, let us review some of our most cherished documents which declare the canons of our faith—

This nation began with the founding of Plymouth Colony in 1620. You are all familiar with the pilgrimage which brought the Puritans to this land.

They had come to these shores under financial sponsorship of the Virginia Company of London and of Plymouth, England. Their intent was to settle in the Virginia Colony.

but they landed far to the north where the king of England had no authority.

Since England had no government for them, they decided to form a government of their own!

Assembled in the cabin of the Mayflower, 41 of 43 adult males formed a compact as the source of their authority.

That compact was drafted in "the name of God." Their reasons for a government were also asserted: "for the glory of God" and "the advancement of the Christian faith." These are the twin pillars of our religious freedom in this nation!

One hundred and two pilgrims had left England for the Promised Land. Fifty-one, just half the colony, survived the first winter. Not one of the survivors returned to England.

They made a commonwealth on the principle of religious liberty—faith in an Omnipotent God.

Ay, call it holy ground
The soil where they first trod,
They have left unstained what they found—
Freedom to worship God.

Hardly had the new nation had its beginning than oppression came from the mother country.

Injustice, oppressive taxation, the despised navigation acts—led the colonists to deliberate on their rights and liberties under the crown.

A petition to the king failed—

Then the shot heard 'round the world was fired at Lexington.

A year later, in the summer of 1776, the Continental Congress met in Philadelphia and declared independence from England.

The doctrine of that canon—The Declaration of Independence—is this: that the Creator (God) endowed all men with rights, and the governments derive their powers from the consent of the governed.

Until the American Revolution, a millennia of political tradition vested powers only in monarchs or dictators.

No government recognized that God was the source of man's rights.

The Founders reasoned that if rights are derived from government, in reality, there are no rights. There are merely government "favors," and those favors may be subject to recall and change at any time.

The framers of our Republic simply declared the truth—that God gave all men the right to life, liberty, and property.

Man, therefore, was master over government rather than the other way around.

That is what the American Revolution was all about—not just a separation from England, but a separation from the historical tradition that made one man another's chattel and denied all men liberty and property.

Some vacillated on whether to take such a bold step as separation from England. At this point, John Adams stepped forward and pled:

Sink or swim, live or die, survive or perish, I give my hand and my heart to this vote. It is true, indeed, that in the beginning we aimed not at independence. But there's a Divinity which shapes our ends. . . . Why, then, should we defer the Declaration?

. . . You and I, indeed, may rue it. We may not live to the time when this Declaration shall be made good. We may die; die colonists; die slaves; die, it may be, ignominiously and on the scaffold. Be it so, Be it so. If it be the pleasure of Heaven that my country shall require the poor offering of my life, the victim shall be ready. . . . But while I do live, let me have a country, or at least the hope of a country, and that a free country.

But whatever may be our fate, be assured . . . that this Declaration will stand. It may cost treasure, and it may cost blood; but it wil stand, and it will richly compensate for both. Through the thick gloom of the present, I see the brightness of the future, as the sun in heaven. We shall make this a glorious, an immortal day. When we are in our graves, our children will honor it. They will celebrate it with thanksgiving, with festivity, with bonfires, and illuminations. On its annual return they will shed tears, copious, gushing tears, not of subjection and slavery, not of agony and distress, but of exultation, of gratitude, and of joy. Sir, before God, I believe the hour is come. My judgment approves this measure, and my whole heart is in it. All that I have, and all that I am, and all that I hope, in this life, I am now ready here to stake upon it; and I leave off as I begun, that live or die, survive or perish, I am for the Declaration. It is my living sentiment, and by the blessing of God it shall be my dying sentiment, Independence, now, and Independence for ever. (*The Works of Daniel Webster*, 4th ed., 1851, 1:133–36.)

Fifty-six men stepped forward and signed the declaration.

From the standpoint of numbers, equipment, training, and resources, the rag-tag army of the colonists should never have won the war for independence.

But America's destiny was not to be determined by overwhelming numbers, or better military weapons or strategy. As Adams declared: "There's a Divinity which shapes our ends."

When the war was over, here is how Washington ascribed the victory:

"The success, which has hitherto attended our united efforts, we owe to the gracious interposition of Heaven, and to that interposition let us gratefully ascribe the praise of victory, and the blessings of peace." (To the Executive of New Hampshire, November 3, 1789.)

The newly formed nation, however, was hardly a united commonwealth. At best it could be described as a federation of colonies loosely held together by the Articles of Confederation.

Under this instrument, the nation had no head—no president, and no supreme court—only a congress devoid of any power.

In addition, rebellions and potential anarchy threatened the victory won by war.

Providentially, a Constitutional convention was called in 1787.

The delegates met from May 25th to September 17th with George Washington presiding.

A central issue was whether they were to merely revise the Articles of Confederation or write a new constitution.

Debates were earnest and at times it appeared that the convention was deadlocked. On one of those occasions, the elder statesman of the group, Benjamin Franklin, appealed to the delegates. He declared:

"I have lived, Sir, a long time; and the longer I live, the more convincing proofs I see of this truth, that God governs in the affairs of men. And, if a sparrow cannot fall to the ground without his notice, is it probable that an empire can rise without his aid? We have been assured, Sir, in the Sacred Writings, that "except the Lord build the house, they labor in vain that build it." I firmly believe this; and I also believe, that, without his concurring aid, we shall succeed in this political building no better than the builders of Babel; we shall be divided by our little, partial, local interests, our projects will be confounded, and we ourselves shall become a reproach and a by-word down to future ages. And, what is worse, mankind may hereafter, from this unfortunate instance, despair of establishing governments by human wisdom, and leave it to chance, war, and conquest.

"I therefore beg leave to move,

"That henceforth prayers, imploring the assistance of Heaven, and its blessings on our deliberations, be held in this assembly every morning before we proceed to business; and that one or more of the clergy of this city be requested to officiate in that service." (Jared Sparks, *The Works of Benjamin Franklin*, 1837, pp. 155–56.)

The deadlock was broken.

Compromises were made.

A constitution was drafted.

And 39 of 55 delegates signed it.

Before the states ratified the document, ten amendments were added. We call them our Bill of Rights. More accurately, these amendments are limitations on the powers of the federal government.

The preamble to the document prescribes its purpose:

We, the People of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for a common defense, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution of the United States of America.

In a Republic, the people are the government through chosen representatives.

This implies that the majority of people must be virtuous, principled, and moral so that they select only those to represent them who reflect those same standards.

This is why John Adams declared, "Our constitution was made only for a moral and religious people." (John R. Howe, Jr., The Changing Political Thought of John Adams, Princeton University Press, 1966, p. 185.)

Self rule implies self-restraint and self-discipline.

Our first years under the new Constitution were bound to be trying. Some felt too much power had been given to the executive: others not enough.

The times demanded an executive or strength—not one whose love for office or personal ambition would lead to excess and thereby fulfill some of the more dire predictions by the critics of the new Republic.

Providence had raised up such a man in the person of the Commander-in-Chief of the Revolutionary Army, President of the Constitutional Convention, and America's foremost citizen—George Washington.

As we look back on his eight-year administration, we see strength of character, leadership, and sensitivity to the powers of office that maintained a delicate moral balance so needed at this critical time.

Washington's use of power in office was exemplary for every successor to the executive position—although not all successors followed that example.

At the conclusion of his eight-year term of office, Washington felt to tell his countrymen that he would not seek a third term of office.

With a "solicitude for (the) welfare" of the governed, Washington prepared his Farewell Address—counsel which is as applicable today as when it was given.

I believe the wisdom contained in that address was as inspired as our other canons of government.

What did Washington counsel?

First, a unity among the people as the pillar "in the edifice of your real independence"—to avoid factionalism, sectional geographic jealousies, and party strife.

Government of the whole, he declared, is essential to the prosperity of liberty!

Second, to think and speak of the Constitution as the palladium of our political safety and prosperity. He urged citizens to resist the "spirit of encroachment" where departments of government tend to consolidate all powers into one. He called this tendency "a real despotism."

Third, he called for harmony, peace, justice, and good faith with all nations, but permanent alliances with none.

Fourth, he urged fiscal responsibility. This meant not to add to our public debt in times of peace, but to "discharge the debts which unavoidably wars may have occasioned, not

ungenerously throwing upon posterity the (burden) which we ourselves ought to bear." Such was his counsel to his countrymen.

He also declared:

"Of all the dispositions and habits which lead to political prosperity, religion and morality are indispensable supports . . . let us with caution indulge the supposition, that morality can be maintained without religion. Whatever may be conceded to the influence of refined education on minds of peculiar structure—reason and experience both forbid us to expect that national morality can prevail in exclusion of religious principle.

"'Tis substantially true, that virtue or morality is a necessary spring of popular government."

Our first great crisis as a nation was now over—that critical interval between the Revolutionary War and the ratification of the Constitution when there was no federal government.

The Civil War which threatened to dissolve the Union brought another major crisis to our young nation.

This time Abraham Lincoln was the man of the hour.

In the midst of that fratricidal struggle, Lincoln—a God-fearing man—rose to his finest hour and issued a Proclamation for a National Fast Day. His words are timeless:

"It is the duty of nations as well as men to own their dependence upon the overruling power of God, to confess their sins and transgressions in humble sorrow, yet with assured hope that genuine repentance will lead to mercy and pardon, and to recognize the sublime truth, announced in the Holy Scriptures and proven by all history, that those nations only are blessed whose God is the Lord:

"And, insomuch as we know that by His divine law nations, like individuals, are subjected to punishments and chastisements in this world, may we not justly fear that the awful calamity of civil war which now desolates the land may be but a punishment inflicted upon us for our presumptuous sins, to the needful end of our national reformation as a whole people?

"We have been the recipients of the choicest bounties of Heaven: we have been preserved these many years in peace and prosperity. We have grown in numbers, wealth, and power, as no other nation has ever grown. But we have forgotten God. We have forgotten the gracious hand which preserved us in peace and multiplied and enriched and strengthened us, and we have vainly imagined, in the deceitfulness of our hearts, that all these blessings were produced by some superior wisdom and virtue of our own. Intoxicated with unbroken success, we have become too self-sufficient to feel the necessity of redeeming and preserving grace, too proud to pray to the God that made us.

"It behooves us, then, to humble ourselves before the Offended Power, to confess our national sins, and to pray for clemency and forgiveness." (Abraham Lincoln)

These are five canons of our faith—

The Mayflower Compact;

The Declaration of Independence;

The Constitution of the United States of America;

Washington's Farewell Address; and

Lincoln's Proclamation for a National Day of Fasting and Prayer.

A contributing cause of our problems today is a general decline in spirituality and unrighteousness on the part of many of our people.

If we use the Decalogue—a standard used by the founders of our nation—how do we measure up?

The first and second commandments stipulate our worship and belief in God: "Thou shalt have no other gods before me: . . . Thou shalt not make unto thee any graven image."

As we have shown, worship and belief in God are the foundation of our society. We deliberately declare on our currency and coin—"In God We Trust."

We take oaths of office before God.

Our legal testimonies are based on an oath before God.

We pledge allegiance to our republic, that it is a nation "under God."

Yet can we deny that Americans generally disregard God in their daily pursuits and are seeking their own self-interests?

Lincoln chastised his countrymen for their faithlessness in 1863. What would he say today?

I think he would repeat: "In our prosperity, we have forgotten God!"

The third commandment states: "Thou shalt not take the name of the Lord thy God in vain." There seems to be a deliberate, concerted effort to punctuate dialogue on stage, screen, and in novels with blasphemy in addition to coarse, vulgar expressions. And is not the motive economic—to sell more tickets or books?

The fourth law pertains to setting aside one day in seven as a day of worship. Not only has the Sabbath become a work day, but it has become primarily a day of amusement and recreation: golfing, skiing, hunting, fishing, picnicking, racing, movies, and ball-playing.

Next, "Honor thy father and mother," which Jesus said meant to support them. Yet today untold thousands of young people have abandoned their parents to the care of others.

The sixth law states, "Thou shalt not kill." As a nation we deplore violence and murder, yet need we be reminded in what small esteem life is now held?

So blinded have some become that they cannot see the relationship between a nation legally sanctioning abortion and our declining spiritually, one measure of our lack of regard for human life.

"Thou shalt not commit adultery," and later, "Thou shalt not covet thy neighbor's wife." These laws are the basis for maintaining an undefiled home.

Never in our generation have morals been so loose as now.

Never has youth been so exposed to sex in its crudest, coarsest, and most debasing form. Sex is almost worshipped, and the curtain of modesty has been stripped away. "R-rated" and some "P-G" movies have become open invitations to youth and adults to vicariously violate the law of chastity. This permissiveness has no doubt encouraged the promiscuity that is so commonplace in almost every community.

The eighth law states: "Thou shalt not steal." When God gave this law, He recognized the fundamental right to property. Yet how much we pay for the violation of this law through increased costs of merchandise, higher insurance rates, and wasting human resources by incarceration in penal institutions.

"Thou shalt not bear false witness." When we speak of morality, we imply that a man is true to his word—true to his signature on a contract. The violations of God's laws already mentioned are evidence that lying and misrepresentation are not absent from us.

Our system of law and government depends on truthfulness!

Last, "Thou shalt not covet." This is a besetting sin of our times.

Covetousness, plus love of idleness, lies at the root of our violation of the law of work. Covetousness has reached every forbidden item in the other commandments: our neighbor's house, wife, employees, worldly goods—everything that is our neighbor's.

Covetousness brings with it greed, avarice, ambition, and love of power. Cheating, lying, misrepresentation are all used as justification to acquire a neighbor's legacy.

How can God bless America when America does not honor God's laws?

Are we not now reaping the whirlwind?

Disregarding these laws will inevitably lead this nation to ruin, just as it has other civilizations in history.

It is my faith that we are tenants on this blessed land, and will remain so only as we keep these fundamental commandments of God.

I remember a number of years ago when Cecil B. DeMille, the producer of the great film "The Ten Commandments," was invited to accept an honorary degree from Brigham Young University. In his address to the student body, Mr. DeMille said that men and nations cannot really break the Ten Commandments; they can only break themselves upon them.

How true that is!

If America is to survive as a free nation, we will have to return to the spiritual foundation that gave rise to our beginnings.

We have this promise from the great Lawgiver Himself:

If my people which are called by my name, shall humble themselves, and pray, and seek my face, and turn from their wicked ways; then will I hear from heaven, and will forgive their sin, and will heal their land. (2 Chronicles 7:14.)

That, ladies and gentlemen, is the prescription for most of our ills.

I know the power of prayer!

I saw its effect in one administration for eight years.

I was somewhat startled when President-elect Eisenhower called on me in our first cabinet meeting to offer prayer. I did so.

After that first meeting, I was disappointed when our next meeting was opened without prayer. After some considerable thought I sent President Eisenhower a note, an excerpt of which I quote here:

"May I make bold to suggest that each of our weekly Cabinet meetings be opened with a word of prayer, as you so appropriately started the first one. The suggestion is made only because of my love for you, members of the Cabinet, and the people of this great Christian nation. I know that without God's help we cannot succeed. With His help we cannot fail. Franklin said, 166 years ago when he made a similar suggestion, 'God governs in the affairs of men.'

"I feel sure there are several of us, who, if called on for a word of prayer, would willingly respond. Such a procedure is working with my own staff.

"If you feel the suggestion is not practical, then I will understand and will not trouble you further in the matter."

At our next meeting which was on February 6th, the President said simply, "If there is no objection, we'll begin our deliberations with prayer."

And that's how it was with the Eisenhower Cabinet from that time on.

Usually we raised our hearts to the Almighty in silence.

If ever there was a time when this nation needed the help of Almighty God, it is now.

When we have the inspiration of God—and desire to do His will—we will make the right decisions and the people will be prospered and kept free.

Yes, our nation's foundation is spiritual.

Without spirituality, we are no better than any of the other nations which have sunk into oblivion.

Our founding fathers, with solemn and reverent expression, voiced their allegiance to the sovereignty of God, knowing that they were accountable to Him in the day of judgment.

Are we less accountable today?

I think not.

I declare my allegiance to God. I know He governs in the affairs of men because I am a witness to it.

My allegiance to this nation as "a land

choice above all other lands" stems not from patriotism alone, but from the fact that I am confident that God governs in the affairs of men and nations.

We live amidst difficult, trying, and evil times, but we have no need to despair if we remain righteous.

The real issue today is not economic or political; it is spiritual—man being true to the principles which have guided the destiny of mankind from our beginning.

That is what inspired our nation's birth and independence.

Those nations only are blessed whose God is the Lord!

Therefore, my hope is that we will plead with the God of heaven to sustain this nation and inspire our leaders with wisdom and judgment; that we will resolve to keep His commandments so that we and our posterity can merit His protection, gain His mercy, and receive His blessings.

Theodore Roosevelt said over a half century ago—

"We hold in our hands the hope of the world, the fate of the coming years, and shame and disgrace will be ours if in our eyes the light of high resolve is dimmed, if we trail in the dust the golden hopes of men."

I know some of you gathered here today, and I know you to be dedicated to that "light of high resolve" in your communities.

With God's help and our devotion to high moral principles, we can keep that hope alive. That we may do so faithfully is my humble prayer.●

WHAT IS HAPPENING IN POLAND?

● Mr. EAST. Mr. President, few observers have interpreted the stirring events in Poland as astutely and eloquently as has Dr. Leopold Tyrmand in an article in today's Wall Street Journal. Dr. Tyrmand is a native of Poland who has lived for many years in the United States. He is vice president of the Rockford Institute, editor of the bimonthly literary journal, Chronicle of Culture and a noted commentator on national and international affairs. I ask that his article be printed in the RECORD.

The article follows:

WHAT IS HAPPENING IN POLAND?

(By Leopold Tyrmand)

No one knows what is happening in Poland. The Poles themselves have so many answers that precise inferences seem impossible. But whatever eventually happens in Poland will be of a magnitude comparable to the Russian revolution.

The developments in Poland differ importantly from other milestones of rebellion within the postwar Soviet empire. Tito's sedition was a conflict of personalities, and by manipulating geographic circumstance and his own secret police, the Yugoslav outmaneuvered Stalin. The Hungarian uprising was a romantic outburst of youth and army officers—a time-honored alliance in central Europe—with a disoriented society in the background. The Sino-Russian split was a conflict between two national egos fueled by ancient hatreds. The Czech rebellion was an intellectual mutiny, with no roots in the nation, which from the outset abjured confrontation with the Soviets.

RADICAL DEPARTURE

What began in Gdansk, Poland, is the first authentic social upheaval on an all-national scale in a country ruled by a Communist Party on behalf of the Soviet Union. It challenged the absolutism of communist power and, consequently, it tacitly accepted the possibility of confrontation with the Soviet Union, whose *raison d'etat* is exactly that kind of power.

Moreover the outbreak seemed, from the beginning, less like a spontaneous event and more like a prepared action, with channels of communication opened to every corner of the society and well-orchestrated approval from the entire nation.

Yet, as the special congress of Poland's Communist Party begins today, it remains unclear how such open and organized antigovernmental activity could have materialized under a regime whose ruling techniques exceed everything mankind has known in tyranny. The world expects some sensational denouncement any day.

One thing is certain: All that communism's theoreticians and sympathizers thought they knew about their faith and its materializations between October 1917 and September 1980 has abruptly come to an end. If nothing else, their *Weltanschauung* has lost its validity.

The infrastructure of communist totalitarianism's power has broken down in Poland. No one who has not lived under communism can properly understand what this infrastructure means. It is only tangentially related to the terror of the security forces or direct political persecution. Its elements were devised by Lenin and Dzerzhinsky and perfected by Stalin; under Khrushchev and Brezhnev it changed neither its nature nor its role, though some cosmetic adjustments were made.

The communist power infrastructure is based on a total control of communication that renders man powerless against any lie about or abuse of himself as a citizen and a person. It produces a sort of psychological, even psychotic, fetters unknown in even the most despotic statehood of the past. It parallels the psychological mechanism of the "democratic centralism" within the Communist Party which makes a party member believe that his absolute rulers decide his fate through his free choice.

Even the sharpest Western reporter deludes himself and his readers when he claims to have insight into the human condition under communism: it's like blackness or womanhood, a nontransferable experience. In communism every preconceived social activity must be scrutinized and endowed with an ideological rationale before it can be permitted by the party—the infrastructure of power ruthlessly exercises precise enforcement of this principle.

Dissent is old-hat, both in Eastern Europe and in the USSR, and it has always been kept under control, sometimes even encouraged and manipulated. But the efficiency of what has developed in Gdansk indicates that dissent in Poland has been transmuted into an organized effort to rewrite the rules, something unheard of until now without political violence. Thus the infrastructure must have begun to crack even before open contention erupted in Poland.

One of the ideological archtenets to which the infrastructure gave the highest priority was that the workers' unity must be monopolized by the party. Marxism-Leninism made its world career on the merciless enforcement of the premise that the idea of the workers' solidarity was *their* idea. In communist states it is a crime against the state, a capital offense, to organize, congregate or unite *not* behind the party. Once the Poles captured the notion and device of solidarity as a social weapon and used it against their communist government, they reversed the course of history.

Whether the infrastructure broke because the Poles discovered the invincibility of united action, or whether solidarity was attainable because the infrastructure broke, is unclear. Why this infrastructure, still the cornerstone of the system's unassailability in Russia, China, Cuba, Bulgaria and elsewhere, suddenly collapsed in Poland under Gierek's tenure is still little known. Whether the breakdown is an isolated Polish phenomenon, or can be exported is a question that will decide the fate of the Soviet empire, and a question to which the empire's rulers have no answer.

It is universally accepted that a prime factor in what happened in Poland was the Catholic Church, a distinct and mighty institution of the Polish reality by dint of its ancient churches, its religious mass demonstrations and celebrations that attract immense crowds. Moreover there is the towering authority of its leaders, like the current Pope or the late Cardinal Wyszynski.

All this is certainly true, but it is of less importance than the Polish Catholic intelligentsia which, under communism, acquired an even more complex influence on the society. Every well-educated young Catholic priest is, by nature, a member of this intelligentsia—which, in effect, has created a sort of shadowy Catholic infrastructure that competes with the official communist one.

This became apparent during the formative stages of the Solidarity movement. Its key consultants and theorists were prominent representatives of the Catholic intelligentsia, not always acting in precise obedience to the church's guidelines.

No one in the West should be deluded: Solidarity is a Christian democratic political occurrence, all lip service to the communist *raison d'etat* notwithstanding. It is a phenomenon that surprises even the Poles themselves. After all, the intelligentsia—Poland's ruling class since the end of the 18th Century—was always a reservoir of not religious but secular ideas like nationalism, positivism, liberalism and social democracy. The emergence of a powerful and highly intellectualized group that receives its inspiration from Catholicism and knows how to transmute religious ideology into modern political weaponry (and with explosive effects) is astounding. How it happened is not easy to explain, but worth a try.

Together with the other paraphernalia of power that Catholicism could muster, its leaders understood how to capitalize on its sudden fashionableness among not only the faithful but also the society at large. For 35 years countless jokes have circulated about how much safer it is to be Catholic than communist in communist Poland. Ultimately, Catholicism identified itself in the popular consciousness with a rejection of communist oppression, a repudiation which might bring the church misery and persecution but is nevertheless invincible.

Suddenly Catholicism relinquished the status of traditional form and became a hotbed of politicized thoughts, convictions and beliefs. This fatally undermined the communists' psychological infrastructure, a development that would have been impossible without the Catholic intelligentsia—the vital link between Church and society.

Finally, capitalism has become a silent prostulate of the Polish workers.

It would be foolish to expect Lech Walesa to admit publicly that capitalism is an economic system superior to socialism. Yet there's little doubt among the Poles that the reborn Polish syndicalism would fare much better in a healthy market economy than in the state-owned one.

The persuasion that socialism is a thorough failure is so deeply ingrained in the Polish mind that words like "people's property," "class consciousness" or "proletarian interests" will remain symbols of wretchedness and insanity for generations to come. The Poles perceive the economic aspect of communism as a sort of Mafia-like system of extortion—a daily ransom from an entire nation.

The claim so frequently made in some segments of the American press that the Gdansk

workers are "defending true socialism" is amusing and preposterous.

PROGRESS BETWEEN THE WARS

Before World War II "authoritarian" Poland had one of the most powerful labor unions and one of the most advanced social-security systems in Europe. It had a ministry of social care and national health service. In reaffirming their support for this kind of social progressivism, the Solidarity leaders are only stressing the inferiority of the communist "Workers" Party efforts in this area as compared to the prewar institutions.

The Soviet Union is in a peculiar position: Short of instigating a bloodbath it can do nothing. Most likely the Soviet leaders will resort to the oldest Russian political wisdom, that time and intrigue will sooner or later bring results. But these events demonstrate for the first time that the Soviet empire must reform or perish.

What happened to communism in Poland must have a crucial impact on the fate of Marxist ideas in the contemporary world. For the first time in Poland's turbulent history in which heroic, if unsuccessful, violence was considered a supreme value, the Poles have resorted to argument and ideology as explosives and ammunition. Their renowned heroism has never had a profound impact on the outside world, but their political maturity may alter the course of history.●

SPECIAL COMMENDATION TO SEVERAL CITIZENS OF HAWAII

● Mr. INOUYE. Mr. President, many patriots have served this Nation in times of crisis throughout our long and distinguished history. Many of them are well known to us through history books and folklore. However, there are also many deserving heroes whose deeds have escaped recognition by the general public.

I wish to bring to the attention of my colleagues the stories of several Hawaii citizens whose service to our country, above and beyond the call of duty, merit our special commendation.

In the days preceding World War II, citizens of Hawaii served as colonists in the isolated, deserted Pacific islands of Jarvis, Howland, and Baker, to establish American occupation of these strategic areas. Two young men, Richard Whaley and Joe Keliihahanui, gave their lives when they were killed in a Japanese bombing attack on Howland Island on December 8, 1941. Very few knew of their sacrifices as two of America's earliest casualties of the war.

In another case, Hawaii resident Edwin M. S. Lee and other civilian workers on Wake Island assisted the American military defense of the island on December 7, 1941, until it was captured several weeks later. Mr. Lee and others served nearly 4 years in Japanese prison camps. Unfortunately, it was not until many years later that the U.S. Government formally acknowledged their Federal service during this period.

I ask that the following articles be reprinted in the CONGRESSIONAL RECORD.

The articles follow:

[From the Honolulu Advertiser, May 5, 1981]

CASTAWAYS HONORS—40 YEARS LATER

(By Bob Krauss)

Richard Whaley and Joe Keliihahanui were the forgotten castaway heroes of World War II until yesterday.

They have lain side by side in a tiny cemetery at Schofield Barracks for nearly 40 years, their deeds unsung, their names unrecorded in Hawaii history books, their memories dim even among Kamehameha School classmates.

Yesterday they received recognition 1,000 miles from the barren coral atoll where they died on Dec. 8, 1941, during a Robinson Crusoe adventure that ended in war.

Survivors of that adventure gathered around the graves to say a prayer and spread the 48-star flag that was flying when a Japanese submarine and a bomber blasted their lonely outposts.

No one is better fitted to honor the names of Richard Whaley and Joe Keliihahanui than their companions—other young men from Kamehameha School who were trapped under fire for nearly two months on their lonely islands.

"The bomber came over every day," said Walter Burke of Aiea, one of the survivors.

"We dug fox holes and stayed under cover. Early in the morning and late in the evening we caught lobster and squid to eat. It wasn't until Jan. 28, 1942, that the U.S.S. Helm, a destroyer, picked us up.

"Richard and Joe had to be buried on Howland Island where they were killed. Their bodies were moved to Schofield Cemetery in the 1950s. Very few people even know it happened.

"When they brought us back to Hawaii, they kept us at Pearl Harbor for a month before they let us go. Then they told us not to talk about it."

The strange story of Richard Whaley and Joe Keliihananui began in the 1930s, when Pan American World Airways was pioneering air travel across the Pacific.

"There was great interest in the U.S. Department of Interior in establishing United States possession for Pacific Islands that might serve as air bases," said Abe Piianaia, director of Hawaiian Studies at the University of Hawaii, who is also a survivor.

"I believe the idea came out of the then Bureau of Air Commerce, a single desk at Interior. The director was Bill Miller. His idea was to colonize the uninhabited Equatorial Line Islands and establish American possession.

"In Hawaii, he met Bishop Estate trustee Albert Judd, who suggested that Hawaiian boys from Kamehameha Schools would make good colonists because they were disciplined."

The unique operation began in 1935. Some 135 boys participated until World War II put a bloody end to their occupation of Jarvis, Howland and Baker Islands.

"In the beginning, we lived in pup tents," said Soloman Kalama of Kailua, one of the colonists.

"There is no fresh water on the islands. A supply ship brought it in 52-gallon drums. If the sea was too rough to bring it to the beach in boats, they just dumped the barrels over the side and let them float in.

"You don't know how heavy a drum like that is until you try to roll it across a soft sand beach. There were only four of us on each island at a time.

"The drums were so heavy we didn't try to roll them across the island to the camp if they landed on the wrong side. We'd just walk across the island when we needed water."

Eugene Burke of Aiea, brother of Walter, said their main job was taking weather observations and sending back weather reports on a ham radio.

"There wasn't much to keep us busy," he said. "When I stood on top of Baker the first time, 20 feet above sea level, I said to myself, 'Can I make it out here for six months?' The challenge made it exciting."

Walter Burke was on Baker when the war broke out. The colonists with him, all Hawaiians, were Blue Makua, James Coyle and James Pease.

On nearby Howland Island, the colonists were Richard Whaley, Joe Keliihahanui, Thomas Bederman and Elvin Matson.

"The four of us on Baker lived in a wooden shack we called the Government House," said Burke. "There was one on each of the islands.

"I got up on Dec. 8 at dawn and took the flag outside to raise it. There was a Japanese submarine about 100 yards off shore. I heard a 'whang' and a shell blasted the top off the government house.

"I ran inside and told the boys we'd better skedaddle out of there. I tell you, we were four scared Hawaiians taking off across the island. Jesse Owens couldn't have run any faster.

"We hid all day. A bomber came over and dropped some bombs. I think it was the bomber that killed Joe and Richard on Howland. But none of us really knows how it happened because the other two boys never wanted to talk about it.

"That night we sneaked back to the Government House. The shells had blasted everything. But we saved some tin from the roof and made sun shades for our fox holes. We covered the tin with brush so the bomber couldn't see us.

"That bomber was based in the Marianas Islands. It was a big, four-engine flying boat that came over every day around noon.

"We saved as much of the food as we could. The rats had gotten into the sugar. There was a little coffee. It's easy to live off the land there. We had plenty of dried fish. You can pick up squid and lobster with your hand.

"For greens, we picked palolo leaves.

"That Christmas we had lobster for dinner. We sang Christmas carols under the moon that night. I wasn't sure we'd ever get picked up and I expected the Japanese to land any time.

"When the U.S. Navy ship came, I thought it was Japanese and told the boys to stay hidden. The ship put a boat over and started rowing to the beach. I thought, 'Oh boy, we've had it now.' Then I saw blond hair and I knew they weren't Japanese."

At the last minute, Burke cut his foot on a piece of iron, he said. He was bleeding so badly he was afraid of attracting sharks if he swam to the boat and the Navy officer in charge refused to row to quieter water.

"It was Blue Makua who swam back and got me to swim to the boat," said Burke.

"During the whole time we were being bombed. I kept the flag. Before we left the island, I buried it in a gunnysack and piled stones over it. In 1943, I went back to Baker to help build the airstrip.

"The first thing I did was find the rock pile and dig up my flag. I brought it home and have kept it ever since."

Burke said he went to Howland Island with some of the construction crew to find the graves of Whaley and Keliihahanui. Later, the bodies were taken to Schofield and reburied.

Somehow, nobody ever got around to arranging public recognition for two of America's early casualties of World War II. So their friends decided at a reunion last week that it was time to honor the memory of their fallen comrades.

They are all in their 60s, those Kamehameha School boys who used to surf on redwood boards.

The party included William Whaley, brother of Richard, well known as a former professional baseball player. The former colonists present were the Burkes, Soloman Kalama and Joe Kim.

Eugene Burke spoke over the graves for the group:

"At this time it is appropriate that we say a silent prayer for these two. They are with us in spirit. They fill our hearts with pride. They gave their lives for us."

For a long time the survivors stood beside the graves talking story, remembering.

[From the Honolulu Star-Bulletin, Mar. 20, 1981]

CIVILIAN'S WAR EFFORT RECOGNIZED BY NAVY

(By Lyle Nelson)

More than 39 years after Edwin M. S. Lee of Makakilo helped Marines vainly defend Wake Island and after serving nearly four years in Japanese prisoner of war camps, the U.S. government finally acknowledged his "fighting spirit, courage and devotion to the common cause in the highest tradition of the Navy."

Written May 8, the "thank you" from Navy Capt. W. P. Behning of the Navy's personnel staff in Washington, D.C., ended many years of persistent effort by Lee.

The oddity is that Lee was never in the Navy. As a civilian employee of Contractors Pacific Naval Air Bases, Lee was a deckhand on a tugboat working in the Wake lagoon on Dec. 7, 1941.

And when the Japanese attacked Wake, everyone had to pitch in.

In all the years since, Lee has been after the government to recognize what happened to him on Wake.

"I just never quit; I kept going after them because it was only right," Lee said in an interview this week.

In fact, Behning's letter reads, "On behalf of my shipmates, I would like to express a long-overdue sincere thank you for your patriotism, extraordinary service and dedication to the U.S. Navy."

Lee was helped in his quest for recognition by Hawaii's congressional delegation and his union, the Hawaii Federal Lodge, No. 1998, International Association of Machinists and Aerospace Workers, and its director, Ernie Reyes.

Japanese bombers came over at noon on Dec. 7 and for the next 16 days Wake was under constant attack. Lee and many of the other 1,500 civilian workers there helped Marine and Navy defenders to repulse the invasion attempts.

A Navy commander notified Lee and about 15 other men from Hawaii that under martial law he was making them members of the military defense force, sort of deputizing them on the spot like vigilante sheriffs in the Old West.

Starting with an appeal to Delegate to Congress John A. Burns in 1956, Lee sought to have his war record at Wake accepted legally to extend his total government service time for retirement and medical benefit purposes.

But Lee had to prove "active participation in the defense" of Wake.

The testimony of witnesses, documents and his own testimony in a war crimes trial on Guam in 1948, finally helped to establish Lee's role on Wake.

Lee retired from the Navy's public works center at Barbers Point last year.

With the notification that he was part of the gallant stand on Wake, Lee can add four years to his already 23 years of government service for the Navy.

This will increase his retirement pay and make him eligible for medical benefits that stem from a service-connected disability. Lee said he received a back injury when he was knocked unconscious by the concussion of a Japanese bomb on Wake. In addition to new medical benefits, Lee has received an honorable discharge and three World War II war medals.

Lee's education was limited to the eighth grade at the Watertown School located where Hickam Air Force Base is now. He helped build Hickam and with Hawaiian Dredging was sent to Johnston Island in 1939 before going to Wake.

Wake was surrendered two days before Christmas 1941, although Lee and many other POWs were not moved from the atoll until the following September.

During the Japanese occupation of Wake, Lee witnessed the beheading of an American serviceman and was forced to dive into 40 feet of water—without any equipment—to retrieve an American torpedo that had been fired at a Japanese ship bringing supplies to Wake, he said.

While a POW at Yokosuka and Yokohama in Kanagawa Prefecture, and in Tokyo, Lee said he was beaten more than once. He also saw the Doolittle raid of 1942 and the Tokyo Bay plane crash that killed Gaylord Dillingham of Honolulu.●

WHAT REAGANOMICS IS ALL ABOUT

● Mr. ARMSTRONG. Mr. President, today's Wall Street Journal printed a thoughtful article about why high tax rates impair personal development and economic growth.

The author, David M. Smick, forcefully writes that what America needs is "a climate of economic buoyancy—that sense of economic boundlessness where a person can, with energy and initiative, take a new idea as far and as high as he or she wants" and that with such an economic climate "our entire economy will gain in production and jobs; and the Nation will regain the energy and opportunity and spirit upon which its greatness depends."

Mr. Smick's article paints a bright future for America once it is unshackled from a tax code that now discourages individual initiative. The article is insightful, and it places Mr. Smick on the forefront of the new thinking that is reshaping America's political landscape. The article is well worth reading, and I commend it to my colleagues. I ask it be printed in the RECORD.

The article follows:

WHAT REAGANOMICS IS ALL ABOUT

(By David M. Smick)

In the late 1930s, Chester Carlson had a revolutionary idea—an electrostatic printing process—which he tried to sell to the top mimeograph companies in America. Turned away time and again, he finally converted his kitchen into a workshop and went into business for himself. There was risk and a shortage of capital, but the tiny enterprise survived and prospered.

Today, we know it as Xerox.

Were Mr. Carlson alive, he probably would ask, "What ever became of those smug mimeograph companies?" The answer is that they fell victim to what Joseph Schumpeter, the economic theorist, called "the creative destruction of capital"—the process by which a new idea enters the marketplace, making existing capital worthless.

What sounds like some arcane concept is the heart of Reaganomics. It explains the President's understanding of how growth is produced in the private sector, and why he believes, against a multitude of critics, that his across-the-board tax cuts for people will lead directly to new jobs.

To give the President credit, most policymakers have in recent years understood the process of job creation about as well as John McEnroe has mastered the art of diplomacy. Mention "jobs" and the picture is of giants of industry like Chrysler and U.S. Steel either protecting existing jobs or expanding plant and equipment to create new ones.

Actually, the Fortune 500 have experienced virtually no net job growth for more than a decade. The newest research shows instead that nearly all new jobs are coming from firms with precisely the opposite characteristics.

They are not only small, but minuscule. Nearly 70% of new jobs come from firms with 20 or fewer employees. Almost 100% of net new jobs in the Northeast come from such firms.

They are young. Most new jobs come from firms four years old or less.

They are unpredictable and unstable. The more stable a firm is, the less likely it is to produce new jobs.

FAIL NATIONALLY AT SAME RATE

Many of these fledgling enterprises will go out of business (four out of five do so within the first year) with new ones springing up to take their place. Frostbelt or Sunbelt, such businesses fail nationally in metropolitan areas as roughly the same rate—8% a year. Booming Houston, according to David Birch of MIT, proportionally has more business failures today than the old cities of Boston, Baltimore, Hartford—indeed more than almost every other city in the U.S.

What these facts and statistics create is a perfect object lesson. Houston's success stems not from a strong defense, but a strong offense. Entrepreneurs with new ideas are creating jobs at a pace far exceeding the rate jobs are lost, providing Houston a tremendous engine for prosperity.

The secret to maintaining high levels of national employment is hardly import quotas or Chrysler-like bailouts or even tax proposals aimed merely at modernizing existing plant and equipment.

The secret is creativity encouraging a groundswell of men and women with fresh ideas to strike out on their own. The secret lies in the enterprises yet unborn, the oil wells yet undrilled, the inventions yet untried. Some of these fledgling entrepreneurs will fail, but others—like Chester Carlson—will replace today's capital and products with new and better ones, to the benefit of all of us.

The irony is that city planners, government growth economists and even successful corporate executives usually find this thinking unrealistic. The reason may be that productive change is not in their own vested interest. But it also may result from the great frustration that in this age of sophisticated econometric models and corporate "five-year plans," enterprise and job growth is just as unpredictable as it was decades ago. It still involves the dynamic process of two competing forces; success and failure. And perhaps most frustrating, it continues to depend directly on the creative implementation of new ideas by folks who, in the eyes of corporate America and the federal government, appear unpolished and relatively inexperienced.

If you have met a true entrepreneur even once, you know they tend to be nothing but crazy. Like Chester Carlson, they appear illogical dreamers, even though many have that inner genius for success. As a sophisticated business or government executive would you, or could you, take the risk of investing in such unpredictable characters knowing that many will end up as miserable failures? Perhaps this is why large institutions have not provided many permanent new jobs.

While entrepreneurs may be crazy, they are crazy like a fox. Most expect to lose money in the early years; still they make a careful calculation of current risk against future reward. They are society's dreamers and will endure incredible risk—far more than established business—with promise of great future reward.

In a sense, every individual is a potential entrepreneur. By that I mean that we have near limitless sources of both human and

financial capital—professionals in high tax brackets working only three days a week, mid-level industry technicians teeming with new ideas but apprehensive of the risks of individual enterprise, and many others.

Notice this is not just capital formation, but capital mobilization. Capital is more than money. It is also productive ability and thus exists in the minds, hands and hearts of people. The question is, how do you encourage these potential new wealth and job creators to invest their talent and savings in a new enterprise instead of in real estate, elaborate tax shelters, money market funds or in doing nothing at all? What they need is a climate of economic buoyancy, so necessary to individual initiative, and a system that capitalizes on human nature by strengthening the link between effort and reward.

House Speaker Tip O'Neill calls this "the whims of free enterprise." With all due respect, it is precisely such entrepreneurial risk-takers, now lining Route 128 outside Boston with small "hi-tech" firms, who are shouldering his city's job and tax base. If he simply visited these enterprises, the Speaker would discover that entrepreneurial success in America is taxed and harassed more than in just about any other free industrialized country. By the sheer force of logic, he would immediately help lower or eliminate the capital gains tax, lower the corporate rate, eliminate senseless overregulation and, most importantly, lower marginal tax rates on personal income across the board.

POTENTIAL ENTREPRENEURS

After all, 90 percent of American businesses still pay taxes through the personal schedules. These include proprietorships, partnerships and all the other noncorporate entities engaging in enterprise. Just as vital are potential entrepreneurs who, before entering a risk situation by pulling savings out of tax shelters, look instinctively to their personal tax bracket, which inflation has pushed higher and higher in recent years.

This is why President Reagan calls his across-the-board personal tax-rate reduction plan a "small-enterprise incentive" and why he favors the proposed end to the distinction between "earned" and 'unearned" income (establishing a top tax rate on personal income of 50 percent now, with the goal of 35 percent as soon as is politically possible). Both increase the after-tax reward for greater entrepreneurial risk, for the direct creation of jobs.

Congress, with a false sense of sophistication, has always preferred more complicated solutions to the creation of jobs—the targeted gimmicks with bulit-in "triggers" that have failed for so many years. Yet the birth of an enterprise has an elusive, almost metaphysical quality that makes targeting, planning, certainty and "sophistication" most difficult. Something as common and essential as the ballpoint pen was conceived by, of all people, an insurance executive on his summer vacation. The arrival of the automatic transmission had little if anything to do with the multi-million-dollar engineering departments of Detroit's Big Three.

Growth involves ideas and thus is unpredictable. All we can provide is buoyancy—that sense of economic boundlessness where a person can, with energy and initiative, take a new idea as far and as high as he or she wants. If we can keep that initiative from being stifled, as it is today by an inefficient tax and regulatory system, people may once again follow their dreams. Allow entrepreneurs and potential entrepreneurs across-the-board worthwhile returns on their effort and they will start taking risks. Our entire economy will gain in production and jobs, and the nation will regain the energy and opportunity and spirit upon which its greatness depends.●

UNITED STATES NEEDS A DOMESTIC SUGAR PROGRAM

● Mr. INOUYE. Mr. President, I wish to share with my colleagues editorials from Hawaii's two major newspapers regarding the sugar provision included in the Senate Agriculture Committee's Food and Agriculture Act of 1981.

I strongly support the Senate Agriculture Committee sugar provision and am deeply concerned over the erroneous reports, studies, and news stories that have been recently published on sugar. The sugar industry is extremely important in my State of Hawaii, and to many other States across the Nation. More importantly, since the expiration of the Sugar Act in 1974, American sugar consumers and producers have been at the mercy of the extreme price fluctuations prevalent in the sugar market.

The domestic sugar loan support program contained in S. 884 will provide added stability to the sugar market. Given the USDA's economic outlook for sugar over the next 5 years, the program's 19.6 cents per pound loan rate would probably not involve any cost to the Government. Most importantly, the stabilizing influence of the program will have a beneficial effect on consumer food and sweetener expenditures.

The United States produces just over half of the sugar we use. The rest we import. Hawaii supplies approximately 20 percent of the sugar grown in the United States, or 10 percent of the entire amount of sugar consumed in our country. Thus Hawaii, other producing States and our Nation's consumers must suffer through the price fluctuations in the world market.

The world market for sugar is one of the most volatile commodity markets. Prices may change dramatically as a result of small changes in production or consumption. For example, in 1974 and early 1975 sugar prices went from 9.6 cents to almost 65 cents per pound and back down to around 9 cents per pound. And again in just the past 18 months, sugar prices moved from 9 cents per pound to 45 cents per pound, back down to below 20 cents per pound today.

Consumer and industrial users benefit from low sugar prices, while sugar producers incur substantial losses. The opposite occurs during times of high prices, when the consumer pays dearly for sugar while the sugar producer may not make up for losses incurred when prices were low. The extreme price fluctuations have cost the American consumer and the domestic sugar producer dearly.

Most of the world's sugar is not traded on a free market. Of the annual consumption of about 90 million metric tons, about 85 percent is consumed in the country where it is grown or is traded through special marketing agreements. Of the remaining 15 percent of world sugar production, there are substantial trade restrictions on about two-thirds.

About one-fourth of the world free market sugar is sold in the United States, and we depend on that market for about 45 percent of our sugar supply. The result is exaggerated swings in price following even small changes in supply or demand.

It would be justifiable to expect U.S. sugar producers to compete with foreign sugar producers if it was in a truly free market. However, how can we expect U.S. sugar producers to compete in a market where sugar is produced through foreign government subsidy and Government-manipulated low wage rates?

The United States needs a domestic sugar program, and it is my hope that my colleagues will support the sugar provision now part of the Food and Agriculture Act of 1981. This program will bring greater stability to the U.S. sugar market, and will benefit both the sugar producer and consumer of the United States. I ask that the following two editorials which expand on the points that I have made be printed in the RECORD.

The editorials follow:

[From the Honolulu Advertiser, May 12, 1981]

SUGAR NEEDS SUPPORT

The end of the week should tell whether an important hurdle has been cleared in efforts to get sugar included with other commodities in the 1981 Omnibus Farm Bill that Congress is expected to pass later this year.

The Senate agriculture committee has approved a price support program for sugar under the bill. A House agriculture subcommittee earlier did the same. By Friday the full House Agriculture Committee is expected to send its version of the farm bill to the floor.

The United States imports half the sugar it uses, buying on the so-called world market where other countries sell their surplus. Prices and supplies fluctuate wildly on this market, and domestic prices follow along.

The goal of a federal price support program ought to be to ensure that prices are high enough so efficient producers can stay in business but not so high as to unfairly pinch the pocketbook of consumers.

As far as the Hawaiian sugar industry is concerned, price stability is a main goal. Several months ago when the sugar industry made its annual report on 1980—its most prosperous year since 1974—the price of sugar was 41 cents a pound. Now it is in the 15- to 17-cent range.

Inclusion in the farm bill would guarantee sugar producers across the country access to what is called a non-recourse loan program. Under it, when sugar prices fall to a specified level, producers would be able to get loans from the federal Commodity Credit Corporation using their crops as collateral.

If prices go up the producer could sell his crop and repay the loan. If prices stay low the producer would forfeit the collateral, keep the money and the corporation would hold the sugar until prices rise again.

In 1977 and 1978 a loan program was in effect and the corporation profited $67 million. Such a program is legally possible now, but only at the discretion of the Secretary of Agriculture who has indicated that the administration does not believe the sugar growers need help. Inclusion in the farm bill would guarantee the loan program to sugar growers when low prices prevail.

A stable, reasonably prosperous sugar industry is obviously important to Hawaii. This is especially so now that tourism is stagnant and always uncertain federal spending—the "third leg" on which Hawaii's economy stands—is being reduced sharply in some areas.

But the stability of the sugar industry is not just a local concern. Hawaii and Florida each represents about 20 percent of domestic sugar production and the rest is spread across the country, particularly in the South and West.

Finally, the decline in the American capacity to produce sugar, which could lead to an unfortunate over-dependence on other countries, is something everyone needs to be concerned about.

Prospects for sugar's inclusion in the farm bill are just better than even, observers believe. The $100 million potential cost of the program—out of an expected $2.1 billion farm bill—is not large. But sugar is a small-fry in the funding competition next to farm products like wheat, corn, milk and tobacco.

There is obviously a trend, led by the Reagan administration, to cut federal farm aid, or to increase it only modestly. There is still a chance that sugar could be left out in the general fray. But sugar would be an unfortunate place to make cuts.

[From the Honolulu Star-Bulletin, May 20, 1981]

PROTECTION FOR THE SUGAR INDUSTRY

It wasn't going to last forever, and it hasn't. We mean the bonanza of high sugar prices. They're down again from a peak of 43 cents a pound last November to less than 16 cents.

That is the break-even point for the Hawaii sugar industry, or maybe a little below. The party is over, for a while at least.

The industry went for the same ride on the price roller-coaster in the mid-1970s. That experience produced the International Sugar Agreement (ISA), which was supposed to stabilize world prices. So far the ISA hasn't been effective, partly because the European Economic Community (Common Market) has refused to join.

Hawaii's sugar industry has maintained that it needs domestic legislation to replace the Sugar Act, which expired in 1974, in addition to the ISA.

It was difficult to gain support for that view in Congress when prices were so high. Now that the pendulum has swung the other way, the case for new sugar legislation has been strengthened.●

THE WORLD HEALTH ORGANIZATION'S CODE ON INFANT FORMULA

● Mr. EAST. Mr. President, the recent controversy surrounding the World Health Organization's code of marketing for breastmilk substitutes has generated much heat but little light. We all want to protect and improve the health of infants. Is the WHO code the way to do so?

In a recent address at a meeting sponsored by the Heritage Foundation, Assistant Secretary of State for International Organization Affairs, Elliott Abrams ably defended the Reagan administration's position.

I ask that his address be printed in the RECORD.

The address follows:

DISCUSSION OF THE WHO CODE ON INFANT FORMULA

(By Elliott Abrams)

I welcome the opportunity to be here this afternoon to talk with you about the United States' decision to oppose the World Health Organization's International Code of marketing Breastmilk Substitutes.

Last month we, as a nation, stood alone in voting against the Code after a careful review revealed that little, if any, of it could be implemented in the United States. We acted only after thoughtful consideration of all of the issues involved. Although both the House and Senate have raised questions about our vote, we remain firmly convinced that there are portions of the Code which are contrary to the best interests of both the United States and of the world community, and that our vote was correct.

As we review the Code and the Reagan Administration's reaction to it, I think it is helpful to separate health issues from political issues. We found the Code wanting on both counts; but still the issues are different and should be discussed separately. Let us start with the health issues.

I do not want to represent myself as a health expert. After all, I am a lawyer, not a doctor, and I represent the Department of State, not the Department of Health and Human Services. Yet even to a layman, I think it is obvious that there was considerable exaggeration and distortion in the argumentation surrounding this code, and even in the code itself. For almost every scientific study claimed to prove one thing, another study claimed to prove the opposite. Nevertheless, let us look at some of the basic considerations.

Let me begin by saying that the medical profession is unanimous in saying, and we of course agree, that breast milk is the superior form of infant feeding. We will continue to promote breast feeding through HHS programs at home and AID programs in the Third World.

But the code itself is a different issue. Just because we support and want to promote breastfeeding, we need not support every document that purports to deal with the issue. In regard to this particular document, careful thought needs to be given to whether it is appropriately modest in its claims and whether it appropriately recognizes the debate that still exists on many of the health claims on this issue. The fact is that there are many differences of opinion.

For example, the code is based on the supposition that Third World mothers who would otherwise breast feed are led into using the formula by the promotional activities which are said to be a significant cause of the decline in breastfeeding. It is also argued that this declining rate of breastfeeding accounts for infant deaths which are associated with misuse of formula and which could otherwise be avoided.

But these suppositions should not be lightly accepted as the whole truth. For one thing, decreasing breastfeeding is directly associated with the phenomena of urbanization and industrialization. Simply put, city dwellers in the Third World are less likely to breast feed than the rural population. In part, this is simply because many more urban women work outside the home and cannot arrange to breastfeed.

Needless to say there are also many women who choose not to breast feed, and others who are unable to breast feed successfully.

Thus it cannot be said that promotional activities of the infant formula industry are the main determinant of the rate of breastfeeding. In the U.S. we have a free economy which permits the promotion of infant formula for profit. In the last ten years the rate of breastfeeding has doubled. In many Communist and Socialist countries such as the Soviet Union, or Hungary, or Algeria, where production and advertising of infant formula for profit is forbidden, the rate of breastfeeding continues to decline. In my view, we learn from these facts that advertising simply has very little to do with the rate of breastfeeding. Supporters of the Code who stress that it is being produced by profit-making corporations and who ignore the kind of facts I have just mentioned are displaying their own ideological bias against private corporations.

Supporters of the code also claim that the use of infant formula causes up to a million deaths a year. Now this figure comes out of thin air. There is no factual or demonstrable basis for it. It is a straight-out guess, presented to us by polemicists as undeniable truth.

But if there are deaths associated with the absence of breastfeeding, here is what they mean. They mean that the use of contaminated infant food costs many lives a year which could be saved if mothers breastfed their infants instead. This argument assumes that there are only two choices for mothers: to breast feed or to use infant formula. In fact, millions of mothers in the Third World use harmful breast milk substitutes such as local water mixed with corn, sugar, flour, or rice. In many cases, the impure water which they mix with these foods to give their children is very damaging or even fatal.

Now it should be clear that water is the culprit in that case. And it should be clear that if that mother switches from using contaminated local water and sugar, to using contaminated local water and infant formula, the health of her infant is no worse off. Indeed, it may even be improved.

Critics of infant formula are vociferous in citing the incorrect use of it as a menace to infant health. (The Washington Post just recently ran a long story with this contention right here in Washington.) But let us not be naive about the choices that are available to mothers. In most developing countries, if mothers gave up using infant formula, their only real choice is to go to sugar water or cassava root or something even less nutritious.

In short, we are not convinced that the code was based on accurate assumptions. Indeed, it seems clear that the code and its supporters overstate the role of infant formula marketing in leading women away from breastfeeding. They also appear to ascribe to infant formula certain health evils that are far more broad and far more pervasive. The fact is that infant formula as produced is a safe and nutritious product, for which there is clearly a legitimate market And it is a product that could not possibly be responsible for all of the evils ascribed to it. As Dr. George Graham of the Departments of International Health and of Pediatrics at the Johns Hopkins University recently testified before Congress:

"There is a very real danger that the formulation of a code devoted to the control of infant formula marketing practices, no matter how carefully written, will leave the impression that a major problem has been solved and delay or prevent other much more important actions that need to be taken."

I would like to turn now to the other side of the Code—its political side. If the health issues are, as we believe, complex, if honest men and women can differ on them, what explains the terribly high emotions involved in this dispute? What explains some of the more extreme provisions within the code and claims about it? The answer is not to be found in the field of health policy but rather in the field of politics. In my personal view the Code was dragged into the current dispute over North/South relations, the New International Economic Order, and the role of the multinational corporations. For two years the United States engaged in serious negotiations to get a code we could vote for. But the code as it emerged raises very serious problems.

First, the Code calls for a complete ban on advertising of infant formula to the general public and for restrictions on the flow of information between manufacturers and consumers. It would not restrict misleading or untruthful advertising only, but all advertising no matter how accurate. This is a position that runs counter to our Constitutional guarantee of free speech, and serves to underscore the dangers of similar moves currently underway in UNESCO to regulate the free flow of information to the public

through the media. In both cases, that of infant formula manufacturers and that of the press, there is an effort by an international organization to limit the flow of accurate information which is being supplied by a profit-making private corporation. In both cases, the United States has taken a position of firm opposition.

An additional problem is that the Code goes into extensive detail about internal corporate operating procedures. For example, it recommends that salesmen not be paid bonuses based on sales volume. We thought this a completely inappropriate provision for an international health code, and on which was clearly informed by a strong anti-corporation bias.

The Code was in addition subject to the interpretation that its provisions are binding on corporations even though they are only recommendatory to governments. In our view, the World Health Organization is an intergovernmental organization which can have no independent authority over the private sector in any country. We oppose any effort by the United Nations system to control private corporate activity.

Finally, let me mention one other problem. The Code appeared to interfere with the role of health professionals in dealing with their patients by assigning to governments, not doctors, the role of ensuring that families are informed about infant feeding. Assigning more and more tasks to the States is a practice favored by many nations but not one that the U.S. wishes to encourage by a "yes" vote. The Code states that "governments should develop social support systems to protect, facilitate, and encourage" breastfeeding. As Dr. Graham noted in his testimony, "the use of the word 'societies' instead of 'governments' would have recognized the fact that in most non-Socialist countries many of these functions are carried out effectively by private voluntary organizations. . . ."

Dr. Graham goes on to discuss another troubling portion of the Code, Article 4.1. I quote Dr. Graham's testimony:

"This article, in its entirely, states: 'Governments should have the responsibility to ensure that objective and consistent information is provided on infant and young child feeding for use by families and those involved in the field of infant and young child nutrition. This responsibility should cover either the planning, provision, design and dissemination of information, or their control.' No matter how it is read, this article is proposing prior government censorship of scientific and health information: in free countries such shackles are totally unacceptable, even when governments might have a great deal of expertise on the matter.

"In many developing countries no such wisdom exists in the government: the article is an open invitation to arbitrary imposition of ideas and to the denial of access by the public and health personnel to dissenting opinions or evidence. If the intent was to control only manufacturers and distributors, whether proper or not, the letter of this article can and will be interpreted to prevent scientists, health workers, community representatives, or the communications media from speaking up when they disagree with official thinking. It can and will be used to block the circulation of scientific journals, particularly if they carry advertisements."

We consider it deeply unfortunate that a Code was not developed which took full account of such complexities in the infant feeding issue and which the United States could support.

And so, despite our governmental interest in encouragement of breast-feeding, we were faced with a code that was simply defective from our point of view. We would not, or could not, have enacted it into law in the United States, and we were concerned in general about the propriety of WHO's involvement in codes addressed to the commercial sector. It is true that the code was not binding, that it was only a recommendation to member governments and could have been rejected or ignored. But we considered it hypocritical to vote in favor of a code we could not implement ourselves. And under the circumstances, we did not believe it proper to recommend the code to others.

The United States will continue to promote breastfeeding as the best form of infant feeding, but we cannot support a detailed and inflexible code, global in scope and rigid in structure, that our laws and our traditions would never permit us to implement at home. We believe strongly in this position. We were prepared—if necessary—to stand alone on it and, as it turned out, we did. It was a risk we were willing to take. To begin changing our positions whenever they are unpopular in the United Nations is a policy with staggering implications, and one this Administration rejects completely.

Where do we go from here? For one thing, it should be clear that our vote on the code has been misperceived by many. The language adopted by the Senate yesterday acknowledged that misperception, and we welcome the Senate's recognition of this problem. It is ridiculous to interpret our vote as a vote against babies, against breastfeeding, or against better nutrition for infants and mothers. Nor is it a vote against the UN system. It was a vote on one piece of paper—this Code—and simply a reflection of our views that the code was inapplicable and unimplementable in the United States and contained a number of premises and conclusions that were not based on decisive medical evidence.

The big storm we have seen in the past few weeks was unnecessary. I have argued time after time against the intrusion of politics in the UN specialized agencies, and here we see the typical result of that intrusion. What should have been a measured debate on health issues was transformed into a shouting match over intentions and over integrity. Instead of disputing the Administration's position with persuasive medical evidence, too many opponents spoke of killing babies, or of big business' influence, or simply invented evidence.

Let me assure you that we in the Reagan Administration will never be swayed by this kind of polemics. We will stick to the policies we believe in, no matter how polemical the charges against us. We are aware that in many votes on issues of free press or free market economics, as on many issues affecting so-called North/South relations or issues related to the New International Economic Order, we will be in a small group, or even alone. Rest assured this will never change our minds or change our vote.●

PROGRESS IN POLAND

● Mr. KENNEDY. Mr. President, today, July 14, marks an important day for Poland—and potentially for Eastern Europe and the world. A Polish Communist Party Congress convenes in Warsaw based on elections by secret ballot by all members of the party; 80 percent of the delegates are participating for the first time. New democratic forces are at work in Poland; at the same time, the Polish people face serious economic problems which are the result of decades of mismanagement by the state.

It is essential to the Polish people, and of the greatest importance to the world, that they proceed in resolving their own internal problems without external intervention. I have complete confidence in the ability of the Polish people, government and church to do so in a manner which contributes to both peace and their future political and economic progress.

I also believe strongly that the international community should respond generously to Polish economic needs and make it possible for Poland to resolve its longer-term problems. Both Communist and non-Communist nations and both the private and the public sectors should play full and supportive roles in economic assistance to Poland. In addition to the decision last year to provide Commodity Credit Corporation credits to Poland, I call upon the administration to provide further credits for corn and other food supplies at this critical time for Poland and the Polish people.

Mr. President, William Beecher and Jim Hoagland have written thoughtful articles, in the Boston Globe and Washington Post respectively, on the current economic and political situation in Poland. As Mr. Beecher points out, we must not be surprised by "mistakes of omission and commission * * * during a period of transition" to decentralized economic management so essential to Poland's long-term economic success. Mr. Hoagland explains the "Polish paradox": those who wish to reform the political system in Poland must be careful not to destroy the progress achieved to date.

On this important date for Poland, we all join in wishing it well in its critical passage to economic and political success for the Polish people.

I request that William Beecher's article, "Have the Poles Reached a Time of Decision?," and Jim Hoagland's article, "Polish Paradox," be printed at this point in the RECORD.

The articles follow:

[From the Boston Globe, July 10, 1981]

HAVE THE POLES REACHED A TIME OF DECISION?

(By William Beecher)

WARSAW.—It may seem a small thing, but historians and sociologists may look back at the summer of 1981 as marking a turning point in the expectations of the next generation of Poles.

It's traditional that Polish babies, when they cry out in their carriages, are given small, hard cookies, just as mothers in the United States pop a pacifier in a wailing infant's mouth between feedings.

About six weeks ago, the baby cookies disappeared from the shelves. Why, since they are baked locally from flour and sugar?? Who can say about Polish foodstuffs, a journalist answers. Things just disappear. There is no explanation. There is very little in the markets.

Now, in perambulators all over Warsaw, infants must be satisfied with rubber and

plastic pacifiers. If the situation persists, it could prove significant. In the past, from their earliest recollection, Poles had only to cry out to be rewarded with something sweet. Inadvertently, that may have shaped a nation's expectations that instant gratification was the normal condition.

For the last three decades the Poles have always demanded good food at low prices. Often they have taken to the streets and rioted when higher prices threatened that condition—twice even bringing down governments.

But, although sweeping changes in the political, social and economic structures are being won at the insistence of workers and farmers, currently skimpy market shelves are expected to get even worse.

Plant managers and state farm directors, who depended on directives from bureaucrats in Warsaw to tell them what to do, are suddenly going to have to make a lot of their own decisions, being judged on the heretofore unheard of test of whether they can turn a profit. Many mistakes of omission and commission can be expected during a period of transition.

As grandiose plants ordered by the previous regime are closed because they are uneconomic, will displaced workers return to farms which are desperately short of help? City life can be more exciting and farmers are looked upon by society as country bumpkins. But as private farmers, who own 75 percent of the land, begin to get realistic prices, farm incomes should spiral compared with urban salaries, as in Hungary. Or will the unemployed insist on retraining for service jobs, such as automobile repair?

What about the hundreds of thousands of bureaucrats and managers and editors—the new middle class—whose cars, nice apartment and television sets have come to them less from ability than loyal membership in the Communist Party? For many of them the lifestyles they have become accustomed to could be jeopardized if future rewards are based on performance under the most competitive circumstances. Will they nonetheless implement the changes, or obstruct them in hopes they will flounder further and people will finally decide to trade their new freedoms and five-hour lines for meat, for a return to the old ways where perhaps a relieved and grateful Soviet Union will send in handsome bounty?

In all walks of life, despite what should be a heady mood here, one meets 10 pessimists for each optimist.

An intellectual puts the case this way: Over the past 35 years there has developed a new bourgeois class of people who gained everything not through talent but party membership. They suddenly realize they can lose everything, much like Franco's middle class in Spain. So instead of talking about renewal and solidarity, they keep quiet. They follow orders and keep the situation in suspense—until the majority in Poland get so tired of lines they will agree to anything, even a return to the old ways, to get meat and rice without ration coupons. The Russians will not invade. They will just wait and the fruit will fall into their hands—in the autumn.

A Solidarity official sees it differently: the mismanagement and waste of the previous regimes were appalling. This crisis had to arise, it was only delayed by loans from the West. Our economic situation is so bad that turning back to the situation of the past will not end the lines, or put meat in the shops. There's no turning back. It's gone too deep.

[From the Washington Post, June 22, 1981]

POLISH PARADOX: PARTY'S FOES TRYING TO KEEP REGIME AFLOAT TO REFORM IT

(By Jim Hoagland)

GDANSK, POLAND.—Jan Labecki, first secretary of the Communist Party in the Lenin Shipyard, member of Poland's Central Committee and seeker of a new form of communist rule for his country, fidgeted as his visitor returned to the question of the banner that had been strung across the shipyard's main entrance early that morning.

It was now midday and the banner still hung in the defiant spot chosen by Solidarity union activists, their neat black lettering demanding the release of Poland's political prisoners. Soon, regional officials would be passing beneath it as they gathered at the shipyard to elect delegates to the national Communist Party Congress, and Labecki was acknowledging that the banner would still be there to greet them.

"Find somebody to take it down," the party administrator challenged his questioner. "There would be trouble, and whoever took it down would be out of a job and would never get another job here. The one who replaced him would not even try the next time."

"In the history of Poland it is always like that," he continued. "At one time you can do whatever you want, without responsibility for it. That was the last decade. Now, the pendulum has swung, and they can do whatever they want. Solidarity is giving the orders right now."

Poland's national revolt against three decades of misrule and repression has turned this Eastern European country into an ideological no man's land in the late spring days leading toward a climactic party congress next month. A surge of open nationalism, political activity and freedom of expression here makes it seem that the Iron Curtain has been parted at the Polish frontier.

Suddenly, the fear that has been the cement of Soviet rule in Eastern Europe has been turned. In Gdansk, the party and its police fear the people, not vice versa. In this Polish paradox, Communist Party officials are actually running for election to their jobs, in secret balloting, and they cannot yet know where this novel experience will lead.

Neither can the police, who would normally have yanked down the Solidarity banner at the shipyard. Nor can the censors, who normally would have halted the unvarnished reporting appearing in the Polish press and curbed the outpourings of Polish men and women who are excitedly telling each other what has happened to them and their country under 35 years of Communist rule.

Now, a reporter asks a Polish activist what help the United States could send and is told calmly, in the hearing of a dozen persons in a public place, "How about tanks?"

In this new Poland, it takes a well-publicized outburst by Communist Party leader Stanislaw Kania, backed by a nastily threatening letter from the Kremlin, to stir the old fear patterns and to give a little backbone to the police and censors. Kania's promise of a crackdown is not an end to this season of dissent but an acknowledgment of the enormous task his weakened government faces in trying to get the genie of democracy back into the bottle.

"We've started rooting for the government," said one Western journalist covering the upheaval. "You have to go with the underdog."

Seen from inside, Poland's revolt looks dramatically different than when it is viewed from Washington against the ever present backdrop of the Kremlin and the White House muttering menacingly at each other or at the Poles. Here, the periodic threats of global conflict are adjuncts to a subtle, cosmopolitan and highly risky internal power game that is not obeying traditional rules of such struggles.

"People talk about a power struggle, but power lies on the sidewalk and nobody picks it up," says Father Josef Tischner, an influential Roman Catholic theologian in Krakow. Andrzej Gwiazda, Solidarity's deputy leader, adds: "We're doing our best to convince the government it is a government. Maybe that is why we argue so much with it."

That sentiment contains the core of the paradox. Many opponents of the party fear that its government will simply disintegrate one day, provoking a Soviet invasion. Church leaders, Solidarity members and intellectuals who accept this view maneuver in silent complicity with party reformers to keep the government afloat long enough for it to be completely overhauled from the bottom.

Maneuvering in a completely different direction, of course, are the members of the old guard who are not in sympathy at all with the liberalism and patriotism that could cost them their power. It is difficult to judge their strength, particularly since they continue to shun contact with visiting journalists, but it is sufficient to worry Kania and Solidarity activists. "The party elections are so democratic that they trouble me," says Zbigniew Bujak of Solidarity. People who are losing power are our biggest opponents and they are not happy to be going."

Poles appear to be too busy trying to advance and understand the palpable transformation occurring within their society to keep asking themselves, as Westerners do constantly, if the Russians are going to invade. Instead, it is the profound human experience that is occurring within the Polish revolt that occupies Poles, and it requires the shouting of Kania and Moscow to jerk them back to the global dangers that fixate outsiders.

Two dominant impressions emerge from the comments of several score of Polish Communists Party officials, Solidarity members, journalists, steelworkers, farmers and others interviewed during a week in Warsaw, Gdansk and Krakow. These impressions suggest something of the texture of life in those cities today.

First is an almost total alienation of the population from its ruling class, expressed in the most open and visible way imaginable in a country subject to totalitarian rule for 35 years. A visit suggests that Gerald Ford was perhaps no more than premature in his 1976 presidential campaign debate judgment that Poland was not under Soviet domination.

The second is the consequent turning inward of that population on its own resources. While the ideological hurricanes sweep the ground around them, Poles evidence a gentle human concern in personal contacts, almost as if they are celebrating the collapse of barriers that ideology had sought to erect among them. The mood in the long lines that form in front of tobacco stores, food shops, gasoline stations and other places where consumer goods have become scarce is unfailingly calm and courteous.

The seemingly complete disgust of the people for the rulers, who are seen particularly in the last decade as having driven the country into national bankruptcy through miscalculations and a policy of lies and deception, powers the still evolving drive for democratic freedoms in a Poland that would remain in the Warsaw Pact and have a socialist

economy run for the first time for working-class interests.

Three often conflicting goals seem to be gathered in loose harness around the Polish revolt, at times racing in the same direction, but usually wildly pulling against each other and making the Polish revolt seem to outsiders to lurch from crisis to crisis without direction.

From Kania on down, the Poles want to keep the Soviets out. Secondly, many Poles seem convinced that the Communist Party here must be reformed through democratic procedures to regain a minimal measure of consent from the population to govern—a consent that does not exist today.

Equally urgently, moderates in Solidarity and in the party voice a need to work together to resolve the deepening economic disaster that Poland faces. But a major struggle still looms over the conditions of that cooperation, with Solidarity wanting to "control" the implementation of economic reform without taking the "coresponsibility" for reform, and sacrifices, as the party urges.

This much has been clear for several months. What has changed in recent days is that the most important struggle in Poland no longer pits Solidarity directly against the party. The confrontation has moved inside each organization as Solidarity and the Communists prepare for their separate national congresses and seek political programs that define their aims and, inevitable, who is in charge. With his twin warnings this month that the Soviets have drawn a line and that reforms must nonetheless continue, Kania has moved to contain both his party's ideological conservatives and grass-roots reformers.

Solidarity leader Lech Walesa, apparently against the advice of some of his closest aides, has chosen to stress moderation and responsible behavior to give Kania some breathing room. Each side gives the impression for the moment of waiting to see if the internal divisions will cause the other to crack, to fragment, to lose the cohesiveness that has brought power with it. In this view, the Soviets have also chosen to wait, while trying to influence this internal process through threats as an alternative to invasion.

The final outcome is uncertain, but almost all of those interviewed insisted on one point as being essential—something approaching the current level of freedom of expression and association must survive this process. They see no turning back without a bloody repression directed from Moscow. Even then, a number of Poles said, much of the spirit of their revolt would survive, and would haunt the Soviets throughout their empire. That, they added, is one reason they believe there will be no invasion.

They could be tragically wrong. But even so, the invading Soviets will find that the revolution they came to stop has in many ways already occurred, at least on a psychological level. Poles who have takeh part in that transformation are far more concerned that external events—such as belligerent posturing from a Reagan administration that suggests that events in Poland will lead to an end to communist rule in the Soviet Union or Soviet paranoia spurred by events in Afghanistan, China or elsewhere—will weigh far more in the invasion balance than the developments here this summer.

"Lines outside the shops in my neighborhood are good news. It means there is something in them to buy."—A Polish journalist.

The censor sat across the cocktail lounge table sipping a double Scotch, explaining why his government had failed and the revolt had begun.

Despite his liberal credentials and beliefs, Karol Macuzynski is an influential member of the parliamentary committee that is drafting a new censorship law that will determine the legal limits of what is said or printed in the "renewed" Poland. This law is crucial, he says, because the current turmoil is a crisis of faith.

It started, he said, with the sudden shifting of priorities, and of style, when fast-moving Edward Gierek took over from the stolid Wladyslaw Gomulka in 1970 and immediately set out to give cars and consumer goods to workers to ease the pressures that led to Gomulka's ouster.

"Gomulka said workers didn't need cars. But Gierek wanted to do everything, to please all the people that Gomulka was always quarreling with. He opened the gates for Poles to travel; he got the licenses, the technology and the bank loans from the West and he traveled all over the country to hold meetings."

"In the first five years, it was dynamic, and nobody asked where the money was going," Macuzynski said. "Then the growth stopped and the leadership couldn't admit it. The meetings became empty, part of a completely autocratic way of ruling, and the leaders became victims of their own propaganda, that propaganda of success. The unbearable part was hearing how well we were doing, when we knew how poorly we were doing."

The borrowed money continued to flood in from the West, however, and through mismanagement, corruption, or a combination of the two, Gierek's lieutenants invested enormous sums in industrial white elephants that produced worthless goods, put the country $27 billion in debt, polluted the countryside and eventually angered both workers and consumers.

Macuzynski maintains that his fellow members of the parliament and the party leadership accept the idea that free discussion and reporting are necessary to clean up this mess. The censorship law, which will restrict only national security, obscenity, war propaganda and religious intolerance, will "contain 90 percent of what Solidarity says it wants," he said.

"Polish radio and television news has become so good now that people have stopped listening to the Voice of America and Radio Free Europe. . . . We are transmitting plenary sessions of parliament live, 12 or 14 hours a day sometimes, and people are listening. It is extraordinary."

The journey actually begins in a physical no man's land, in the death strip that East German authorities have created between the two Berlins. The West Berlin taxi halts, the passenger unloads his baggage, clears the checkpoint and hauls his luggage into the strip, crowned by watchtowers, to wait for an Interflug airport bus. A West German businessman who has done this often in catching connecting flights to Moscow, Warsaw and Budapest, smiles at a question about Poland today.

"It is a mess," the businessman says.

"But a hopeful one, a promising one?" he is asked.

"My God, no. It is an awful mess. Before, we placed our orders with a factory manager and we got deliveries at the right price, on time, more or less. But now, you have to talk to three Solidarity guys, a priest, and the factory manager, who can't give you any commitment. Prices are already 20 percent up and they still want to raise them more. No, it's impossible," the businessman says of the turmoil unleashed by Walesa's attempt to reform Communism in Poland.

The quietest line in central Warsaw the next day twists along the front corridor of a drab, five-story office building converted a few weeks ago into an organizational headquarters for Solidarity. In the lobby of this visible symbol of Solidarity's new permanence and problems, volumes of poetry written by Poland's Nobel Prize winner, Czeslaw Milosz, have gone on sale.

Printed in Paris by emigree groups and still officially banned in Poland, the books disappear over the counter at an even faster clip than the stylish Solidarity badges, banners and T-shirts in vogue in Warsaw's streets today.

Solidarity is careful not to provoke the authorities by boasting of such sales. But neither are they clandestine. They are part of the breaking of a long silence by the uprising that has come to be known by, and protected by, the name Solidarity.

Factory worker Zbigniew Bujak describes it this way: "The school only let us know that there was knowledge that it was unable to convey. The press informed us every day that it was not telling us everything about ourselves."

At 27, Bujak has become one of the three or four top officials in Solidarity, who work quietly in Walesa's shadow to organize and shape a mass trade union out of the enthusiasm and support of the 10 to 12 million people—nearly a third of Poland's population—who have joined the movement.

These organizers wrestle with the internal dangers that success has brought to Solidarity, as Walesa is increasingly absorbed by national and international problems and as he works to defuse the situation by endorsing Kania's calls for moderation. Bujak and the others remain a primary target of Kania's saber rattling because of the differences among them over Solidarity's strategy toward the party and the government.

Those differences have given the party leadership a chance to fight back, to heighten the chances of fragmentation within Solidarity by convincing Polish public opinion that Solidarity has split into clear camps of "moderates" and "radicals." In this two-prong strategy, the government would blame economic chaos on the radicals and seek accommodation with the moderates to avoid new confrontation, especially before the party congress convenes July 14.

The earnest, muscular Bujak appears to have come down with Walesa, on the side of trusting Kania and a new party leadership to deliver on the promises already gained from confrontation. He broods that Solidarity may have gained too much too fast.

"We are amateurs at this," he says in a second-floor office as he sifts with a slightly overwhelmed air, through organizational reports from factories. "We need professional organization to handle 10 million people and the trust they have put in our union after the failures of other institutions for the past 35 years. We should have had the structure first so we could welcome members in, where we were ready, but it happened the other way."

Bujak's own story illustrates the depth of the feeling that helped Solidarity grow so spectacularly so quickly. In a self-education group that he set up at the Ursus tractor factory outside Warsaw, he had drawn up a three-to-five year plan to organize an independent union. When news of the Gdansk strikes reached the factory, Bujak jumped onto a chair and persuaded thousands of others to support Walesa's group.

An hour later, two blocks away, Andrzej Gwiazda takes two packets of sugar out of a small carrying case as he orders coffee and sits down, his back to the wall of the crowded coffee house. A childhood in a Russian prison camp in World War II has taught him "not to be afraid of polar bears" and to be prepared for anything. Solidarity's deputy leader says with a whimsical laugh. Then

the waitress tells him that today they have run out of coffee, too. He settles for lemonade.

Gwiazda is the engineer of Solidarity. He speaks rapidly and elliptically, his voice barely carrying above the clatter of passing streetcars and strains of the U.S. rock group Blondie's "Heart of Glass" being played on the coffee house's stereo system. His manner suggests the long career of an underground union activist somewhat uncomfortable with being totally above ground now.

"In March, the Politburo realized that Solidarity was a permanent element that could not be broken down overnight," he says, pausing constantly during the discussion to answer other questions rained down upon him by knots of union workers who approach him almost reverentially. "So they have changed tactics, trying to weaken and to civilize us in their own way. They are trying to blame food shortages on Solidarity. They manipulate the crime statistics upward and blame that on Solidarity. After we agree to freeze our wage demands, they offer increases to party unions. What we face now is a well-prepared and long-range action against Solidarity. And we must respond."

Solidarity "should do nothing to make this party trustworthy," he continues. "The elections [to the party congress] will probably not assure good results. The methods may be democratic, but the candidates are not."

It is on these differences that Kania and ultimately the Kremlin must pin their hopes for a Solidarity that can be tamed, or alternatively, one whose failures can be used as a pretext for a crackdown that would gain some popular support. But these differences may in the end be overshadowed by the impressive agreement among men like Bujak and Gwiazda on the shape of a workable future for Poland, which centers on the acceptance of Solidarity's plan for workers' councils that will overhaul and run the major state economic activities. Such councils could then get the population to accept the sacrifices that will be necessary to get the economy running again, they maintain.

It is the week that the government has permitted Lech Walesa to go to Geneva to be Poland's primary speaker at the International Labor Organization. There is evident pride in Walesa's entourage over his performance. But there is also concern that, as one of the aides closest to Solidarity's leader puts it, "the government has suddenly become intelligent enough to try to make life very comfortable for us instead of very difficult. Our credibility is what makes us a national force, and we must protect it against such a trap."

"Several times a day now I have to remind myself that I am now carrying on real discussions with people, not just giving orders. It is part of the adjustment we all have to go through in this new environment. I will learn that, or I will have to go."

Halfway up the party ladder in terms of age and seniority, Tadeusz Zareba admits to having had difficulty in adjusting to "this fascination with democracy" that has been sweeping Poland since August. He is one of the Central Committee's top staff members in charge of the volatile area of press, radio and television and he has come through the upheaval shocked but with a chance of surviving. Up to a point, he favors what has happened to the party he has belonged to for 31 years.

"In this country now, the authorities will have to get used to spending so much of their time answering criticism," said Zareba, a short, compact man with gray hair cropped in a crew cut. "Critizing the government, even without basis at times, has become a lasting element of Polish political life. It is not the most rational method of spending your time, or ruling the country, but it is necessary after this eruption of democracy."

Zareba believes that the elections now under way are reviving a party that "had become so passive before the total criticism that blamed the entire party for everything." The party is rebuilding itself from the base level through democratic means that were not used much before last August. Reasonable people in Solidarity know they need a strong party trusted by the people. "We are not fighting Solidarity now. We want to influence the character of Solidarity. It should be a constructive element in socialist Poland."

Did the party official see any circumstance that could lead to a Soviet invasion?

"Nothing short of a civil war here in Poland," he said. "I don't know what the authorities would do in that event. And I don't foresee any such possibility.

"But it is important to remember that Poland is not an island. Geographically and politically, we are part of a given political system and a military alliance. This system is the base of our security, our integrity as a state. We regained our western territories [from Germany] as part of this system, and that is a guarantee of Poland as it is within its present borders. . . . Poland is not only part of the socialist system, but an important part. What happens here cannot be a neutral thing."

Question to a Solidarity activist: "Can you trust the Army?"

Answer: "We trust the soldiers."

When Communist Party officials talk about "antisocialist elements" in Poland, they usually have in mind Jacek Kuron and his fellow intellectuals in the Committee for Social Self-Defense, known as KOR. During the past two decades, Kuron has spent six years in prison and has been harassed repeatedly by police when out of jail because of his public campaign for democratic freedoms.

But the party is not likely to be overjoyed to hear that Kuron now says KOR "has finished its existence" and gone out of business as of Sept. 1. The reason is that KOR has moved into Solidarity and its members have become intellectual and spiritual advisers to the union. Kuron was last arrested in January and ordered on his release to report to the prosecutor's office twice a week. He has not gone to the office yet and the police seem to have dropped their usually constant surveillance of him.

"The entire society of Poland has moved within Solidarity," Kuron said. "So KOR finished its existence on Sept. 1, when the government recognized Solidarity as a legal movement. We have not acted as KOR since. You have to realize that we were never 'dissidents' since we were always part of the society. We weren't underground; we operated openly and as part of a society. When there were arrests, there was turmoil and eventually we were released."

Kuron is helping Solidarity shape a program that would lead to reforms in political institutions in Poland, but is not ready to talk about it specifically before the Solidarity congress.

"The important struggle now is for concept, for system, for the program that will solve our problems," he said. "That is occurring both within the party and within Solidarity right now."

He is fairly sure this debate and its results will not trigger Soviet intervention beyond the current psychological war directed at the ruling Communist Party Politburo and Solidarity.

"We will have a party and a Solidarity that are both accepted by the society, that both work and that can give guarantees to the Soviet Union not to invade. I'm sure of that," he said.

"What I remember, though, is a story about the man who thought he was a mouse. After six months, a psychiatrist convinced him that he was not a mouse. And as he goes to open the door he says to himself, 'I know that I'm not a mouse, and the doctor knows I'm not a mouse. I sure hope that cat across the street knows it.' "

Behind the roar of the ideological battles and the world power games, much of what is happening in Poland is recognizable as a struggle of generations, a thrusting for power and position by younger people who have, until now, seen the roads to these goals blocked by an ossified bureaucracy that rewarded mediocrity and longevity, as well as blind obedience to the party. In the party, in Solidarity and within the powerful Roman Catholic Church here, a new generation sees national reform as its opportunity to participate in shaping the future.

"We knew immediately that this was our last chance," said Mieczyslaw Gil, a steelworker in Krakow who has just been elected head of the regional Solidarity organization. "I am 37. I knew that if Solidarity didn't work, I would never have another chance to help make a different Poland. We had become sickened by the enormous waste in the system, which set prices of our plant's output only by cost. Plant managers sent by the party, sent in a briefcase we would say, got bonuses if they could push costs up, even beyond the point where the goods could sell."

"We are working to make sure this plant belongs to the nation, and not to the state," said Stanislaw Handzlik, Gil's deputy at the Nova Huta steelworks. "The workers will be managing their own enterprises and make sure that new ideas and methods are implemented. Until now, we have had a shortage of wise people, of people put in power because of intellectual ability instead of ideological acceptability."

In the party, this year's upheaval has also emboldened those few younger party officials who had already been working for reform from within. The prospect of fair elections has suddenly turned risk-taking into an acceptable, indeed necessary, part of Communist rule here.

Jan Broniek began campaigning for direct elections within the party before Solidarity forced the issue last year. He is one of two party secretaries reelected this month to the seven-member district committee in Krakow. Of the 433 delegates elected to the district conference, he estimated that only 30 percent had been elected to a party office before this year.

The five party secretaries not reelected "will have to find other jobs now, I guess," Broniek said in a small conference room at the party's headquarters in Krakow. "Bad decisions on investments in tractors our farmers can't use, color television factories that produce too costly goods, and trucks that are not suited for our roads have created an atmosphere in which changes have to be made."

In Gdansk, where it all started, Jan Labecki, the 37-year-old first secretary in the shipyard, easily won reelection to the Central Committee, a body he reportedly shocked last year by confronting it with what were to become Solidarity's strike demands and endorsing them.

"New faces mean new credibility for the party," Labecki said, "But a simple exchange of leadership is not enough. The party has to get rid of the notion that it has the exclusive recipe for wisdom and efficiency and

has to listen to the people much more. We can have a democracy that would be competitive with Western democracies, and that will be built on true socialism, too."

Asked how the form of Communist rule in this kind of Poland would differ from that of the Soviet Union, Labecki replied:

"It is like taking a garment from an older brother. You can get in it, but the sleeves are too short, the pants are too long. If you want to take it as your own, you have to trim it here and let it out there. We don't have communism, we have socialism. . . . A new Polish history is being created now. But we take into account our address and the address of our neighbors. We assure the security of the nation."

As archbishop of Krakow before becoming Pope John Paul II, Karol Wojtyla left a strong imprint on Poland. His friend, Father Tischner, believes that Wojtyla in effect paved the way for what has happened here since August by bringing a new public sense of unity and pride to the Polish population, particularly through his 1979 visit and by opening churches in Krakow to study groups that helped identify the government's shortcomings.

"Polish workers have been victims of exploitation within socialism, a new form of exploitation of man by man, a form perhaps unknown in capitalist countries," Tischner said. "It can be called labor without sense, people working a lot but their labor losing all sense to it when the goods they produce cannot be used, cannot be sold for more than they cost to produce. When work becomes senseless, the only sensible behavior is to strike. That is what happened and Marxism lost its monopoly on ideological interpretation of life in this country.

"Now we must provide a new morality, a new ethical practice that will in turn create its own religious and political experiences. But we must stay in the realm of practice. Czechoslovakia made the mistake of trying to invent a new socialism, and the Soviet Union reacted. You have to live within the framework of the illusion that socialism with a human face already exists in the Soviet Union, that you are not going to invent something that already exists.

"We are sentenced to be ruled by the Communist Party," he said with a smile. "Some optimists think it can be a party that will have the role of the British queen in our new arrangement. I am not that optimistic, but the party may know now that it does not have to rule in every area of our society. Maybe the party knows now that it can trust the nation."●

FTC INTERVENOR FUNDING

● Mr. McCLURE. Mr. President, in the past several years we have seen many problems and questionable practices arise concerning the public participation provision of the Federal Trade Commission Improvements Act of 1975—better known as intervenor funding. This provision allows the FTC to provide reimbursement for the costs of participating in its hearings to groups who have a interest in the proceedings but cannot otherwise afford to participate, and it gives the Commission great latitude in determining on whom to bestow this funding. This amendment was added in the House-Senate conference committee, thus without hearings or floor debate.

A recent article by Morgan Norval published in Reason magazine presents striking examples of how this well-intentioned idea has deteriorated into a Government subsidy program for various antibusiness, proregulation public interest groups. Congress, as the creator of such a bureaucratic monster, must awaken itself to the present state of this program and its ominous implications for America's industry.

The compensation provision states that intervenor funding is to be used to assure a fair determination of the rulemaking process. However, in seven major trade regulation rule proceedings between November 1978 and May 1979, the FTC funded only the advocates of the proposed rule. In addition, a mere eight groups received two-thirds of all public participation moneys doled out by the Commission in 1979.

The Federal funding of these "ideological soul-mates" of the FTC has been a major cause of the excessive regulation produced by the Commission recently. Small business, the most common target of FTC activity, is often handcuffed by lengthy and confusing hearing reports which average 25,000 pages. Even with large corporations who hire teams of lawyers for this purpose, the costs are passed on to the consumers in the form of higher prices. Thus, we Americans are hit doubly hard—first by having to finance the intervenors with our tax money and second by having to pay higher prices for our goods at the stores.

As the Senator from Wyoming, the Honorable ALAN SIMPSON, said in 1979:

In a free society it is intolerable that the taxpayer should be required to finance private lobbying groups, who often take positions opposed by a vast majority of our citizens.

I believe that it is time for this body to take note of these activities and take appropriate action as soon as possible. I ask that this article be printed in the RECORD.

The article follows:

[From Reason Magazine, July 1981]

KEPT CRITICS

(By Morgan Norval)

During the past 3 years the Federal Trade Commission has been doling out hundreds of thousands of dollars to various self-proclaimed public interest groups who then appear before the FTC Commissioners and commend them and their latest regulatory scheme as being a remarkable effort by the Commission to protect the public interest.

In reality, I have found there is far more personal interest and far less "public interest" in the administration of this program than is permissible under the statutes that control the FTC. . . .—Senator ALAN SIMPSON (R-Wyo.), CONGRESSIONAL RECORD, Feb. 7, 1980.

Since the Federal Trade Commission was established in 1914, one of its primary responsibilities has been to investigate complaints involving allegedly fraudulent or deceptive business practices. For the first 60 years of its life, the FTC handled such matters on a case-by-case basis. Standard agency practice was to investigate a complaint against a specific business firm and, if warranted by the facts, take action against the offending firm.

Often the action took the form of a directive to the firm not to engage in the questionable business practices in its future business dealings. That is, the FTC functioned essentially as a police force pursuing individual wrongdoers and not as a quasi-legislative body issuing rules and regulations requiring compliance from all the businesses within an industry, whether or not they had ever engaged in questionable practices.

All this changed dramatically a few years ago with the enactment of the Federal Trade Commission Improvements Act of 1975, more commonly known as the Magnuson-Moss Act. Now the FTC can and does issue sweeping rules and regulations that apply industrywide and not just to specific firms engaged in "unfair or deceptive" practices. And what is an unfair practice? Under Magnuson-Moss, it is whatever the FTC finds or decides is unfair practice. Unfair practice is in the eye of the beholder.

Prior to Magnuson-Moss, the FTC had to show that the questionable practices it was investigating were actually "in commerce," or being done. Magnuson-Moss, however, allows the FTC to act if it thinks some business practices would "affect commerce." That opened up a whole new ball game. As FTC Commissioner Paul Rand Dixon put it, "There isn't anything you can do in the United States today that doesn't affect commerce, so we have been moved right down to every act in every state in every city."

Tacked onto this awesome grant of authority in 1975 was an innocent-sounding little amendment—the public participation amendment. Like the proverbial road to hell, it was paved with good intentions. The amendment authorized the FTC to "provide compensation for reasonable attorney's fees, expert witness fees, and other costs of participating" in the FTC's trade regulation rulemaking proceedings. The rationale: to open up FTC rulemaking to the public by reimbursing the expenses of groups that otherwise could not afford to participate.

The legislative history of the public participation provision—often called "intervenor funding"—illustrates how a lot of laws end up on the books. The amendment was added to the bill in the House-Senate conference committee. As a result, there were no hearings on the matter and no floor debates in either house. It was simply inserted into the conference report and became law when Congress passed and President Ford signed the act in 1975.

DISCRETIONARY FUNDING

Who gets to take part in FTC proceedings under this program? The exact language of the intervenor funding amendment gives the FTC a good deal of discretion in administering the program. The compensation provision states:

"The Commission may, pursuant to rules prescribed by it, provide compensation for reasonable attorney's fees, expert witness fees, and other costs of participating in a rulemaking proceeding under this section to any person (A) who has, or represents, an interest (i) which would not otherwise be adequately represented in such proceeding, and (ii) representation of which is necessary for a fair determination of the rulemaking proceeding taken as a whole, and (B) who is unable effectively to participate in such proceeding because such person cannot afford to pay costs of making oral presentations, conducting cross-examination, and making rebuttal submissions in such proceedings."

With this wording, Congress granted the FTC considerable freedom to choose those on whom to bestow its largess. Naturally, the temptation looms large to parcel out intervenor funds to favored groups and individuals.

Would the FTC succumb to the danger warned of by John W. Gardner, former head of Common Cause? "Public participation proposes direct assistance," noted Gardner. If the concept of conflict-of-interest means anything, then there is danger in potential critics of an agency being financed by the very agency they criticize. We could easily create a class of kept critics, and damage the future of an independent public interest movement."

Like Adam in the Garden of Eden, the agency has yielded to temptation. The history of the FTC's intervenor funding program—which has so far handed out nearly $2 million—is one of helping its friends and ignoring its adversaries. The result has been an almost total anti-business, pro-regulation bias in the allocation of what are, after all, taxpayers' funds.

In testimony before Congress in 1979, it was brought out that supporters of more regulation of business received 95 percent of the intervenor funds distributed by the FTC between November 1978 and May 1979. And in seven major trade regulation rule proceedings during that time, the commission funded only advocates of the proposed rule. The subjects of those proceedings and the grants involved were:

Children's advertising (kid/vid)—18 grants totaling over $133,000, including more than $32,000 to the group that originally petitioned the FTC to initiate the rulemaking (Action for Children's Television/Center for Science in the Public Interest);

Used cars—two grants totaling over $17,000;

Food advertising—one grant, over $3,000;

Over-the-counter drugs—two grants, over $7,500;

Antacids—four grants, over $26,000;

Insulation—five grants, over $14,800;

Funerals—eight grants, over $18,500.

When it comes to receiving FTC money, it seems that friends make out a lot better than enemies.

MUTUAL BENEFITS

The FTC's behavior is not that difficult to understand, of course. Despite what many people think, bureaucrats are human beings, so they generally make decisions based on what will benefit them the most. In this respect they are no different from ordinary consumers and business people.

Like those who toil in the private sector, bureaucrats are interested primarily in enhancing their salaries, working conditions, power over others, reputations, and prestige. Thus, they can be expected to be keenly interested in possibilities for action that increase their chances for promotion, raises, and growing influence.

Nationally, when the passage of Magnuson-Moss expanded the jurisdictional base of the FTC's power, the bureaucrats were not hesitant to move into the new territory. Adding to the momentum was the Carter administration's infusion of "consumer activists" into the supper levels of the bureaucracy. At the top, of course, was Michael Pertschuk, appointed FTC chairman in 1977. Pertschuk had been chief counsel to the Senate Commerce Committee when it was headed by Sen. Warren G. Magnuson, a favorite of the consumer movement. Pertschuk was the chief architect of many federal consumer laws, including the Magnuson-Moss Act.

Pertschuk's appointment delighted the consumer movement, for now they had one of theirs on the inside. The prospects seemed bright for advancing consumerism. The FTC and the consumer movement could work together for the mutual benefit of both parties. The agency would gain more bureaucratic turf by issuing new trade regulation rules under the expanded powers granted it by Magnuson-Moss. And the consumer groups would gain in prestige as regulations advocated by them were adopted by the FTC.

This symbiotic relationship was enhanced by the new ace up the FTC's sleeve—the public participation funding program. The FTC now had at its disposal a device whereby it could reward the very consumer groups that would be most likely to support its proposed new rules and regulations.

This is precisely what happened. The FTC has been very generous to a select few groups that share its penchant for more and more governmental regulation. The record shows that eight favorite groups received two-thirds of all public participation funds doled out by the FTC in 1979:

Center for Public Representation—three grants for over $16,700 to testify in two proceedings, children's advertising (kid/vid) and thermal insulation;

Consumers Union/Committee for Children's Television—three grants totaling over $39,000 on the kid/vid rule;

Americans for Democratic Action—over $31,400 via five grants to support four rulemaking efforts (eyeglasses, over-the-counter drugs, health spas, and the funeral industry);

Community Nutrition Institute—three grants for the kid/vid rule for a total of $33,368;

National Consumers League—over $28,000 for two proceedings (care labeling and food advertising);

Action for Children's Television/Center for Science in the Public Interest—over $32,700 from four grants for the kid/vid rule;

Council on Children, Media, and Merchandising—over $31,500 from five grants for three rulemaking proceedings (antacids, food advertising, and kid/vid);

Center for Auto Safety—three grants for over $18,000 to support two proposed rules (mobile homes and used cars).

PAYING FOR EXPERTISE?

Aside from the incestuousness of this relationship between the FTC and its paid supporters, there are other questionable features of the intervenor program. Was this small corps of ideological soul-mates even qualified to speak out on particular rules under consideration by the FTC.

Take, for example, the Council on Children, Media, and Merchandising, an organization that seemed to depend on the bounty of the FTC for its sustenance. It consisted of a single individual and had no dues-paying members. But from 1976 through the middle of May 1979, this "organization" received $185,839 in FTC intervenor funding to participate in rulemaking proceedings on antacids, food advertising, over-the-counter drugs, and children's TV advertising.

The Council's founder and principal member, Robert Choate, was astute enough to take advantage of the legal plum handed to him by the FTC. Choate understands how the game is played in Washington: "Washington is an organization town. The first question asked of one going to his or her government with other than a purely personal matter is 'who are you with?'" So Choate created an organization to be with, consisting of himself and 13 others listed on a letterhead—an "ad hoc group," he called it in a letter to the FTC.

So a clever Washington entrepreneur can create a paper organization. To qualify, however, for a large grant for extensive participation in FTC rulemaking proceedings, it would seem that an organization would have to have sufficient expertise. In fact, evidence shows that small groups that receive intervenor funding often end up farming out most of its participation functions to persons or organizations not eligible themselves for compensation—outside law firms, survey research companies, or individual experts-for-hire.

The Community Nutrition Institute, for example, received over $40,000 from the FTC to participate in the children's TV advertising proceedings. It was small—no paid members—and turned around and hired Opinion Research Corporation of New Jersey to conduct a personal opinion survey. The presiding officer in these FTC proceedings cited serious flaws and discrepancies in the survey, however. Likewise, the small San Francisco-based Safe Food Institute received over $12,000 to conduct a survey that was later found by the FTC not to be valid.

The problem with consumer groups as sources of expertise has been pointed out by Stephen Breyer in the Harvard Law Review. "Consumer groups, often in an adversary posture toward industry, tend to have the least experience of all," he noted. "Though they may appeal to competing elements within industry for help, they frequently are dependent upon the agency and outside experts for information."

And not just outside experts. According to C. C. Clinkscales, director of the National Alliance of Senior Citizens, proponents of the FTC's hearing aid rule were reduced to advertising for witnesses to testify before FTC hearings. In cities where the hearings were scheduled, they took out newspaper ads reading: "If you bought a hearing aid in the last 30 days, you were probably cheated. The U.S. Government wants to know about it." The National Council of Senior Citizens, sponsor of this ad, was given $46,734 in intervenor funding by the FTC.

MONIED INTERVENORS

Other groups receiving intervenor funds have been large organizations with substantial budgets. They could hardly be considered poor and in need of taxpayers' money to participate in the FTC's rulemaking proceedings.

Americans for Democratic Action, for example, has been awarded $177,000 in intervenor funding to participate in five separate proceedings. This group has a national membership in the neighborhood of 75,000 people and an annual budget exceeding $1.6 million.

The Sierra Club shared an award of $28,241 with four other environmental groups to participate in a rulemaking activity (the proceedings on thermal insulation). It has around 183,000 dues-paying members who come up with $25 a year. This gives the Sierra Club financial resources of at least $4.5 million annually.

The Environmental Defense Fund, one of the groups sharing the insulation grant with the Sierra Club, is able to maintain offices in Washington, D.C., New York City, Denver, and Berkeley, California. It takes a lot of money to keep four offices open in four major cities. Yet the FTC felt this organization needed taxpayers' funds to participate in its rulemaking process.

Consumers Union, another recipient of intervenor funding, has an operating budget of nearly $24 million. It has a staff of almost 400 and publishes the magazine Consumer Reports, with a circulation exceeding 2 million. This needy organization shared with another group $73,900 from the FTC just to participate in the children's advertising proceeding.

How can an organization with that amount of revenue be qualified to receive these funds? It is quite easy, Mark

Silvergelb, director of CU's Washington office, told the Senate Subcommittee for Consumers in September 1979. "Conscribers $23 million dollars primarily to support participation in either Federal Trade Commission rulemaking or any other forum." He went on to point out that Consumers Union's primary function is to publish its magazine, and it only devotes a small part of its operating budget to advocacy activities. "If you divert more than what is financially sound to nonrevenue producing activities [appearing before the FTC], you eventually reduce your ability to carry on both kinds of activities, revenue and nonrevenue producing, and you simply waste away the base of the organization's financial abilities."

Mr. Silvergelb is onto something, only he is probably not aware of its implications. If Consumers Union is concerned about diverting money into, as he calls them, "nonrevenue producing activities," what about the businesses that stand to be directly affected by the FTC's proposed rules? Won't they, out of necessity, maybe even to stay in business, have to divert money into nonrevenue producing activities—such as taking part in FTC rulemaking proceedings? If Mr. Silvergelb's group can't divert funds from Consumers Union without affecting its program, might not the businesses facing potentially devastating FTC regulation be up against the same problem?

WHAT THE BILL COMES TO

What has all this activity actually cost? During its first three years, the FTC intervenor funding program soaked up $1.8 million in taxpayers' money. The program virtually ground to a halt in mid-1979, as Congress kept the FTC on a short budgetary leash during nearly a year of grueling oversight hearings. The tough hearings eventually lead to a rather mild FTC reform bill that slapped the agency's wrists for regulatory excess over such matters as the kid/vid rule but left its basic powers unscathed.

Since that time, however, few new trade regulation rules have reached the public participation stage. As a result, additional intervenor funding since mid-1979 has added up to only $187,000 so far, making the total expenditure since the program's inception just under $2 million.

This figure may seem like a drop in the bucket when compared with the billions our government seems determined to spend on all sorts of schemes and programs. Yet, the $2 million is just one part of existing and envisioned intervenor funding spread throughout the government (see box, p. 41). In the 96th Congress alone, nearly 50 bills to establish intervenor programs were introduced. Although one of its champions—Sen. John Culver (D-Ia.)—was retired to private life last November by his constituents, the concept lives on. Its new hero is Sen. Edward Kennedy (D-Mass.), who has been active in trying to create a government-wide intervenor funding program since 1976.

In addition to the seemingly small amount spent so far on intervenor funding, its end product, rules regulating business, can have tremendous cost impact upon the consumers of this nation. Increased business costs resulting from the rules are passed on to the consumer in the form of higher prices for goods and services.

Since consumers are also taxpayers, they end up getting stuck with both tabs—the original (tax) cost of the governmental process and the increase in the costs of goods and services resulting from the action of the government. Joyce A. Legg, a taxpaying consumer from Virginia hit the nail squarely on the head when she told Rep. Herb Harris (D-Va.) in a letter that, "as a consumer, I have not been fleeced one tenth as much as I have as a taxpayer."

EXPENSIVE RULES

A good example of how FTC rules can raise costs to the consumer was its trade regulation rule "Labeling and Advertising of Home Insulation," the so-called R-value Rule announced in August 1979. The purpose of the rule was to mandate the disclosure of insulation capacity in labeling, advertising, and promoting home insulation products. The R-value is supposed to be a scientific measurement of thermal resistivity—the higher the R-value, the greater the insulation power.

There was one fly in the ointment, however. Testing to determine R-values is a complicated process overseen by the National Bureau of Standards (NBS) and the American Society of Testing and Materials (ASTM). The science of testing various thicknesses of the many and varied types of insulating products is still in its infancy. Just before promulgating its rule, the FTC switched from one R-value test to another and imposed new mandatory testing requirements. Until recently, meeting these changed requirements was beyond the capability of existing testing equipment and methods, a point made to the FTC by the NBS, the ASTM, the Department of Energy, and other experts in the field of thermal-insulation testing.

The FTC turned a deaf ear to these protests and proceeded with the rule. If it were to go into effect without proper equipment and standards, warned Stanley L. Matthews, president of the Mineral Insulation Manufacturers Association, it "will increase the cost to consumers of insulation by as much as $90 million."

Fortunately, the 10th Circuit Court of Appeals put a hold on the FTC's rule; Congress reaffirmed that hold in its FTC reform bill. The National Bureau of Standards hopes to have standard calibrated equipment and samples available sometime this year.

In other recent action the FTC is proposing a set of rules requiring new warranties on the sale of mobile homes. "This is a classic case of overregulation," says Walter L. Benning, president of the Manufactured Housing Institute. "Every one of our homes must be inspected by agents from the Department of Housing and Urban Development before they can be sold. No other house in America must go through such rigorous inspection." The FTC estimates that its rules would increase the cost of a mobile home by only $100–$125, but Benning figures it would be more like $2,000 per home.

The cost to the consumer of the FTC's originally proposed used car rule requiring dealers to inspect 14 systems of the automobile and to disclose the results on a window sticker ("OK," "Not OK," or "We Don't Know") was pegged, during Senate testimony, at between $1 billion and $10 billion, depending on how the cost of the inspection and any subsequent repairs is calculated. Evidently, the cost seemed too high even to the FTC, for in April 1981 it approved only a twice watered-down rule requiring used car dealers to put in writing whatever warranties are offered and to disclose "major defects."

Attempts by the FTC to break up the cereal industry would, if successful, have serious economic consequences. According to Phil Leonard, United Rubber Workers Political Education Director, it "will mean over 2,600 jobs will be lost" in the cereal industry alone. In addition, Mr. Leonard pointed out, if the FTC proceeded with its proposal to ban children's advertising on TV, jobs in the toy industry would be lost.

THE COST OF THREATS

Mr. Leonard's latter fear is moot because in its 1980 FTC reform bill Congress forbade the FTC from issuing any ban on children's television advertising. But the mere announcement by the FTC that it is considering a rule can have detrimental effects upon the chosen industry.

The agency has proposed a rule that would allow health club members the right to cancel their membership contracts, for any reason (or no reason at all), at any time during the life of the contract. This rule would have disastrous effects upon the health spa industry because its ability to raise both long- and short-term capital depends upon pledging accounts receivable, in the form of membership contracts, to banks and other lenders for credit. The FTC's proposed rule would, in effect, make a health club contract a useless, non-binding, one-party document that no lending institute would accept as collateral.

According to the September 1979 Senate testimony of Richard Wood, president of the Golden Life Physical Fitness Centers, when the FTC announced its proposed rules, "Abruptly, the financing of my Odessa [Texas] center was withdrawn, leaving me with no source of short-term working capital or expansion funds. Despite a delinquency rate of only two percent, I could not convince bankers or finance company executives to reinstate my financing. They were frightened by the severe nature of the FTC rule which calls for giving consumers the unilateral right to cancel their retail installment agreement with me at any time for any or no reason."

Wood was forced to ask prospective consumers to pay in advance for the entire term of their contracts. As a result, business at Wood's Odessa facility has dropped 50 percent and it has not shown a profit. The Texas gym is being carried by Wood's other clubs in New Mexico.

Dr. Reynold Sachs, a professor of managerial economics at American University in Washington, D.C., testified that "the proposed trade regulation rule would make it all but impossible for the typical health spa operator to obtain external debt financing . . . [and would] lead to an increase in the number and frequency of bankruptcies and insolvencies. . . . consumer prices would increase by an estimated 100 to 200 percent."

HITTING THE LITTLE GUYS

Other direct costs to business are more difficult to measure. For example, consider the cost involved in the sheer amount of paperwork involved in FTC rulemaking proceedings. The average record of a proceeding is 25,000 pages; some exceed 50,000 pages.

How can a businessman, especially a small businessman, wade through that morass of paperwork and still devote sufficient time to his business? Clearly, it is beyond the means of the average business owner. And although large corporations can hire teams of lawyers to do the job, such expenses are passed on to the consumer.

It is not the large corporation, however, that is the typical target of FTC activity. The FTC is a bureaucracy employing 700 lawyers that seems to thrive on hassling the small businessman. As Dr. F. M. Scherer, former director of the FTC's Bureau of Economics, told a 1976 hearing before the House Small Business Subcommittee: "What I have learned since joining the Commission staff is that many attorneys measure their own success in terms of the number of complaints brought and settlements won. In the absence of broader policy guidance, therefore, the typical attorney shies away from a complex, long, uncertain legal contest with well-represented giant corporations and tries to build up a portfolio emphasizing small, easy-to-win cases. The net result of these broad propensities is that it is the little guys, not the giants who dominate our manufacturing and trade industries, who typically get sued."

Among the indirect costs of FTC rulemaking is the time lost by businesses in trying to comprehend the proposed FTC action,

fighting it, or both. Any time spent on these activities is time not spent on providing goods or services desired by consumers, which means higher prices for the ones that are provided.

The heavy-handed intrusion of the FTC into the affairs of business also generates a climate of fear. Zealous defenders of the regulatory agencies will applaud this, saying the businessman will be too scared to try any shady tactics. (This is a dubious assertion because anyone who is bent on fleecing consumers is not likely to be overly deterred, if at all, by some FTC regulation.) But the other side of the coin is that the climate of fear also makes entrepreneurs have second thoughts before developing and introducing new goods and services that may be better and cheaper than those currently on the market.

CURBING THE FTC

The FTC's use of public funds to hire advocates of its position on proposed industry-wide rules is a gross abuse of its powers and of the taxpayers' money. As Senator Simpson told his colleagues in 1979: "In a free society it is intolerable that the taxpayer should be required to finance private lobbying groups, who often take positions opposed by a vast majority of our citizens."

Unfortunately, Simpson's words had little effect upon his Senate colleagues last year when they passed their weak-kneed FTC reform bill. When they finally approved the agency's budget the intervenor funding program was continued, with but two restrictions: the amount that any one group can be awarded is now limited to $50,000, and 50 percent of the grant funding must now go to business interests.

The reform bill took several other steps to restrain the FTC, namely allowing new FTC regulations to be vetoed by a vote of both houses of Congress and restricting somewhat the proposed FTC regulations on children's TV advertising, voluntary codes and standards, trademarks, cooperatives, life insurance, and funeral homes. In other words, the big boys with the political clout won a reprieve from the FTC. But Congress left the small businessman still exposed to the agency's awesome powers.

The FTC intends to use that power. After the legislation was signed into law, Chairman Michael Pertschuk told the Associated Press, "We intend to go ahead with everything Congress hasn't specifically stopped us from going ahead with." In spite of the change of administrations, the FTC is still peopled by those who have admitted to carrying out a vendetta against whole industries. They are ready, willing, and able to dream up new rules to regulate business, as Pertschuk has admitted. They can still dole out money, although now on a reduced basis, to hire groups to speak for their proposed rules and regulations.

Last February the Reagan administration sent shock waves through the Federal Trade Commission. The Office of Management and Budget recommended that the FTC's current fiscal 1981 budget be cut by 13 percent and its 1982 budget by 24 percent. OMB also urged that the intervenor funding program be abolished.

The latter, however, is a creature of the Congress. Congress conceived intervenor funding, gave birth to it, annually nourishes it with taxpayers' funds, and regularly contemplates cloning it for other federal agencies. It is up to Congress, not the OMB, to get rid of the little monster it created.

The time is rapidly approaching when, according to former Atty. Gen. Griffin Bell, "if the Republic is to remain viable, we must find ways to curb, and then to reduce, this government by bureaucracy." A good place to start would be to abolish the practice of intervenor funding.●

ORDER OF PROCEDURE

Mr. BAKER. Mr. President, I have certain housekeeping details to tend to. I believe these matters are routine.

May I inquire of the minority leader? During this morning I put a question to the minority leader on whether or not he might be in a position to agree to a request that the Senate turn to the consideration of the tax bill at 11 a.m. tomorrow. Since that time, I have found that certain Senators require special orders.

ORDER FOR THE RECOGNITION OF CERTAIN SENATORS TOMORROW

Mr. BAKER. Mr. President, let me put the request at this time.

I ask unanimous consent that, after the recognition of the two leaders under the standing order on tomorrow, the Senator from Vermont (Mr. LEAHY), the Senator from Utah (Mr. HATCH), and the Senator from Virginia (Mr. WARNER) each be recognized for not to exceed 15 minutes.

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

ORDER FOR RECESS UNTIL 9:45 A.M. TOMORROW

Mr. BAKER. Mr. President, I am prepared to change the convening order from 10:30 a.m. tomorrow to 9:45 a.m. tomorrow in order to accommodate these special orders and still permit the opportunity to go to the tax bill at 11 o'clock.

Might I inquire of the minority leader if he is in a position now to agree to a request that the Senate proceed to the consideration of the tax bill at 11 o'clock on tomorrow.

Mr. ROBERT C. BYRD. Mr. President, I have no objection.

Mr. BAKER. Mr. President, I make that request. I request that the time for the convening of the Senate be changed to 9:45 a.m. on tomorrow; that at 11 a.m. on tomorrow the Senate proceed to the consideration of the tax bill, House Joint Resolution 266.

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

ORDER DESIGNATING PERIOD FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS AND TO PROCEED TO CONSIDERATION OF HOUSE JOINT RESOLUTION 266 TOMORROW

Mr. BAKER. Mr. President, I ask unanimous consent that after the recognition of the two leaders under the standing order, and after the recognition of the three Senators with special orders which have been provided for, there be a period for the transaction of routine morning business to extend until the hour of 11 a.m., during which Senators may speak for not more than 5 minutes each.

Mr. President, I amend the request only to the extent that I ask that the Senate proceed to the consideration of the tax bill at 10:40 a.m. tomorrow.

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

PROGRAM

Mr. BAKER. Mr. President, in just a moment I will ask that the Senate recess over until 9:45 a.m. tomorrow.

After the Senate convenes on tomorrow, after the prayer of the Chaplain and the recognition of the two leaders under the standing order, three Senators will be recognized for not more than 15 minutes each on special orders.

After that there will be a brief period for the transaction of routine morning business.

At 10:40 a.m. The Senate then will proceed to the consideration of House Joint Resolution 266, the tax bill. It is anticipated the entire day will be devoted to debate on that measure. I expect that most of the day will be consumed in opening statements and general debate. I do not anticipate there will be votes ordered on tomorrow.

In the event votes are ordered on tomorrow, at that time I will request—I do not now request, but I anticipate requesting—that the votes go over until the following day.

There is already an order for the Senate to convene at 10 a.m. on Thursday. It is my full expectation that I will ask the Senate to stay in session reasonably late on that evening since Thursday is the evening set aside for late sessions, if necessary. I would anticipate that the Senate might be in session as late as 10 or 11 p.m., or perhaps even later.

The Senate will then convene at 10 o'clock a.m. on Friday, according to the order previously entered, and will continue debate on the tax bill, if necessary, until a reasonable hour in the late afternoon on Friday. I do not expect a late session on Friday.

There is already an order entered for the Senate to convene at 10 a.m. on Saturday, if necessary, at which time we will resume consideration of the tax bill, if that proves necessary.

Similarly, there is an order for the Senate to convene at 12 noon on Monday next and to proceed with the consideration of the tax bill.

Mr. President, notwithstanding that orders have now been provided to accommodate extensive debate on the tax bill, it is my sincere hope, and it is my guarded belief and expectation, that we can complete action on the tax bill by the afternoon on Friday.

I urge Senators who have amendments they wish to offer to make those amendments known on this side to our cloakroom so we make an inventory of measures to be acted upon. During the day tomorrow, I will explore with the minority leader the possibility of a time agreement either on the bill as a whole or on amendments to the bill.

RECESS UNTIL 9:45 A.M. TOMORROW

Mr. BAKER. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in recess until the hour of 9:45 a.m. tomorrow.

There being no objection, the Senate, at 5:50 p.m., recessed until Wednesday, July 15, 1981, at 9:45 a.m.

HOUSE OF REPRESENTATIVES—*Tuesday, July 14, 1981*

The House met at 12 o'clock noon.

The Reverend Dr. Charles V. Bergstrom, executive director, Lutheran Council, Washington, D.C., offered the following prayer:

Dear Lord, we thank You and pray for people of politics. We pray first for all the people of this land who need a new birth of participation in the political process. Help voters to learn more about dedicated men and women in the House of Representatives. Fade into perspective the stories of weakness. Help all of our people to be freed from meanness of spirit, divisiveness, and inactive citizenship. Change lazy complainers into voting participants.

And so we pray also for the Members of the House here and those not yet here, that they may know again the joys of political vocation. Make them aware of the needs of people in this great land. Fade into the background dollar signs and selfish motives. Zoom into focus the pictures of people in need of justice.

Give hope to all who need it. Give faith in the process of government. Give us charity, especially when there is difference regarding issues and legislation. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PERMISSION FOR COMMITTEE ON APPROPRIATIONS TO FILE PRIVILEGED REPORT ON 1982 ENERGY AND WATER DEVELOPMENT APPROPRIATIONS BILL

Mr. BEVILL. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations may have until midnight tonight to file a privileged report on a bill making appropriations for energy and water development for the fiscal year ending September 30, 1982, and for other purposes.

Mr. MYERS reserved all points of order on the bill.

The SPEAKER. Is there objection to the request of the gentleman from Alabama?

There was no objection.

THE REVEREND DR. CHARLES BERGSTROM

(Mr. SIMON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SIMON. Mr. Speaker, our Chaplain this morning is not a constituent of mine, I regret to say, but Dr. Bergstrom represents what a few people in Washington represent—the various religious bodies here on the Washington scene. Monsignor Higgins, representing the Catholic bishops, during the last two decades probably was the most prominent. Dr. Bergstrom is one of those, along with several others, who try to apply faith to life and he does it with great distinction in behalf of the Lutheran Council.

It is my personal privilege to count him a friend and, more than that, I appreciate what he is doing. His prayer called upon all of us to avoid inactive citizenship.

One other point I noted in his prayer, which was an admonition as well as a prayer; he advocated that we apply charity as we have differences. His approach is not, "If you don't agree with me, you're morally inferior or morally wrong," but that we somehow through difficulties, through disagreements, must apply faith to life. He exemplifies that in the finest kind of tradition.

REAGAN BUDGETMAKERS HAVE PLAYED FAST AND LOOSE WITH THEIR ASSUMPTIONS TO MAKE POLITICAL HAY OVER FEDERAL SPENDING PRIORITIES

(Mr. ALEXANDER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ALEXANDER. Mr. Speaker, last Sunday, July 12, Treasury Secretary Regan told Americans that the deficit for 1981 would be in excess of $54 billion due to interest rates being higher than anticipated.

Mr. Speaker, when the Stockman budget was formulated, it assumed an interest rate of 11.5 percent. That assumption was unrealistic in March when it hovered around 14 percent and it remains unrealistic today when the 91-day Treasury bill is at 14.56 percent and expected to rise.

The Reagan budgetmakers have played fast and loose with their assumptions in order to make political hay in the debate over Federal spending priorities. I think it is time to stop fooling the American people and let them know that the Reagan administration is using Federal deficits as the excuse for practicing a high interest rate policy which is meat-axing small businesses, choking the housing and automobile industries, and clobbering the Federal budget while benefiting rich investors in money market funds.

IRELAND—MAZE PRISON HUNGER STRIKE

(Mr. SHANNON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHANNON. Mr. Speaker, last Wednesday, in the H block of Maze Prison, Belfast, Joe McDonnell died. Yesterday morning, it was Martin Hurson. And Kieran Doherty, recently elected to the Irish Parliament in Dublin, is weakening and may die of starvation within the next few days.

When the hunger strikers began to fast, their demand was for political prisoner status. After five men had died, the Irish Commission for Justice and Peace, composed of clergy and lay people, and affiliated with the Irish Catholic Bishops' Conference, met with inmates and with British officials. The nationalists were willing to moderate their demands. They asked for reforms for all prisoners in Northern Ireland, and dropped the request of political prisoner status for themselves. It looked then like the hunger strike could be resolved.

But the British Government balked, and delayed, and Joe McDonnell died. The negotiations, so nearly concluded, fell apart. The Irish Commission for Justice and Peace left Belfast for Dublin on Saturday.

Is the government of Prime Minister Thatcher unaware that with every death by starvation, the IRA is provided another name for its ballads of revolution? Moderate men and women are being pushed to sympathetic violence by the intransigent, inflexible British Government. This is an intransigence which will lead to death—of inmates in the Belfast prison, and of citizens in Belfast streets.

It is up to Mrs. Thatcher to replace the chaos and destruction with reason. British inflexibility in this grevious situation is not discouraging terrorism. It is spreading terrorism.

BIZARRE AND OUTLANDISH DEMAND FROM MR. STOCKMAN

(Mr. WRIGHT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WRIGHT. Mr. Speaker, one of the most bizarre reports in a time of outlandish demands from executive appointees is the report that Director of the Office of Management and Budget, Mr. Stockman, had requested of the Senate leadership that they simply accept the reconciliation bill as it had been passed by the House without amendments and adopt it in that form.

Now, as those of us who labored through the exercise are aware, there are numerous and glaring inconsistencies and terribly gaping holes in that bill.

A few examples: The low-income weatherization program is authorized at a level of $193 million for 1982; but in a preceding section, the original act authorizing the whole program is repealed.

The Merchant Marine and Fisheries section of the bill provides for the establishment of an ocean dumping fee not to exceed $5 per ton, whereas the public works section of the bill makes as assessment of any such fee illegal.

□ 1210

An even more confusing example is contained in the Education and Labor package under the so-called Gramm-Latta II which simultaneously repeals the community economic development program of the Community Services Administration; then authorizes appropriations to carry out the program; and, finally, provides that no funds will be available for the program in fiscal years 1982, 1983, and 1984, while in another section it authorizes the OMB Director to take over administration of the Community Services Administration and terminate the agency itself.

The bill, as it is presently drafted, makes it extremely unclear as to its impact on blind vendors in Federal facilities. We do not know from the inconsistent provisions whether the Randolph-Sheppard Act, as it applies to blind vendors, has been repealed or been left intact.

The first nine lines of the Small Business Administration Act have been inadvertently repealed without any apparent reason or purpose.

The Head Start program, the National Science Foundation, and all of our weather stations, by an apparent error in drafting, were removed from law.

Now we do not know what other inconsistencies may exist, and I suggest the conferees be very, very careful.

CONGRESSMAN STRATTON URGES PRESIDENT REAGAN AT THE UPCOMING OTTAWA SUMMIT TO PERSUADE PRIME MINISTER THATCHER TO TAKE A MODERATING STAND ON NORTHERN IRELAND HUNGER STRIKERS

(Mr. STRATTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STRATTON. Mr. Speaker, I want to endorse and congratulate the gentleman from Massachusetts (Mr. SHANNON) for his remarks a moment ago in connection with the continuing deaths of the hunger strikers in Northern Ireland.

I participated on Saturday in my home district of Albany with a group that were also demonstrating against the inability to achieve what appeared at one moment to be a very satisfactory compromise on this problem between the British Government and the Catholic clergy in Ireland. Unfortunately, that compromise failed.

I made the suggestion at that time, and I hope that perhaps the gentleman from Massachusetts (Mr. SHANNON) and others in the Chamber might join with me now that we call on President Reagan, when he will be visiting next week in Ottawa with the heads of the various governments in the European Economic Community and Japan, including the United Kingdom, that he use his great prestige to persuade the Prime Minister of Great Britain, Mrs. Thatcher, to be just a little bit more flexible on this issue. Certainly nothing is accomplished by allowing these individuals to die in this fashion. Certainly nothing would seem to be lost if these IRA wore different clothing. And certainly nothing is more clear to the whole world now that these prisoners who have been willing to lay down their lives for this principle cannot possibly be called common criminals. No common criminal would starve himself to death for an idea. A common criminal wants to live as long as possible.

If the compromise that was originally proposed could be worked out on this one issue it might actually lead to a compromise that could settle the whole problem in Northern Ireland.

MISUSE OF FUNDS BY EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

(Mr. WINN asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. WINN. Mr. Speaker, I am speaking today on the placing of a newspaper advertisement in the Kansas City Times. The ad was paid for by the U.S. Equal Employment Opportunity Commission. In it, the Commission correctly states that the U.S. District Court for the Western District of Missouri found Cook Paint & Varnish Co. in violation of title VII of the Civil Rights Act of 1964. Among other things, the court determined that Cook Paint failed to hire female applicants for employment in production and technical job classifications between October 1973 and June 1975.

Now the Equal Employment Opportunity Commission is working with Cook Paint, which is appealing the court decision, to locate females who applied for production and technical positions with Cook during the aforementioned time period.

Mr. Speaker, the Equal Employment Opportunity Commission has not only spent taxpayer's money in placing this ad, but has urged these female applicants to call collect. This is a blatant misuse of hard-earned taxpayer money, and is simply more proof that the Federal Government wastes money, time, and talent. This is precisely the kind of wasteful Government spending the President and many of us in Congress are trying to stop.

The advertisement read as follows:

[Advertisement]

PUBLIC NOTICE

The United States District Court for the Western District of Missouri has determined that Cook Paint and Varnish Company has violated title VII of the Civil Rights Act of 1964 by, among other things, failing or refusing to hire female applicants for employment in production and technician job classifications between October 23, 1973 and June 2, 1975. The company is appealing from this decision.

In the meantime, the United States Equal Employment Opportunity Commission and Cook Paint and Varnish Company are seeking to locate all females who have applied for production and technician positions at Cook Paint and Varnish Company located at 1412 Knox Avenue in North Kansas City, Missouri at any time between October 23, 1973 and June 2, 1975. The production and technician positions would have been referred to as "factory jobs" at Cook Paint and Varnish Company's paint factory.

If you are such a person or know of such a person please contact: Morgan Stewart, Trial Attorney, United States Equal Employment, Opportunity Commission, 625 North Euclid Avenue, St. Louis, Missouri 63108.

Contact should be made as soon as possible, but not later than July 23, 1981. You may call collect at (314) 425-6527. (United States Equal Employment Opportunity Commission).

NONSENSE TALK ON INTEREST RATES

(Mr. WALKER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WALKER. Mr. Speaker, a few moments ago the gentleman from Arkansas (Mr. ALEXANDER) addressed this

body on what he called the high interest rate policy of this administration. I think it was an interesting bit of political talk, but not very good history. The gentleman from Arkansas knows full well that the interest rates of this country have not risen since the time that the Democratic administration left office. In fact, they have not risen at all. I think they are probably a little bit lower than they were in January of this year. The gentleman's comments were a bit of political nonsense because he and some of his colleagues have tried to stand in the way of the economic programs designed to bring down those interest rates, the tax cut program and the budget cut program.

So I would suggest instead of historic revisionism, like that we have seen on the House floor today, we get a bipartisan effort under way to reform the economy of this country in a way that will bring down interest rates.

REGULATIONS AT NATIONAL AIRPORT

(Mr. VOLKMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VOLKMER. Mr. Speaker, recently the proposed regulations for the use of National Airport have come to my attention and I think the attention of most of the Members of Congress. It amazes me that in this time of deregulation fostered by this administration and supported by me that we now have increased regulations for National Airport.

These increased regulations will actually lend themselves by 1986 to meaning that people from my district, my constituents, my taxpayers, will have to fly into Dulles Airport rather than to National. I cannot understand the purpose of the new Secretary of Transportation other than to benefit people in businesses and private interests and land speculators from northern Virginia with this new proposed regulation. Those are the only ones that will benefit.

Who will pay for the inconvenience? The people from other parts of the United States, which is just to benefit northern Virginia interests.

Mr. STRATTON. Mr. Speaker, will the gentleman yield?

Mr. VOLKMER. I yield to the gentleman from New York (Mr. STRATTON).

Mr. STRATTON. I want to congratulate the gentleman on his comments. The people of northern New York feel just as strongly as they do out in Missouri on that decision. I hope the House will assert its wisdom, as it always has in the past, and give the proposal of the Secretary of Transportation on Washington National Airport the treatment it deserves, namely deep-sixing it in the Potomac River. After all, Washington National is one of the Nation's greatest assets—with its convenience and its safety. Why cannot the bureaucracy leave it alone?

SALUTE TO THE FLEET BALLISTIC MISSILE SUBMARINE FORCE

(Mr. HARTNETT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HARTNETT. Mr. Speaker, I might say that it is a real pleasure to see the gavel being wielded this morning by such an able, competent, and nonpartisan presiding officer, the gentleman from Massachusetts (Mr. MAVROULES).

I am happy to have the gentleman in the Chair and I hope that this is a sign of things to come.

My real purpose this morning, Mr. Speaker, is to salute the men of the Fleet Ballistic Missile Submarine Force on the occasion of the completion of the 2,000th strategic deterrent patrol.

When the U.S.S. *James K. Polk* (SSBN-645) returned to Charleston, S.C., on Saturday, June 27, 1981, and finished its 49th patrol, a truly remarkable milestone was reached on behalf of all the original 41 ballistic missile submarines.

These dedicated navymen have served our great Nation since 1960, when deterrent patrols were first undertaken as instruments of our national policy and they have accumulated more than 100,000 submerged days carrying out their mission of strategic deterrence.

It is perhaps coincidental, but also noteworthy, than in approximately the same time frame, we have also witnessed our newest addition to the strategic fleet, the U.S.S. *Ohio* (SSBN-726), successfully complete its maiden sea trial. This nuclear-powered Trident submarine will soon join the cornerstone of the U.S. defense Triad served proudly by Navy submariners for over 20 years.

On the occasion of the 2,000th FBM patrol, I join all Americans in paying tribute to these patriotic citizens of our country and our Navy—the men of the Fleet Ballistic Missile Submarine Force.

□ 1220

BEWARE THE 3-YEAR TAX CUT

(Mr. PEASE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PEASE. Mr. Speaker, are you nervous about a 3-year tax cut?

President Reagan says he can do it and still have a $1 billion surplus in fiscal year 1984.

But three expert sources who should know predict budget deficits of $80 billion in fiscal year 1984 if the 3-year tax cut goes through.

You know that cutting $37 billion in spending this year has not been easy or pleasant. Yet President Reagan's $1 billion surplus in fiscal year 1984 assumes that Congress will cut another $20 to $30 billion in spending next year and another $28 billion the year after that. All are listed in the Reagan budget as "unspecified cuts."

Even more disturbing is this. You are also required to accept the extremely optimistic economic assumptions of the Reagan administration regarding inflation, interest rates, unemployment and GNP growth.

If those two factors—assumed spending cuts and optimistic economic assumptions—are removed, what then? I asked three independent sources to estimate the likely fiscal year 1984 budget deficit under those circumstances. The answers are remarkably similar.

The Congressional Budget Office put the fiscal year 1984 budget deficit at $80 billion.

Economist Joseph Pechman of the Brookings Institution put the fiscal year 1984 deficit at $79 billion.

Rudolph Penner, economist with the American Enterprise Institute and a general supporter of the Reagan economic recovery plan, estimates the fiscal year 1984 budget deficit at $87 billion.

From economist to economist, and from month to month, the projections for fiscal year 1984 will vary slightly, but not much. If Congress adopts the Reagan economic recovery package this summer, it will face 2 years from now a fiscal year 1984 budget which is $80 billion in the red.

The tough choice for Congress in 1983 will be to make massive additional cuts in Federal spending or to endure a huge budget deficit, the largest in U.S. history.

Is that the kind of choice you want in the summer of 1983? If not, beware the 3-year tax cut.

PERMISSION TO WITHDRAW MOTION MADE ON YESTERDAY TO SUSPEND THE RULES AND PASS H.R. 3659, OMNIBUS TERRITORIES BILL

Mr. WON PAT. Mr. Speaker, I ask unanimous consent to withdraw the motion I made yesterday to suspend the rules and pass the bill (H.R. 3659) to authorize appropriations for certain insular areas of the United States, and for other purposes, as amended.

The SPEAKER pro tempore (Mr. MAVROULES). Is there objection to the request of the gentleman from Guam?

Mr. LAGOMARSINO. Mr. Speaker, reserving the right to object—and I

shall not object—I want to just say that I have had discussions about this legislation with the Director of the Office of Management and Budget. The Office of Management and Budget is concerned about the outyear parts of the bill. I think we will be able to work out an amendment that will take care of those objections and concerns.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Guam?

There was not objection.

FACILITATING AND ENCOURAGING PRODUCTION OF OIL FROM TAR SAND AND OTHER HYDROCARBON DEPOSITS

Mr. SANTINI. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3975) to facilitate and encourage the production of oil from tar sand and other hydrocarbon deposits.

The Clerk read as follows:

H.R. 3975

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (1) section 1 (30 U.S.C. 181), sections 21 (a) and (c) (30 U.S.C. 241 (a) and (c)), and section 34 (30 U.S.C. 182) of the Mineral Lands Leasing Act of 1920, as amended, are amended by deleting "native asphalt, solid and semisolid bitumen, and bituminous rock (including oil-impregnated rock or sands from which oil is recoverable only by special treatment after the deposit is mined or quarried)" and by inserting in lieu thereof "gilsonite (including all vein-type solid hydrocarbons),", except that in the first sentence of section 21(a) the word "and" should be inserted before "gilsonite" and the comma after the parenthesis should be eliminated in section 21.

(2) Section 27(k) of such Act (30 U.S.C. 184(k)) is amended by deleting "native asphalt, solid and semisolid bitumen, bituminous rock," and by inserting in lieu thereof "gilsonite (including all vein-type solid hydrocarbons),".

(3) Section 39 of such Act (30 U.S.C. 209) is amended by inserting "gilsonite (including all vein-type solid hydrocarbons)," after "oil shale".

(4) Section 1 of such Act (30 U.S.C. 181) is further amended by adding after the first paragraph the following new paragraphs:

"The term 'oil' shall embrace all nongaseous hydrocarbon substances other than thoses substances leasable as coal, oil shale, or gilsonite (including all vein-type solid hydrocarbons).

"The term 'combined hydrocarbon lease' shall refer to a lease issued in a special tar sand area pursuant to section 17 after the date of enactment of the Combined Hydrocarbon Leasing Act of 1981.

"The term 'special tar sand area' means (1) an area designated by the Secretary of the Interior's orders of November 20, 1980 (45 FR 76800-76801) and January 21, 1981 (46 FR 6077-6078) as containing substantial deposits of tar sand.".

(5) Section 27(d)(1) of such Act (30 U.S.C. 184(d)(1)) is amended by inserting before the period at the end of the first sentence the following: "*Provided, however,* That acreage held in special tar sand areas shall not be chargeable against such State limitations.".

(6)(a) Section 17(b) of such Act (30 U.S.C. 226(b)) is amended by inserting "(1)" after "(b)" and adding a new subsection to read as follows:

"(2) If the lands to be leased are within a special tar sand area, they shall be leased to the highest responsible qualified bidder by competitive bidding under general regulations in units of not more than five thousand one hundred and twenty acres, which shall be as nearly compact as possible, upon the payment by the lessee of such bonus as may be accepted by the Secretary. Royalty shall be 12½ per centum in amount or value of production removed or sold from the lease, subject to section 17(k)(1)(c). The Secretary may lease such additional lands in special tar sand areas as may be required in support of any operations necessary for the recovery of tar sands.".

(b) Section 17(c) of such Act (30 U.S.C. 226(c)) is amended by deleting "within any known geological structure of a producing oil or gas field," and inserting in lieu thereof "subject to leasing under subsection (b),".

(c) Section 17(e) of such Act (30 U.S.C. 226(e)) is amended by inserting before the period at the end of the first sentence the following: ": *Provided, however,* That competitive leases issued in special tar sand areas shall also be for a primary term of ten years.".

(7) Section 39 of such Act (30 U.S.C. 209) is amended by adding after the period following the first sentence: "*Provided, however,* That in order to promote development and the maximum production of tar sand, at the request of the lessee, the Secretary shall review, prior to commencement of commercial operations, the royalty rates established in each combined hydrocarbon lease issued in special tar sand areas. For purposes of this section, the term 'tar sand' means any consolidated or unconsolidated rock (other than coal, oil shale, or gilsonite) that either: (1) contains a hydrocarbonaceous material with a gas-free viscosity, at original reservoir temperature, greater than 10,000 centipoise, or (2) contains a hydrocarbonaceous material and is produced by mining or quarrying.".

(8) Section 17 of such Act (30 U.S.C. 226) is amended by adding at the end thereof the following new subsection:

"(k)(1)(A) The owner of (1) an oil and gas lease issued prior to the date of enactment of the Combined Hydrocarbon Leasing Act of 1981 or (2) a valid claim to any hydrocarbon resources leasable under this section based on a mineral location made prior to January 21, 1926, and located within a special tar sand area shall be entitled to convert such lease or claim to a combined hydrocarbon lease for a primary term of ten years upon the filing of an application within two years from the date of enactment of that Act containing an acceptable plan of operations which assures reasonable protection of the environment and diligent development of those resources requiring enhanced recovery methods of development or mining. For purposes of conversion, no claim shall be deemed invalid solely because it was located as a placer location rather than a lode location or vice versa, notwithstanding any previous adjudication on that issue.

"(B) The Secretary shall issue final regulations to implement this section within six months of the effective date of this Act. If any oil and gas lease eligible for conversion under this section would otherwise expire after the date of this Act and before six months following the issuance of implementing regulations, the lessee may preserve his conversion right under such lease for a period ending six months after the issuance of implementing regulations by filing with the Secretary, before the expiration of the lease, a notice of intent to file an application for conversion. Upon submission of a complete plan of operations in substantial compliance with the regulations promulgated by the Secretary for the filing of such plans, the Secretary shall suspend the running of the term of any oil and gas lease proposed for conversion until the plan is finally approved or disapproved. The Secretary shall act upon a proposed plan of operations within fifteen months of its submittal.

"(C) When an existing oil and gas lease is converted to a combined hydrocarbon lease, the royalty shall be that provided for in the original oil and gas lease and for a converted mining claim, 12½ per centum in amount or value of production removed or sold from the lease.

"(2) Except as provided in this section, nothing in the Combined Hydrocarbon Leasing Act of 1981 shall be construed to diminish or increase the rights of any lessee under any oil and gas lease issued prior to the enactment of such Act.".

(9)(a) Section 2 of the Mineral Leasing Act for Acquired Lands (30 U.S.C. 351) is amended by adding at the end thereof: "The term 'oil' shall embrace all nongaseous hydrocarbon substances other than those leasable as coal, oil shale, or gilsonite (including all vein-type solid hydrocarbons).".

(b) Section 3 of such Act (30 U.S.C. 352) is amended by inserting "gilsonite (including all vein-type solid hydrocarbons)," after "oil shale".

(10) Nothing in this Act shall affect the taxable status of production from tar sand under the Crude Oil Windfall Profit Tax Act of 1980 (Public Law 96-223), reduce the depletion allowance for production from tar sand, or otherwise affect the existing tax status applicable to such production.

(11) No provision of this Act shall apply to national parks, national monuments, or other lands where mineral leasing is prohibited by law. The Secretary of the Interior shall apply the provisions of this Act to the Glen Canyon National Recreation Area, and to any other units of the national park system where mineral leasing is permitted, in accordance with any applicable minerals management plan if the Secretary finds that there will be no resulting significant adverse impacts on the administration of such area, or on other contiguous units of the national park system.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Nevada (Mr. SANTINI) will be recognized for 20 minutes, and the gentleman from Utah (Mr. MARRIOTT) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Nevada (Mr. SANTINI).

Mr. SANTINI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today the House considers under suspension of the rules, H.R. 3975, to provide for the leasing of tar sands on the public domain. For

my colleagues who may be unfamiliar with what a tar sand is, it is an oil impregnated or bituminous sand and constitutes the largest known, nonfluid petroleum resource in the United States—coal and oil shale, while containing vastly greater energy reserves, are not considered to be a petroleum resource. The estimated total domestic tar sand resources range from 15 to 30 billion barrels of oil. Over 90 percent of this resource occurs in the State of Utah, and the majority is on Federal lands under the jurisdiction of the Department of the Interior or Department of Agriculture. Utahan's have been paving roads and driveways with the stuff for years. Unfortunately, that is all the Interior Department has allowed them to do with it.

In interpreting the present law, the Department of the Interior has been unwilling, as a result of the lack of a clear distinction between the two chief classes of hydrocarbons; that is, oil and gas leases issued under section 17 and tar sand leases issued under section 21 of the Mineral Leasing Act to issue tar sand leases. Leases issued under these two sections are mutually exclusive; that is, a section 17 lease carries no rights to deposits of native asphalt, bitumen and bituminous rock—including tar sand, and conversely, a section 21 lease carries no rights to deposits of oil and gas.

Because of this difficulty and the fear of disputes between developers of heavy oil and developers of tar sand, the Interior Department has simply refused for the past 15 years to issue a single lease for tar sands. The State of Utah has resolved this heavy oil versus tar sand ownership problem by uniting these resources into a combined hydrocarbon lease (CHL). Utah's tar sand properties are mixed in checkerboard fashion with Federal tracts and therefore, cannot be economically developed without a Federal leasing system.

The concept of a combined hydrocarbon lease has been under consideration by the administration and Congress for several years. H.R. 3975 would include all hydrocarbons in one lease, with the exception of gilsonite, oil shale, and coal. The latter three are easily distinguishable and would remain under section 21 and section 2 of the Mineral Leasing Act.

The bill contains the following provisions:

First, provides for issuance of a combined hydrocarbon lease (5,120 acres) in special tar sand areas which embraces all nongaseous hydrocarbon substances other than coal, oil shale, or gilsonite.

Second, provides that lease acreage in special tar sand areas shall not be chargeable against State aggregate acreage limitations (246,080 acres).

Third, defines special tar sand areas by reference to those areas in Utah already designated by the Secretary of the Interior.

Fourth, provides for a flat 10-year primary term without the possibility of extension for both competitive and converted hdyrocarbon leases.

Fifth, provides for a 12½-percent royalty on all production from leases within special tar sand areas and authorizes the Secretary to waive, suspend, reduce or otherwise adjust the royalty rate on tar sand to promote development on a case-by-case basis.

Sixth, defines tar sand for royalty purposes using the DOE definition.

Seventh, provides for conversion rights from an oil and gas lease to a combined hydrocarbon lease.

Eighth, provides that the royalty on a converted lease shall be the same as that set forth in the lease to be converted.

Ninth, provide for conversion of valid mining claims as well as oil and gas leases to combined hydrocarbon leases with a royalty of 12½ per centum.

Tenth, for conversion, requires submission of a plan of operations within 2 years after enactment of the act which provides for reasonable protection of the environment and diligent development of resources requiring enhanced recovery methods of development or mining.

Eleventh, requires the Secretary to act upon a proposed plan of operations within 15 months of its submittal, to issue final regulations to implement the act within 6 months of passage, and provides for suspension of leases under limited circumstances during the 6-month period.

Twelfth, authorizes the Secretary to issue leases for additional acreage in special tar sand areas when required for operations necessary to tar sand development.

Thirteenth, a disclaimer as to the tax consequences and the taxable status of production of tar sands versus oil is included. The conference agreement applicable to the Crude Oil Windfall Profit Tax Act of 1980 specifically stated that taxable crude oil, for windfall profit tax purposes, does not include hydrocarbon production from tar sands. The purpose is to assure that nothing in the act will affect the present tax treatment of tar sands production on Federal or fee lands, under the Federal income tax or the windfall tax.

Fourteenth, mineral leasing under the provisions of this bill is prohibited within the national park system, except as authorized by law and pursuant to management plans of the Park Service.

The administration has given its support to the enactment of H.R. 3975 which was reported unanimously by the Committee on Interior and Insular Affairs.

I want to thank Representative MARRIOTT and the rest of the Mines and Mining Subcommittee for the time they have invested in this bill. Hopefully we will see the enactment of this bill and we will soon see oil produced from tar sands.

Mr. MARRIOTT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today we are voting on legislation, which is backed by the administration, I might add, which will, for the first time, truly open Federal lands to tar sand leasing and development. For too long, legal and administrative obstacles have stood in the way of recovery of this valuable resource. With over 97 percent of the tar sand located in Utah, and 65 percent of these resources on Federal land, the Federal Government has an obligation to see to it that this resource is made available to the public. It is intolerable to think that 24 to 30 billion barrels of oil within domestic tar sand has been virtually barred from commercial development due to the inability of the Interior Department to distinguish oil from tar sand under the Mineral Leasing Act of 1920. This bill, H.R. 3975, which my good friend and colleague JAMES SANTINI and I introduced, and my fellow Congressman from Utah JAMES HANSEN cosponsored, will finally clear the way for tar sand development. It will remove the necessity for making that distinction between oil and tar sand prior to leasing by providing for the issuance of a combined hydrocarbon lease under which both oil and tar sand can be developed.

I am convinced that the legislation we are voting on today provides the soundest solution to responsible development of our domestic tar sand resource. As one who has long advocated tar sand legislation, by introducing and sponsoring several bills in past sessions of Congress, I strongly urge passage of H.R. 3975.

□ 1230

Mr. MARRIOTT. Mr. Speaker, I yield 2 minutes to my distinguished colleague from Utah (Mr. HANSEN).

Mr. HANSEN of Utah. Mr. Speaker, I just want to commend the chairman of the committee (Mr. SANTINI), and the ranking minority member, the gentleman from Utah (Mr. MARRIOTT), for the excellent work they have done on this bill.

I would like to point out that 90 percent of the tar sands located in America are in my district—those that are recoverable. I would also like to say that one-half of these tar sands are on Federal ground, interspaced in checkerboard fashion with State ground. I do not think the people of this House realize the enormity of these deposits and what development of these deposits means to our Nation. If all of the

tar sands in my district is recovered, it would provide the needs of petroleum products for America for 5 years.

I would hope that we would send a clear message to the people in America that we are serious about developing our energy. By passing this particular bill we will follow the lead of the State of Utah which has cleared the way for development of tar sands on State lands by similar legislation that they have passed.

Further, I would like to point out that officials of Canada came to the State of Utah and made a big point of the deposits we have in Utah. Some of those officials made a very interesting point when they said, "With the technology we have, and none of the obstructions you have, we will be developing tar sands oil and petroleum projects in about 5 years."

Even with kicking the much needed development of tar sands off now, it looks to us as though it will be 8 to 10 years before we will be developing this valuable mineral resource.

Mr. Speaker, I strongly urge the passage of this legislation.

Mr. MARRIOTT. Mr. Speaker, I would just conclude by saying that we do have the technology. Tar sands is now economically feasible. I would urge the House to adopt this legislation.

Mr. WINN. Mr. Speaker, will the gentleman yield?

Mr. MARRIOTT. I yield to the gentleman from Kansas.

Mr. WINN. Mr. Speaker, I thank the gentleman for yielding. I am not rising in opposition to the bill. I think it is probably a pretty good idea to make this arrangement.

I just want to clarify, though, for the record if possible, there is no Federal funding involved in this as far as the research of the technology is concerned, is there?

Mr. MARRIOTT. Not at this point. My understanding is that for tar sands to be a viable alternative, it will be left to the private sector, and the Reagan administration wants it to be a market phenomenon, not a Government-subsidized program.

Mr. WINN. I appreciate that clarification because I am a member of the United States-Canadian Parliamentary Delegation, and we have several times visited their tar sands facilities, and they do have the technology. They are actually in production, but they are cutting back because it is not financially feasible. I just wanted to be sure that if the commercial enterprises want to become involved, and I hope that they do, that it will be fiscally feasible, but not for the Federal Government to take the lead. I appreciate the gentleman yielding.

Mr. MARRIOTT. I thank the gentleman. I would only indicate to the gentleman that we believe that those that are private sector companies involved believe that they can develop oil from tar sands somewhere around a $20 to $25 per barrel price. If that is the case, I think we have something optimistic to look forward to.

Mr. SANTINI. Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio (Mr. SEIBERLING).

Mr. SEIBERLING. Mr. Speaker, I wonder if the gentleman from Nevada could indicate what limitations the bill places on tar sands leasing so far as such leasing might have an impact on areas within the national park system?

Mr. SANTINI. In response, I cite page 7, section 11:

(11) No provision of this Act shall apply to national parks, national monuments, or other lands where mineral leasing is prohibited by law. The Secretary of the Interior shall apply the provisions of this Act to the Glen Canyon National Recreation Area, and to any other units of the national park system where mineral leasing is permitted, in accordance with any applicable minerals management plan if the Secretary finds that there will be no resulting significant adverse impacts on the administration of such area, or on other contiguous units of the national park system.

Mr. SEIBERLING. And section 11 thus precludes tar sands leases which would involve significant adverse impacts on the administration of a national park system unit, even though that unit is not withdrawn from operation of the mineral leasing laws?

Mr. SANTINI. Yes.

Mr. SEIBERLING. And would the gentleman agree with me that in that context the word "administration" involves more than such matters as the provision of visitor services and the like—and would include such aspects of administration as control of air or water pollution or other matters impacting on the lands within the unit?

Mr. SANTINI. Yes, all that is involved in "administration" of a national park system unit.

Mr. SEIBERLING. And further, is it not correct that section 11 clearly precludes activities which would have an adverse impact on any national park system unit not open to mineral leasing, if that unit were contiguous to a unit open to leasing?

Mr. SANTINI. Yes, that is right.

Mr. SEIBERLING. So, for example, any leasing under this bill of lands within the Glen Canyon National Recreation Area, which is open to leasing under the Mineral Leasing Act, could only be done if that leasing would not adversely impact the values of the Canyonlands National Park, which is contiguous to Glen Canyon and which is withdrawn from mineral leasing?

Mr. SANTINI. Yes, that is right.

Mr. SEIBERLING. And the values of Canyonlands that are protected by section 11 of the bill include such matters as air quality, water quality, and the like?

Mr. SANTINI. The gentleman has all the good lines. Yes, that is correct.

Mr. SEIBERLING. Well, I think the "yes" line is the best one of all.

I appreciate the gentleman yielding.

Mr. MARRIOTT. Mr. Speaker, I urge the House to adopt this legislation, and I yield back the balance of my time.

GENERAL LEAVE

Mr. SANTINI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and to include extraneous matter on the legislation under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Nevada?

There was no objection.

Mr. SANTINI. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Nevada (Mr. SANTINI) that the House suspend the rules and pass the bill, H.R. 3975.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. BROOMFIELD. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device and there were—yeas 416, nays 0, not voting 16, as follows:

[Roll No. 127]

YEAS—416

Addabbo	Brown (CA)	de la Garza
Akaka	Brown (CO)	Deckard
Albosta	Brown (OH)	Dellums
Alexander	Broyhill	DeNardis
Anderson	Burgener	Derrick
Annunzio	Burton, John	Derwinski
Anthony	Burton, Phillip	Dickinson
Applegate	Butler	Dicks
Archer	Byron	Dingell
Ashbrook	Campbell	Dixon
Aspin	Carman	Donnelly
Atkinson	Carney	Dorgan
AuCoin	Chappell	Dornan
Badham	Chappie	Dougherty
Bafalis	Cheney	Dowdy
Bailey (MO)	Chisholm	Downey
Bailey (PA)	Clausen	Dreier
Barnard	Clay	Duncan
Barnes	Clinger	Dunn
Beard	Coats	Dwyer
Bedell	Coelho	Dymally
Beilenson	Coleman	Dyson
Benedict	Collins (IL)	Early
Benjamin	Collins (TX)	Eckart
Bennett	Conable	Edgar
Bereuter	Conte	Edwards (AL)
Bethune	Conyers	Edwards (CA)
Bevill	Corcoran	Edwards (OK)
Biaggi	Coughlin	Emerson
Bingham	Courter	Emery
Blanchard	Coyne, James	English
Bliley	Coyne, William	Erdahl
Boggs	Craig	Erlenborn
Boland	Crane, Daniel	Ertel
Boner	Crane, Philip	Evans (DE)
Bonior	D'Amours	Evans (GA)
Bonker	Daniel, Dan	Evans (IA)
Bouquard	Daniel, R. W.	Evans (IN)
Bowen	Danielson	Fary
Brinkley	Dannemeyer	Fascell
Brodhead	Daschle	Fazio
Brooks	Daub	Fenwick
Broomfield	Davis	Ferraro

Fiedler
Fields
Findley
Fish
Flippo
Florio
Foglietta
Foley
Ford (TN)
Forsythe
Fountain
Fowler
Frank
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gejdenson
Gephardt
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gramm
Gray
Green
Gregg
Grisham
Guarini
Gunderson
Hagedorn
Hall (OH)
Hall, Ralph
Hall, Sam
Hamilton
Hammerschmidt
Hance
Hansen (ID)
Hansen (UT)
Harkin
Hartnett
Hatcher
Hawkins
Heckler
Hefner
Heftel
Hendon
Hertel
Hightower
Hiler
Hillis
Holland
Hollenbeck
Holt
Hopkins
Horton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hyde
Ireland
Jacobs
Jeffords
Jeffries
Jones (OK)
Jones (TN)
Kastenmeier
Kazen
Kemp
Kildee
Kindness
Kogovsek
Kramer
LaFalce
Lagomarsino
Lantos
Latta
Leach
Leath
LeBoutillier
Lee
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Loeffler
Long (LA)
Long (MD)
Lott
Lowery (CA)
Lowry (WA)
Lujan
Luken
Lundine
Lungren
Madigan
Markey
Marks
Marlenee
Marriott
Martin (IL)
Martin (NC)
Martin (NY)
Matsui
Mattox
Mavroules
Mazzoli
McClory
McCloskey
McCollum
McCurdy
McDade
McDonald
McEwen
McGrath
McHugh
McKinney
Mica
Michel
Mikulski
Miller (CA)
Miller (OH)
Mineta
Minish
Mitchell (MD)
Mitchell (NY)
Moakley
Moffett
Molinari
Mollohan
Montgomery
Moore
Moorhead
Morrison
Mottl
Murphy
Murtha
Myers
Napier
Natcher
Neal
Nelligan
Nelson
Nichols
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Parris
Pashayan
Patman
Patterson
Paul
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Porter
Price
Pritchard
Pursell
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Roberts (KS)
Roberts (SD)
Robinson
Rodino
Roe
Roemer
Rogers
Rose
Rosenthal
Rostenkowski
Roth
Roukema
Rousselot
Roybal
Rudd
Russo
Sabo
Santini
Sawyer
Scheuer
Schneider
Schroeder
Schulze
Schumer
Seiberling
Sensenbrenner
Shamansky
Shannon
Sharp
Shaw
Shelby
Shumway
Shuster
Siljander
Simon
Skeen
Skelton
Smith (AL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (OR)
Snowe
Snyder
Spence
St Germain
Stangeland
Stanton
Staton
Stenholm
Stokes
Stratton
Studds
Stump
Swift
Synar
Tauke
Tauzin
Taylor
Thomas
Traxler
Udall
Vander Jagt
Vento
Volkmer
Walgren
Walker
Wampler
Washington
Watkins
Waxman
Weaver
Weber (MN)
Weber (OH)
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams (MT)
Williams (OH)
Wilson
Winn
Wirth
Wolf
Wolpe
Wortley
Wright
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)
Young (MO)
Zablocki
Zeferetti

NOT VOTING—16

Andrews
Bolling
Breaux
Cotter
Crockett
Fithian
Ford (MI)
Hutto
Jenkins
Johnston
Jones (NC)
Savage
Solarz
Solomon
Stark
Trible

□ 1250

The Clerk announced the following pairs:

Mr. Breaux with Mr. Trible.
Mr. Hutto with Mr. Johnston.
Mr. Stark with Mr. Solomon.
Mr. Jones of North Carolina with Mr. Jenkins.
Mr. Solarz with Mr. Fithian.
Mr. Ford of Michigan with Mr. Savage.
Mr. Crockett with Mr. Andrews.

Mr. RUDD changed his vote from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

WAYS AND MEANS COMMITTEE CREATES CLASS OF SUPER INDUSTRIES

(Mr. MOORE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MOORE. Mr. Speaker, the Ways and Means Committee is on the verge of creating a class of super industries. Industries who, because of their political power, have elbowed their way to a preferential spot at the trough of Federal spending.

Six industries have banded together, pooled their collective political IOU's, and had themselves offically declared "distressed."

These industries will receive billions of dollars in rebates from the taxpayers for their unused investment tax credits.

It is estimated that the taxpayers will lose over $3 billion through this industrial slush fund. But, no one knows for sure because the only cost figures available are the ones supplied by these so-called distressed industries themselves. There has been no independent accounting of how much this corporate charity will cost.

No one knows exactly how desperately these industries need this taxpayer bailout because the Ways and Means Committee has not received, nor has it asked for, a single piece of evidence that this bailout is needed.

No one knows what other industries are deserving of this rebate, because no hearings were ever held to identify which industries were distressed.

Finally, no one knows what other goodies these industries will want in the future, because if these six industries have the political clout to give themselves a multi-billion-dollar slush fund at a time when we are asking everyone else to tighten their belts, they have got the power to give themselves anything.

□ 1300

DEPARTMENT OF DEFENSE AUTHORIZATION ACT, 1982

Mr. PRICE. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 3519) to authorize appropriations for fiscal year 1982 for the Armed Forces for procurement, for research, development, test, and evaluation, and for operation and maintenance, to prescribe personnel strengths for such fiscal year for the Armed Forces and for civilian employees of the Department of Defense, to authorize appropriations for such fiscal year for civil defense, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois (Mr. PRICE).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 3519, with Mr. SIMON in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Friday, July 10, title IX had been considered as having been read and open to amendment at any point.

GOVERNMENT OPERATIONS COMMITTEE AMENDMENT

The Clerk will report the committee amendment recommended by the Committee on Government Operations.

The Clerk read as follows:

Government Operations Committee amendment: Page 29, beginning on line 19, strike out all of section 903 through line 5 on page 30 and redesignate the succeeding sections accordingly.

Mr. HORTON. Mr. Chairman, I rise in support of the amendment from the Government Operations Committee.

Mr. Chairman, this is another amendment that was acted on by the Government Operations Committee and was proposed to be added to this bill. As I indicated last Friday, this bill was referred after it was acted on by the Armed Services Committee.

Mr. Chairman, as I indicated, this is an amendment that came from the Government Operations Committee. After the Armed Services Committee had completed action on the bill, it was sequentially referred to the Government Operations Committee.

This is another seemingly unimportant amendment, but it has great implications as far as procurement is concerned. I hope that I can keep the

attention of the Members so I can explain to you what we are dealing with here.

As I indicated last Friday, again this is an amendment that came out of the Government Operations Committee. As a result of the bill being sequentially referred to our committee, we heard testimony from the Deputy Director of OMB, we heard testimony from the General Accounting Office and we also heard testimony from the Department of Defense relating to those matters that were referred to the Government Operations Committee, namely those matters that referred to procurement.

Now, in this instance what the provision of H.R. 3519 would do is raise the threshold on three different items. The first provision of H.R. 3519 that we would like to remove by our amendment, this provision in the bill would raise the $10,000 limit for small purchases to $25,000.

The second threshold would be to raise the threshold established in the Truth in Negotiations Act from $100,000 to $500,000. This is the level above which contractors must be required to certify the cost and pricing data submitted in connection with negotiated contracts is current, accurate and complete.

The third one would raise the statutory threshold for the service secretary review of determination and findings for research and development contracts from $100,000 to $500,000.

Now, the proponents, those who proposed these amendments to raise these thresholds, claim that these increases would relieve both the Department of Defense and contractors of unnecessary paperwork requirements. I do not deny that. It certainly will and, as a matter of fact, one of the things that we did when we had the report from the Procurement Commission was to raise thresholds, because it does eliminate unnecessary paperwork.

I served as the Chairman of the Paperwork Commission. This is another recommendation of that subsequent Commission to eliminate paperwork; but the problem here is that the Department of Defense would be raising these thresholds and other agencies in the Government would not be raising thresholds; so you would have one set of thresholds for the Department of Defense and you would have other thresholds for other agencies.

Now, as I indicated in earlier debate last week when we had this bill up before us, there are going to be recommendations from the Office of Federal Procurement Policy that will deal with all of these threshold raisings and this will be done in October. If we get ahead, put the horse before the cart, we could disrupt the Government-wide effect of putting on this increase of thresholds.

Now, in the testimony before my committee, before the Government Operations Committee, both the Office of Management and Budget and also the General Accounting Office, who basically are for the raising of thresholds, indicated that it should be uniform throughout the Government and recommended that this section be deleted.

The CHAIRMAN. The time of the gentleman from New York (Mr. HORTON) has expired.

(By unanimous consent, Mr. HORTON was allowed to proceed for 3 additional minutes.)

Mr. HORTON. So it is important for us to understand, what we are urging here is that the Congress not raise these thresholds now, that we believe in uniform across-the-board Government-wide thresholds. It would injure the chances, in my judgment, of enacting the recommendations of the Federal Procurement Policy Office for a uniform system which will be coming up this fall; so I urge you to adopt this amendment, in spite of how wonderful it may sound to raise these thresholds. It is not going to hurt to hold it up until the fall of this year, so I would urge that the action of the Government Operations Committee for this amendment be upheld on the floor and that we not raise the thresholds now, but wait until the Government-wide raising of the thresholds can be put into effect.

Mr. BROOKS. Mr. Chairman, I move to strike the last word, and I rise in support of the amendment.

Mr. Chairman, the Government Operations Committee has proposed an amendment to section 903 of the DOD authorization bill which raises the dollar thresholds in three areas. First, the small purchase limit would be raised from $10,000 to $25,000. Second, the threshold established in the Truth in Negotiations Act would be raised from $100,000 to $500,000. This is the level above which contractors must be required to certify that cost and pricing data submitted in conjunction with negotiated contracts is current, accurate, and complete. Third, section 903 would also raise the statutory threshold for service secretary review of determination and findings (D. & F.) for research and development contracts from $100,000 to $5 million.

The Armed Services Committee maintains that such increases are needed to offset inflation and reduce paperwork. While the Government Operations Committee recognizes the inflationary trend that has occurred over the last decade, it believes that such thresholds should be uniform throughout the Government and should not be raised for DOD alone. Making agency exceptions to Federal policies, such as DOD, ultimately increases the paperwork problem for both private contractors and the Government.

In testimony before the Government Operations Committee, both the GAO and OMB opposed the increases in thresholds as contained in the armed services DOD authorization bill. Such a provision solely for DOD undermines procurement reform currently being addressed by the Office of Procurement Policy (OFPP). The thresholds cited should be uniform throughout the Government and should not apply only to DOD.

Mr. Chairman, H.R. 3519 authorizes one of the largest Defense budgets in history while at the same time decreasing DOD's accountability to the Congress and the public. So far the House has voted to:

First, effectively exempt DOD from the Government-wide policy stressing reliance on the private sector for goods and services; and

Second, allow DOD to funnel billions of dollars to private profitmaking corporations through grants.

Now, Mr. Chairman, the DOD wants to further undermine Government-wide procurement reform and at the same time circumvent the Truth in Negotiations Act. That act simply requires that on contracts above $100,000 the contractor must certify that his cost figures are accurate, current, and complete. DOD wants to raise the threshold to $500,000. Why? Because they claim they do not have the resources to audit contract submissions under $500,000. In fact, the Armed Services Committee provision has nothing to do with relieving DOD of audit requirements. What it does is relieve the contractors of certification requirements. The end result is simply to increase the opportunity for fraud and abuse by the contractors.

The pattern for this bill is clear. Give DOD more money, exempt them from Federal procurement policies, scuttle procurement reform, circumvent truth in negotiations, allow grants to private businesses, and increase the opportunities for negotiated contracts. This is not all.

Coming up are provisions to effectively establish a separate procurement system for DOD and approve blanket use of multiyear contracting with unlimited termination penalties for the Government.

Mr. Chairman, would be increase appropriations to any other agency by billions of dollars and at the same time reduce oversight, accountability, and safeguards against fraud? I do not think so. I urge every Member to support the amendment of the Government Operations Committee and allow the Office of Federal Procurement Policy to review these thresholds and, if legitimate, include them in the new procurement reform proposal due here in October.

□ 1310

Mr. GONZALEZ. Mr. Chairman, will the gentleman yield?

Mr. BROOKS. I yield to my distinguished and beloved friend from San Antonio, Tex.

Mr. GONZALEZ. Mr. Chairman, I rise in compliment to my distinguished leader and the dean of the Texas delegation (Mr. BROOKS). This is an extremely important message he has just given us. He in effect, I think, is anticipating and preventing thereby, if we accept this amendment, a wholesale, what I call profiteering, because this is the last vestige of the last effort to remove all kinds of controls, as our distinguished chairman has so aptly and eloquently put it.

This one of the most important actions I have seen taken by anyone, and I compliment my colleague for his fortitude and his leadership in this respect.

Mr. MAVROULES. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise to speak in opposition to the amendment of the Government Operations Committee to delete section 903 of H.R. 3519, the fiscal year 1982 Defense authorization bill.

Very briefly, section 903 increases the dollar thresholds for certain Defense Department contract regulations. These modifications to existing law will reduce paperwork, provide administrative relief from unnecessary regulation, and provide substantial cost savings.

As I stated during general debate, if there is one area where I believe we can use our defense dollars more efficiently, it is the modernization of our procurement and defense acquisition policies.

On June 23, the Secretary of Defense, Caspar Weinberger, appeared before the Armed Services Committee to discuss multiyear contracting and the other procurement reforms included in the Defense authorization. With respect to section 903, Secretary Weinberger said the following:

> Section 903 raises the threshold for use of simplified small purchase procedures from $10,000 set in 1974 to $25,000; contractor submission and certification of cost or pricing data is increased from $100,000 set in 1962, to $500,000; and the requirement of a Service Secretary to authorize negotiations for research and development is increased from $100,000 set in 1962 to $5 million.

Further, Secretary Weinberger stated:

> The current thresholds have clearly been overtaken by inflation in the economy. The paperwork and resources involved simply cannot be justified for any perceived benefits in retaining these thresholds. Complying with current thresholds extends procurement leadtime, diverts manpower resources from more essential work, and is costly and burdensome to DOD as well as industry.

The key point the Secretary makes—"The resources involved simply cannot be justified" in implementing these thresholds.

Now, the House Government Operations Committee recommends deletion of section 903 pending a review by the Office of Federal Procurement Policy. According to Government Operations, new thresholds, if justified, would be applied on a Government-wide basis without recognition of the special needs of defense at this critical time.

While a uniform procurement policy certainly is desirable, I believe we cannot wait for one single comprehensive procurement reform package. Instead, we must begin with procurement reform now.

If we wait, as Secretary Weinberger told the Armed Services Committee—

> It is likely several more years will elapse before necessary legislative changes are made and policies issued on a Government-wide basis. In the interim, unnecessary and burdensome paperwork will continue, and the Committees of the Congress and others will no doubt continue to chastise us for not doing business efficiently and quickly.

Again, the Secretary's key point is that failing to adopt these new contracting thresholds "add to cost and delays" which waste manpower and dollars.

Now let me give you an example of the wasteful paperwork and expense created by these low thresholds. Case in point—the $10,000 ceiling on simplified procurement procedures. Section 903 increases this ceiling from $10,000 to $25,000.

Once the $10,000 threshold is broken, additional contracting requirements for larger procurements must be followed. The simplified procedures reduce the number of man-hours required to process each action. Procurement administrative leadtimes are reduced by as much as 50 days per action when the simplified procedures are used.

Today, because of inflation the $10,000 ceiling for the simplified purchase procedures no longer is realistic. Let me give you an example.

Each of us know what casework is. We all have constituents who run into problems with the Federal Government over one thing or another.

Our colleague from Texas (Mr. WHITE) has been good enough to share with me one particular case his office worked on earlier this year.

The Air Force at Holloman Air Force Base, in early March, began renting 40 rooms at a hotel in El Paso, Tex. The occupancy period was about 2 weeks and the total cost of using the hotel for that time was $13,743.08.

Since the costs exceeded $10,000, the Air Force could not use the simplified procurement procedures. Instead, they were forced to use more cumbersome procurement procedures.

There is an Air Force contract for the hotel rooms. It is 23 pages long.

The contract includes 10 pages of general provisions.

Now this is the type of unnecessary regulation that each Member of this House is against. It wastes money. It certainly does not contribute to the national defense effort. And it is totally unnecessary.

Again, while I support the Government Operations Committee's efforts to promote a Government-wide procurement policy, we must begin with procurement reform now.

Our common goal is this Nation's improved defense capability, which I believe can only be realized through restructuring the present procurement system. That is why I urge you to reject the amendment and support section 903.

Mr. STRATTON. Mr. Chairman, will the gentleman yield?

Mr. MAVROULES. I yield to the gentleman from New York.

Mr. STRATTON. I just want to congratulate the gentleman from Massachusetts (Mr. MAVROULES) who is a very effective and capable member of our Procurement Subcommittee on his remarks and on the amendment which he offered to the bill in our subcommittee, the amendment which the gentleman from Texas (Mr. BROOKS) now seeks to strike.

Once again we get these pictures of terrible, egregious waste of funds by the Defense Department unless our bill is amended, which appears to be the theme of the Government Operations Committee in this debate; and nobody can provide any oversight except the Government Operations Committee.

Actually, this is the kind of thing our committee has done all along. All the gentleman's amendment is doing is raising limits that were set years ago to reflect the reality of the current inflation that has overtaken us, and also to expedite and save money, as the gentleman has said, by not burdening us with all of these minutiae.

I hope the amendment of the gentleman from Texas will be defeated.

Mr. MAVROULES. I thank the gentleman from New York.

Mr. HUNTER. Mr. Chairman, will the gentleman yield?

Mr. MAVROULES. I will be pleased to yield to my colleague from California (Mr. HUNTER).

□ 1320

Mr. HUNTER. I thank the gentleman for yielding.

It is my understanding that the Government Operations Committee contends that profiteering will be rampant if these ceilings are lifted. But it is my understanding, and possibly the gentleman can verify this, that since 1967, in the aerospace industry alone,

the number of the companies doing business has declined from 6,000 in 1967 to about 3,500 today; is that right?

Mr. MAVROULES. I believe that is correct.

Mr. HUNTER. So apparently the profiteering is not as rampant as has been thought.

The CHAIRMAN. The time of the gentleman from Massachusetts (Mr. MAVROULES) has expired.

(By unanimous consent, Mr. MAVROULES was allowed to proceed for 7 additional minutes.)

Mr. HUNTER. Further, I would ask the gentleman, is it not true that the defense industrial base panel that was appointed by the Committee on Armed Services found that generally the small defense companies are the ones that suffer the greatest from the paperwork that would be eliminated by H.R. 3519?

Mr. MAVROULES. Well, the fact is that we have been talking for many years about helping to broaden the industrial base of this great country of ours, and certainly to help and assist those in the small-business sector. I do believe that this amendment, our amendment in the committee, addresses those needs of the small business people and the vendors for the major defense contractors.

Mr. HUNTER. I thank the gentleman.

Mr. SKELTON. Mr. Chairman, will the gentleman yield?

Mr. MAVROULES. I yield to the gentleman from Missouri.

Mr. SKELTON. Our No. 1 objective is to save money in the long run; is that not correct?

Mr. MAVROULES. That is absolutely correct.

Mr. SKELTON. It is also to simplify and cut out a lot of burdensome paperwork; is that not correct?

Mr. MAVROULES. Absolutely.

Mr. SKELTON. That is the bottom line of the gentleman's amendment in the full committee.

Is it not true that, according to the Office of the Secretary of Defense, it takes six times as long to process a procurement of over $10,000 as it does for one using the simplified procedure?

Mr. MAVROULES. I believe that testimony is before the Procurement Subcommittee, I will say to my dear colleague, and I think the gentleman is correct.

Mr. SKELTON. Is it not also true that this year, if the threshold were increased from $10,000 to $25,000, an additional 40,000 procurements would fall under the jurisdiction of the simplified procedure?

Mr. MAVROULES. That has been stated before our Subcommittee on Procurement.

Mr. SKELTON. Can the gentleman imagine how much additional paperwork and cost and expense $40,000 worth of additional procurements under the complicated system would cost the Federal Government?

Mr. MAVROULES. As I go into my testimony, I will try to cite a very prime example of exactly what the gentleman is referring to.

Mr. SKELTON. I thank the gentleman.

Mrs. BYRON. Mr. Chairman, will the gentleman yield?

Mr. MAVROULES. I yield to the gentlewoman from Maryland.

Mrs. BYRON. I thank the gentleman for yielding.

Mr. Chairman, I rise in opposition to the amendment.

Several of the previous speakers have spoken on the amount of the threshold, and I just want to put it into a little different formula.

Since the mailing of a letter has changed from 2 cents to 18 cents, since a Coke used to cost 5 cents and now in New York City it costs 50 cents, I think we have a very important inflation factor that transcends the entire area.

I think the gentleman is absolutely correct in his section 903 that the issue has to be addressed.

The Armed Services Committee has been addressing the procurement issue. This is just the very beginning in the overall addressing of the procurement issue.

Mr. Chairman, I rise to urge defeat of the amendment and I urge my colleagues to support such an approach.

Mr. MAVROULES. I thank my dear friend, the gentlewoman from Maryland, for her comments.

Mr. HUNTER. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I would like to make a few points.

Subsection (a) raises the current ceiling for use of the simplified small business procedures from $10,000 to $25,000.

This section particularly would affect small businesses, the most frequent bidders on small contracts.

Simplified procedures on contracts under $25,000 allow less paperwork, with the resultant reduction in manhours and procurement leadtimes. The current $10,000 level was established in August 1974. Since that time, inflation has forced many more contracts to be awarded under the more complex contracting procedures, and I think if we took inflation alone, we would find that the ceiling in terms of real dollars has risen to about $19,150. That is if we use the Government Operations Committee's own figures.

So actually we are proposing a ceiling that is right at or just slightly above what inflation has mandated.

Subsection (b) increases the contract value at which contractors must certify their cost and pricing data for certain negotiated contracts and subcontracts from $100,000 to $500,000. This change will significantly reduce the contractor's paperwork for contracts under $500,000 and reduce the Government cost of contract administration. The $100,000 threshold has been in effect since 1962.

Again, if my figures are correct, in terms of real dollars that threshold should rise simply as a result of inflation to right around $300,000.

Mr. Chairman, subsection (b) has administration support as expressed in the June 11, 1981, letter from the General Counsel of the Department of Defense to the Speaker requesting introduction of similar legislation.

The third subsection raises the threshold for research and development determinations and findings from $100,000 to $5 million. This amendment simply means that the service Secretary would be relieved of the requirement to approve the negotiation process for actions under $5 million. He would retain his control over the actual awarding of all the contracts. Increasing the threshold to $5 million will reduce paperwork by about 88 percent. This provision does not allow a contract to be awarded. It only allows the service to negotiate with contractors.

□ 1330

In order for a contract to be awarded, negotiated contract review procedures are still required. These include a legal review and audit by the Defense Contract Audit Agency, review of the contractor's cost and pricing data, and a cost analysis by a contracting review agency.

Mr. HORTON. Mr. Chairman, will the gentleman yield?

Mr. HUNTER. I will be happy to yield to the gentleman from New York.

Mr. HORTON. Mr. Chairman, I thank the gentleman for yielding. Part of the problem that I have with raising these ceilings is this: I served on the Procurement Commission, which was a statutory Commission established to try to make some order out of chaos. We found some years ago, because different agencies had different threshold ceilings, there was a need to take a look at ceilings. The Commission did make recommendations with regard to raising ceilings after careful study of all factors. As I have indicated, I am not opposed to the concept of raising ceilings. I do feel that raising ceilings will reduce paperwork, but how do I know that $25,000 is the place where the ceiling ought to be? And, is that what it should be for the rest of the agencies throughout the Federal Government?

I do not know whether the gentleman's committee had any hearings on

this subject, but on the Procurement Commission we found that it was very important to consider the levels of the thresholds. The recommendation of the Armed Services Committee is to go from $10,000 on this one to $25,000. The threshold in the Truth in Negotiations Act would go to a half million dollars. The threshold for the service Secretary's review of research and development contracts would go from $100,000 to $5 million. The General Accounting Office said that the Deputy Secretary of Defense had recommended $1 million, and the bill came up with $5 million. GAO was at loss to determine why the figure was set at $5 million.

The point I am making is, these are things that ought to be very carefully considered not only for the Department of Defense, but also Governmentwide, and that is not what is being done here. Figures are just being pulled out of the air. We do not want to wait until the procurement policy is established Governmentwide, and I think it is a mistake.

Mr. MAVROULES. Mr. Chairman, will the gentleman yield?

Mr. HUNTER. I yield to the gentleman from Massachusetts.

The CHAIRMAN. The time of the gentleman from California has expired.

(At the request of Mr. MAVROULES and by unanimous consent, Mr. HUNTER was allowed to proceed for 2 additional minutes.)

Mr. MAVROULES. Just in response perhaps to what the gentleman is stating, I just might remind all of those present here this afternoon that on June 24, 1981, in a letter to the Speaker of the House, Mr. TIP O'NEILL, that the proposal that is part of the Department of Defense legislative program for the 97th Congress—and this is counsel to DOD, the Office of Management and Budget advises, OMB advises that from the standpoint of the administration's program there is no objection to the presentation of this proposal to the Congress. The Department of Defense strongly recommends that the proposal be enacted by the Congress. It is signed by William H. Taft IV.

Mr. HORTON. If the gentleman will yield further so that I could answer the question, we had a discussion last Friday on this same point. In the Government Operations Committee we had testimony from Mr. Harper of the Office of Management and Budget on this very subject. On June 3, 1981, on the subject of thresholds, he said, "We do not question the desirability of raising the thresholds. However, we believe that dollar thresholds should be uniform throughout the Federal Government."

That testimony is specific; it is related directly to this question.

Mr. MAVROULES. This is a great dialog, and just so we get this in a proper perspective, that came over after the testimony. I think the testimony or the letter from Mr. Taft keys in on the things that we are talking about here this afternoon. I think the gentleman is talking about general policy across the board. Yet, his response to us was just to key in these two or three areas. That is the difference between both their communications.

Mr. HUNTER. If I might respond further, if Mr. Harper accepts the validity of the $10,000 ceiling, then I think the number was computed by your committee in terms of real dollars, it should raise at least to $19,150, and if we further consider that the last ceiling was established around 1974, and consider at that we are probably not going to establish another ceiling at least for the next several years, we can assume that threshold in terms of real dollars is going to be surpassed in 1983 or 1986.

The CHAIRMAN. The time of the gentleman from California has again expired.

(At the request of Mr. HORTON and by unanimous consent, Mr. HUNTER was allowed to proceed for 2 additional minutes.)

Mr. HORTON. If the gentleman will yield further, that is the whole point I am making. I am not trying to get into a debate as to who said what, who authorized what, and so forth. The Government Operations Committee in its considered judgment recommended that these thresholds not be included in this bill so we could get a Government-wide approach to this subject.

The point I am making now is that we ought to have input from the Office of Federal Procurement Policy as to how much these thresholds should be raised. You want to raise it to $25,000, to $500,000, to $5 million. I do not know whether this is good for other agencies of the Government or not, or whether separate thresholds should be set for the Department of Defense.

The point I am making is that there ought to be input as to what those ceilings should be, and there has not been that kind of input. Recommendations are being considered right now in the Office of Federal Procurement Policy. These are serious matters, and I know from personal experience because we ought to have expert testimony as to what is involved.

I probably am as aware of paperwork requirements as anybody in this Chamber because I served for 2 years as the Chairman of the Paperwork Commission, designed to try to reduce paperwork. but you can increase paperwork by setting administrative requirements haphazardly, or by not setting them Governmentwide.

Mr. HUNTER. If I may retain my time, I think the point the Armed Services Committee is making is that we have been talking and talking and talking about raising ceilings. We are looking at portions of the defense industrial base that have been shrinking rapidly. I spoke of the aerospace portion of the industrial base which has shrunk from about 6,000 companies in 1967 to 3,500 today. As I understand it, the OFPP has been around quite a while, and they have been working on a number of projects and trying to come up with some type of consistent solution, but they have not managed to do it. We think the time is now.

The CHAIRMAN. The time of the gentleman from California has again expired.

(At the request of Mr. HORTON and by unanimous consent, Mr. HUNTER was allowed to proceed for 2 additional minutes.)

Mr. HORTON. If the gentleman will yield further, let me give him a good example of what I am talking about. This has to do with the raising of the threshold for the service Secretary's review of determination and findings for research and development contracts from $100,000 to $5 million. The General Accounting Office said the threshold, now $100,000 in this area, simply sets a level below which the service Secretary can delegate approval by a subordinate to depart from formal advertising. The Deputy Secretary of Defense's proposal would permit delegation up to $1 million, whereas the language in H.R. 3519 raises the level to $5 million, 50 times greater than the present level. We do not know the reason for this difference.

The matter is of even greater concern, says GAO, however, if the implication is that such delegations could be misused on occasion, as they have in the past, to justify sole-source procurement.

Mr. McCURDY. Mr. Chairman, will the gentleman yield?

Mr. HUNTER. I yield to the gentleman from Oklahoma.

Mr. McCURDY. Mr. Chairman, the gentleman raises a number of interesting points. The point I was wanting to ask a question about, and also make a statement on, is that it appears that the Government Operations Committee is talking about a Governmentwide procurement policy. They want a Government-wide procurement policy, which would be uniform for HUD, HEW, or any Federal agency, the same as DOD.

The point I think that is overlooked is that in our subcommittee we have seen that there is very little competition within the defense industry as it relates to large weapons systems. Is that not a fact?

Mr. HUNTER. That is substantially true; yes.

Mr. McCURDY. Largely because of the nature of the weapons systems, the fact that you just cannot go out and buy an F-15 off the shelf. Is that correct?

Mr. HUNTER. That is right.

Mr. McCURDY. It seems inconceivable to me that we should be up here talking about savings by instituting a Government-wide procurement policy which in fact increases the paperwork and bureaucratic redtape for the defense contractors regardless of size.

The CHAIRMAN. The time of the gentleman from California has again expired.

(At the request of Mr. McCURDY and by unanimous consent, Mr. HUNTER was allowed to proceed for 2 additional minutes.)

□ 1340

Mr. McCURDY. Mr. Chairman, I do not object to a uniform policy for minor items and off-the-shelf procurements. Quite frankly, I do not care about the ceiling going from $10,000 to $25,000 on minor systems. I am talking about the major systems. We are talking about $5 million in cancellation costs and extremely sophisticated systems. There are only a few companies capable of such production in this entire country.

I believe the committee chairman, Mr. BROOKS, he says he wants to reduce costs and recognize the effect of inflation, yet he treats the purchase of major weapons systems the same as buying toilet paper for the PX, and it makes no sense.

Mr. HUNTER. Mr. Chairman, I commend the gentleman from Oklahoma (Mr. McCURDY) on his observation. I would also point out in regard to his statement that in fact the market basket test or the price index for the military systems and the critical materials is much greater than it is in the domestic areas.

If we look at the military market basket, this $25,000 ceiling should perhaps be higher than it is. I think the Government Operations Committee utilized the civilian market basket to come up to its $19,150 level; is that correct?

Mr. HORTON. Mr. Chairman, if the gentleman will yield to me, the gentleman is getting back to my point. How do we know the $25,000 ceiling is the best ceiling for the type of thing we are doing? It ought to be considered by the Office of Federal Procurement Policy, rather than just being handled like this, with a figure picked out of the air.

Mr. HUNTER. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the Government Operations Committee amendment.

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. BROOKS. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device and there were—ayes 109, noes 311, not voting 12, as follows:

[Roll No. 128]

AYES—109

Addabbo
Atkinson
AuCoin
Bailey (MO)
Beilenson
Bingham
Bolling
Bonior
Brodhead
Brooks
Brown (CA)
Burton, John
Burton, Phillip
Chisholm
Clay
Clinger
Collins (IL)
Conte
Conyers
Coyne, William
Crockett
Danielson
Dellums
DeNardis
Dingell
Dixon
Dwyer
Eckart
Edgar
Edwards (CA)
English
Evans (IN)
Fascell
Ferraro
Fish
Florio
Frank
Garcia
Gilman
Gonzalez
Gray
Hall (OH)
Heckler
Hightower
Hollenbeck
Horton
Howard
Hughes
Jacobs
Kastenmeier
Kildee
Kogovsek
LaFalce
Leland
Long (MD)
Lowry (WA)
Markey
Matsui
Mattox
Mikulski
Minish
Mitchell (MD)
Moakley
Moffett
Mottl
Murphy
Oakar
Oberstar
Obey
Ottinger
Patman
Patterson
Paul
Pease
Peyser
Pursell
Rangel
Ratchford
Reuss
Richmond
Rodino
Rosenthal
Rostenkowski
Roybal
Russo
Sabo
Scheuer
Schroeder
Schumer
Seiberling
Simon
Smith (IA)
Solarz
St Germain
Stark
Stokes
Studds
Synar
Traxler
Vento
Walgren
Washington
Waxman
Weaver
Weiss
Whitten
Wirth
Wolpe
Yates

NOES—311

Akaka
Albosta
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Ashbrook
Aspin
Badham
Bafalis
Bailey (PA)
Barnard
Barnes
Beard
Bedell
Benedict
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Blanchard
Bliley
Boggs
Boland
Boner
Bouquard
Bowen
Breaux
Brinkley
Broomfield
Brown (CO)
Brown (OH)
Broyhill
Burgener
Butler
Byron
Campbell
Carman
Carney
Chappell
Chappie
Cheney
Clausen
Coats
Coelho
Coleman
Collins (TX)
Conable
Corcoran
Coughlin
Courter
Coyne, James
Craig
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Dannemeyer
Daschle
Daub
Davis
de la Garza
Deckard
Derwinski
Dickinson
Dicks
Donnelly
Dorgan
Dornan
Dougherty
Dowdy
Downey
Dreier
Duncan
Dunn
Dyson
Early
Edwards (AL)
Edwards (OK)
Emerson
Emery
Erdahl
Erlenborn
Ertel
Evans (DE)
Evans (GA)
Evans (IA)
Fary
Fazio
Fenwick
Fiedler
Fields
Findley
Flippo
Foglietta
Foley
Ford (TN)
Forsythe
Fountain
Fowler
Frenzel
Frost
Fuqua
Gaydos
Gejdenson
Gephardt
Gibbons
Gingrich
Ginn
Glickman
Goldwater
Goodling
Gore
Gradison
Gramm
Green
Gregg
Grisham
Guarini
Gunderson
Hagedorn
Hall, Ralph
Hall, Sam
Hamilton
Hammerschmidt
Hance
Hansen (ID)
Hansen (UT)
Harkin
Hartnett
Hatcher
Hefner
Heftel
Hendon
Hertel
Hiler
Hillis
Holland
Holt
Hopkins
Hoyer
Hubbard
Huckaby
Hunter
Hutto
Hyde
Ireland
Jeffords
Jeffries
Jenkins
Jones (OK)
Jones (TN)
Kazen
Kemp
Kindness
Kramer
Lagomarsino
Lantos
Latta
Leach
Leath
LeBoutillier
Lee
Lehman
Lent
Levitas
Lewis
Livingston
Loeffler
Long (LA)
Lott
Lowery (CA)
Lujan
Luken
Lundine
Lungren
Madigan
Marks
Marlenee
Marriott
Martin (IL)
Martin (NC)
Martin (NY)
Mavroules
Mazzoli
McClory
McCloskey
McCollum
McCurdy
McDade
McDonald
McEwen
McGrath
McHugh
McKinney
Mica
Michel
Miller (OH)
Mineta
Mitchell (NY)
Molinari
Mollohan
Montgomery
Moore
Moorhead
Morrison
Murtha
Myers
Napier
Natcher
Neal
Nelligan
Nelson
Nichols
Nowak
O'Brien
Panetta
Parris
Pashayan
Pepper
Perkins
Petri
Pickle
Porter
Price
Pritchard
Quillen
Rahall
Railsback
Regula
Rhodes
Rinaldo
Ritter
Roberts (KS)
Roberts (SD)
Robinson
Roe
Roemer
Rogers
Rose
Roth
Roukema
Rousselot
Rudd
Sawyer
Schneider
Schulze
Sensenbrenner
Shamansky
Shannon
Sharp
Shaw
Shelby
Shumway
Shuster
Siljander
Skeen
Skelton
Smith (AL)
Smith (NE)
Smith (NJ)
Smith (OR)
Snowe
Snyder
Solomon
Spence
Stangeland
Stanton
Staton
Stenholm
Stratton
Stump
Swift
Tauke
Tauzin
Taylor
Thomas
Trible
Udall
Vander Jagt
Volkmer
Walker
Wampler
Watkins
Weber (MN)
Weber (OH)
White
Whitehurst
Whitley
Whittaker
Williams (MT)
Williams (OH)
Wilson
Winn
Wolf
Wortley
Wright
Wyden
Wylie
Yatron
Young (AK)
Young (FL)
Young (MO)
Zablocki
Zeferetti

NOT VOTING—12

Bonker
Cotter
Derrick
Dymally
Fithian
Ford (MI)
Hawkins
Johnston
Jones (NC)
Miller (CA)
Santini
Savage

The Clerk announced the following pairs:

Mr. Miller of California for, with Mr. Jones of North Carolina against.

Messrs. PEPPER, FOUNTAIN, and EVANS of Georgia changed their votes from "aye" to "no."

Mr. STOKES changed his vote from "no" to "aye."

So the Government Operations Committee amendment was rejected.

The result of the vote was announced as above recorded.

□ 1400

JUDICIARY COMMITTEE AMENDMENT

The CHAIRMAN. The Clerk will report the Judiciary Committee amendment.

The Clerk read as follows:

Judiciary Committee amendment: Page 43, strike out line 12 and all that follows through line 17 on page 45 and insert in lieu thereof the following:

CHAPTER 18—MILITARY COOPERATION WITH CIVILIAN LAW ENFORCEMENT OFFICIALS

Sec.
371. Use of information obtained by members of the Army, Navy, Air Force, and Marine Corps.
372. Use of Army, Navy, Air Force, and Marine Corps equipment and facilities.
373. Training and advising civilian law enforcement officials.
374. Regulations.
375. Military personnel assistance.

§371. Use of information obtained by members of the Army, Navy, Air Force, and Marine Corps

The Secretary of Defense may, in accordance with other applicable law, provide to Federal, State, or local law enforcement officials any information collected during the normal course of military operations that may be relevant to a violation of any Federal or State law within the jurisdiction of such officials.

§372. Use of Army, Navy, Air Force, and Marine Corps equipment and facilities

The Secretary of Defense may, in accordance with other applicable law, make available any equipment, base facility, or research facility of the Army, Navy, Air Force, or Marine Corps to any Federal, State, or local civilian law enforcement official for law enforcement purposes.

§373. Training and advising civilian law enforcement officials

The Secretary of Defense may assign members of the Army, Navy, Air Force, and Marine Corps to train Federal, State, and local civilian law enforcement officials in the operation and maintenance of equipment made available under section 372 of this title and to provide expert advice relevant to the purposes of this chapter.

§374. Regulations

(a) The Secretary of Defense shall issue such regulations as may be necessary to assure that the provision of any assistance, or the provision of any equipment or facility, to any law enforcement official under this chapter does not—

(1) adversely affect the military preparedness of the United States; or

(2) include or permit direct participation by any member of the Army, Navy, Air Force, or Marine Corps in any search and seizure, arrest, or other similar activity unless participation in such activity by such member is otherwise authorized by law.

(b) The Secretary of Defense shall issue regulations providing that reimbursement may be a condition of assistance to any law enforcement official under this chapter.

§375. Military personnel assistance

The Secretary of Defense, upon request from the head of a Federal agency with jurisdiction to enforce the Controlled Substances Act or the Controlled Substances Import and Export Act, may assign members of the Army, Navy, Air Force, or Marine Corps to operate and maintain or assist such agency's law enforcement officials in operating and maintaining equipment made available under section 372 of this title with respect to any violation of the Controlled Substances Act or the Controlled Substances Import and Export Act.

Mr. HUGHES (during the reading). Mr. Chairman, I ask unanimous consent that the Judiciary Committee amendment be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. HUGHES. Mr. Chairman, I move to strike the last word.

Mr. Chairman, the amendment now before the House to section 908 of H.R. 3519 is the result of a sequential referral of this section to the Committee on the Judiciary. This amendment differs substantively in several respects from the approach taken in the version of the bill reported by the Armed Services Committee. Let me attempt to succinctly outline the differences between the two approaches and the public policy implications of each.

As I said yesterday, and as was noted by all of the other speakers during the general debate on this question, we are deeply indebted to our colleague CHARLES BENNETT. His leadership in this area is commendable. The Judiciary Committee started with the suggestions he had developed. As good as his suggestions were, however, there were a number of refinements which were necessary.

The version of section 908 found in the armed services bill was the result of an amendment offered in committee and without any hearings. While virtually everyone in the areas of drug law enforcement agreed that changes in the so-called Posse Comitatus Act were necessary, there was very little focus on the exact parameters of the changes to be made. The Bennett approach had never been scrutinized by the Departments of Defense or Justice, the agencies most affected by these proposals.

The Committee on the Judiciary's Subcommittee on Crime held hearings on these proposals. Most of the witnesses found merit in the idea of clarifying the types of indirect assistance which can be rendered to civilian law enforcement authorities. Both the Department of Defense and the Department of Justice, however, strongly opposed the suggestion that the military become involved directly in the process of arresting and seizing drug law violators. Both agencies established to the satisfaction of the committee that there was no need to give the military this authority. The types of law enforcement missions which are involved in the interdiction of drug smugglers and the like inevitably will involve the presence of DEA, Customs, or Coast Guard personnel. These civilian authorities are trained to make arrests and seizures, thus there is no need to involve the military directly.

Both Justice and Defense opposed Mr. BENNETT's proposed section 375 because the military was not trained to be directly involved in making arrests. This lack of training has at least three potential adverse consequences:

First, the military could make mistakes in effectuating the seizures or arrests and the arrests could be thown out by a court.

Second, the military, who are trained and prepared to engage in combat and to operate outside the limitations which we have placed on civilian law enforcement, could be tempted to use excessive force to achieve the arrests or seizures.

Third, training of the military to make these arrests would be costly and inevitably divert the military from its primary mission of defending this county. Because the military would be unable to anticipate which vessels or aircraft and personnel would be called upon to make arrests, virtually all of them would have to be trained to make these arrests. This type of training would take time and resources from our military preparedness. As an active participant in arrest, search and seizure they would be subjected to the constraints of a primary witness in the judicial process.

The Committee on the Judiciary carefully evaluated this testimony and agreed to reject the arrest authority suggested by Mr. BENNETT. The Judiciary Committee version is supported by the Justice Department and, with the White amendment, also by the Defense Department, and is virtually identical to the provisions in the authorization bill already adopted by the Senate.

No one in Federal or State law enforcement, including the Justice Department, former Attorney General Griffin Bell—who is currently cochairman of the Attorney General's Violent Crime Task Force—Customs, DEA, or Coast Guard has suggested that the military be given the arrest authority. The Bennett approach is opposed by an unlikely alliance of the Departments of Justice, Defense, and the American Civil Liberties Union. The approach taken by the Judiciary Committee, on the other hand, gives law enforcement all the tools they need and all that they have asked for.

Mr. Chairman, adoption of the provisions found in the Bennett version of section 908 would cause unnecessary controversy and could have substantially serious adverse consequences. Therefore, the House should heed the advice of those who call for restraint in making drastic or dramatic changes in the fundamental law of our country with respect to the balance between military and civilian spheres by adopt-

ing the amendment offered by the Judiciary Committee

Before concluding, I would like to clarify several other points of difference between the Judiciary Committee amendment and the provisions of the Bennett version. First, in response to the concerns of the Committee on Government Operations, several technical—but important—changes were made to assure that the process by which information shared by the military with civilians is governed by the provisions of existing law such as the Privacy Act. This change was also supported by the Department of Justice and Defense. In addition, a similar change was made in proposed section 372 with respect to the disposition of equipment and other property by the military. As written, Mr. BENNETT's approach would have the effect of overturning decades of congressional enactments with respect to the procedures for property disposal or loans. Thus, the Judiciary Committee amendment meets these problems and satisfies the objections of the Committee on Government Operations in this regard.

Finally, I should point out that the Judiciary Committee amendment has been carefully fine tuned. Under the Bennett version, the Coast Guard is made subservient to the Secretary of Defense during peacetime for certain purposes. This change in command authority and Cabinet structure was probably not done by design; however, this unintended result is a good example of why legislation should be developed first at the subcommittee level and generally only after a set of hearings.

Mr. Chairman, I must add in closing that after the House hears from my distinguished colleague from Michigan on this matter, we expect to hear from our colleague from Texas with a perfecting amendment. For the reasons to be propounded by the gentleman, we are prepared to gladly accept his amendment.

I hope that you will support the amendment offered by the Committee on the Judiciary.

□ 1410

Mr. ZEFERETTI. Will the gentleman yield?

Mr. HUGHES. I am happy to yield to my colleague from New York (Mr. ZEFERETTI).

Mr. ZEFERETTI. I thank the gentleman for yielding. I want to commend the gentleman for his statement that he just made and want to associate myself with his remarks. If there ever was a time that we are going to break through this drug trafficking probem that we have with this drug industry that regulates some $70 billion in this country, I think now is the time. If we are ever going to have the tools necessary to make that effort a sincere one, it is by using that kind of assistance from the military. But I agree with the gentleman wholeheartedly that using the men in the service is not the answer. It takes a special kind of skill and profession to do that, to make an arrest in a proper manner.

In our efforts to make that arrest, if the men are not trained—and the military men would not be trained in that effort—we could do a lot of damage to have that effort be going forward in a profitable way.

So I want to commend the gentleman for his statement and tell him to go forward and make that amendment possible, but, along with that, include the White amendment and make it possible for our law enforcement people to get the kind of tools necessary to do their job.

Mr. HUGHES. I thank the gentleman for his significant contribution.

The CHAIRMAN. The time of the gentleman from New Jersey has expired.

(By unanimous consent, Mr. HUGHES was allowed to proceed for 3 additional minutes.)

Mr. HUGHES. I commend the gentleman from New York (Mr. ZEFERETTI). He has demonstrated a great deal of leadership as chairman of the Select Committee on Narcotics. The gentleman has a background in law enforcement. He knows how important it is to make sure that we have proper training or those with the power of arrest.

Just this morning the gentleman from Louisiana, BILLY TAUZEN, engaged in a colloquy with the Coast Guard in our Merchant Marine and Fisheries Committee, on the subject of the problems we now run into, even when the Coast Guard are trained to board and to arrest and to seize, the myriad of legal entanglements that we involve ourselves in, even when we provide training. How in the world can we train all military personnel in the law enforcement field to deal with the problem that will confront them. Defense attorneys are looking for any little mistake to ask our court to throw out the entire matter. These drugs cases are extremely important and we have to make certain that we know what we are doing when we provide additional authority, as we are doing in this bill, so that there is a role for the military, but a limited one.

Mr. MAZZOLI. Mr. Chairman, will the gentleman yield?

Mr. HUGHES. I am happy to yield to my colleague from Kentucky (Mr. MAZZOLI).

Mr. MAZZOLI. I thank the gentleman for yielding. I would like to commend him for the work that he did in the full committee and here on the floor on behalf of the proper kind of law enforcement. Certainly the drug problem is one of the most pernicious in the country and in the world, and I think the gentleman will actually go down in history as being one of the prime movers of a proper response.

I would like to ask the gentleman one question. I understand in his statement he has accepted the amendment soon to be offered by the gentleman from Texas (Mr. WHITE). If I understand that amendment, I believe it extends the reach of the posse comitatus to customs matters and immigration and enforcement. As chairman of the Immigration Subcommittee of the House Judiciary Committee, I have to say that we have never, as a committee, come to grips with the question of interdiction, when it should be done, how it should be done, by what method, using which personnel.

I wonder if the gentleman's subcommittee took that up and what his argument would be in behalf of extension of this principle to these cases when, so far as I know, there was not, at least in our point, any legislative history.

Mr. HUGHES. If the gentleman would bear with me, first of all the Justice Department sought the extension for many very valid reasons, and we discussed them and debated them in full committee and decided to come down as we did. But often we do not know what type of investigation we are dealing with. We may believe at first it is a drug-related matter, but often it turns out to be a drug-related matter, or immigration matter, or customs matter, or all three. It could conceivably provide defense counsel with additional arguments if, in fact, we extend posse comitatus, for instance, in the loaning of the military personnel to operate sophisticated equipment for drug enforcement matters, but not for immigration matters, which are often interrelated, as well as customs matters; so in order to avoid that particular problem we intend to extend it to those two other areas. The Justice Department supports that extension.

The CHAIRMAN. The time of the gentleman from New Jersey has again expired.

(At the request of Mr. MAZZOLI and by unanimous consent, Mr. HUGHES was allowed to proceed for 2 additional minutes.)

Mr. MAZZOLI. Will the gentleman from New Jersey yield?

Mr. HUGHES. I yield to the gentleman from Kentucky.

Mr. MAZZOLI. I thank the gentleman. I will not ask for further time. I am wondering if the gentleman is satisfied that we are not inadvertently, by acceptance of the amendment of the gentleman from Texas, creating a whole new law which deals with interdiction on the high seas which could involve foreign policy matters, and in addition to which, of course, many constitutional and legal matters arise in an effort to give proper attention to

the drug-related crimes? Is the gentleman satisfied, having examined all of these, that we are not going too far?

Mr. HUGHES. I might say to my colleague that we have given it as much attention as we can. We have conducted hearings, as the gentleman well knows, and heard from the agencies that are impacted and others on the issue. We have tried to carefully craft the amendment to take care of existing needs.

It is my intent as chairman of the Subcommittee on Crime to take up posse comitatus either later this year or early next year to look at the criminal sanction aspect of it. The matter was before us on sequential referral and we were unable to deal with the penal provisions.

But I think we have done a relatively decent job of trying to focus in on just exactly the areas where the military can provide assistance to the drug and other agencies.

Mr. MAZZOLI. I thank the gentleman very much.

Mr. WHITE. Mr. Chairman, will the gentleman yield?

Mr. HUGHES. I yield to the gentleman from Texas (Mr. WHITE).

Mr. WHITE. I would say in response to the gentleman from Kentucky (Mr. MAZZOLI), I think it is the understanding from the Attorney General's Office that they were concerned, No. 1, about the matter the gentleman from New Jersey (Mr. HUGHES) brought up about an arrest and then having a defense in the event that it turned out to be a different crime.

In addition, I would ask the gentleman to understand the amendment I have relates only to surveillance, the use of surveillance equipment, and monitoring equipment. I think with the number of people that are coming into this country in boats, I think they were interested in the use of naval facilities and naval surveillance only. That amendment and the committee change does not call for arrest or apprehension at all, as the gentleman would understand.

The CHAIRMAN. The time of the gentleman from New Jersey has again expired.

(By unanimous consent Mr. HUGHES was allowed to proceed for 3 additional minutes.)

Mr. HUGHES. I want to say one additional thing. The first four sections basically are a codification essentially of present practice. Right now the Immigration and the Customs Services do use intelligence information provided by the military as a matter of course and they are able, from time to time, to piggyback with equipment a routine flight and Customs often uses that equipment. If, in fact, we exclude Customs and Immigration, we might be suggesting by negative implication that we do not wish to condone what is, indeed, the present practice. That is something else that gave us some concern.

Mr. MAZZOLI. Will the gentleman yield further?

Mr. HUGHES. I yield to the gentleman from Kentucky.

Mr. MAZZOLI. I thank the gentleman for his indulgence and, in fact, I thank the committees for their indulgence too, because we may be putting the cart before the horse. But I think the gentleman from Texas (Mr. WHITE) said just a moment ago that his amendment does not deal with what was commonly called interdiction. That is a word that has newly come into the lexicon, but I guess it means actively intercepting a boat or some cargo. If I understand the gentleman's amendment correctly, which the gentleman from New Jersey has accepted, it deals only with surveillance.

But in the event the President, in his comprehensive plan on immigration, comes in with a recommendation for interdiction of ships on the high seas, the gentleman's amendment would not influence that. That would be another piece of legislation which would have to come before the gentleman from Kentucky's committee?

Mr. WHITE. If the gentleman will yield?

Mr. HUGHES. I am happy to yield to the gentleman from Texas to respond.

Mr. WHITE. The Judiciary Committee's amendment, and the amendment that I have to that, would only permit use of equipment. I presume they could transport, but as far as arrest and apprehension and seizure, that must be done by the existing authorities and not by the military.

Mr. MAZZOLI. That would have to come before, if I might have 1 final second, that type of authority would have to come before the House Judiciary Committee and its various subcommittees in the event the President recommends that as a part of his plan; is that correct?

Mr. HUGHES. That would be correct.

Mr. EVANS of Georgia. Mr. Chairman, will the gentleman yield?

Mr. HUGHES. I yield to the gentleman from Georgia (Mr. EVANS).

Mr. EVANS of Georgia. I thank the gentleman for yielding.

In the opinion of the gentleman, what we would be doing with the Hughes version of this bill is, as amended by the White amendment, in the event we have a situation in which there were personnel present from the armed services, present with civilian law enforcement, under the present law or under the bill as it would be amended, could those people assist the civilian law enforcement in search or seizure or any of the other things that we are not authorizing the military authority to do?

Mr. HUGHES. Under the Bennett version of the bill, the authority is granted, provided the Secretary of Defense makes the findings that are required by that section of the armed services bill, to permit the military to make arrests and seizures.

□ 1420

Under the Judiciary Committee approach, what we have tried to avoid is that confrontational setting.

While we give the authority to provide equipment and the loan of military personnel to operate that equipment, we do not provide for the right to arrest or seize.

The CHAIRMAN. The time of the gentleman from New Jersey (Mr. HUGHES) has expired.

(By unanimous consent, Mr. HUGHES was allowed to proceed for 1 additional minute.)

Mr. EVANS of Georgia. If the gentleman will yield further, in the event that personnel was present and not sufficient civilian personnel were present to effect a search, or whatever, could the military, under the gentleman's version of the bill as amended by White, assist civilian law enforcement in a support capacity to effect what I have asked?

Mr. HUGHES. Well, we have mandated that the support capacity is one of providing equipment and personnel to operate the equipment.

The law enforcement community tells us that they have ample personnel to provide civilian law enforcement officials to carry out arrest and seizure.

I might say that under the Bennett version, however, we have a major blind spot, in that under the Bennett version, the military could not provide the manpower to operate the equipment.

One of the major problems we have is that the offer of equipment without military personnel to operate it is an empty gesture.

Under the Bennett approach, it speaks of assisting in arrest or seizure—not of operating and maintaining equipment.

The CHAIRMAN. The time of the gentleman from New Jersey (Mr. HUGHES) has again expired.

(On request of Mr. RUDD and by unanimous consent, Mr. HUGHES was allowed to proceed for 2 additional minutes.)

Mr. RUDD. Mr. Chairman, if the gentleman will yield, I would like to clarify one issue with regard to whether or not the gentleman has no objection to the presence of military police at the time of an arrest without participating in the arrest itself. Because does not the gentleman presume that they are properly trained in this area?

Mr. HUGHES. Of course, when you are talking about military police, you

are talking about something else again. Military police have a law-enforcement responsibility on the base or on shore and have responsibility over military personnel. We are talking about something else again. We are talking about arrests or seizures or investigations which are primarily within the province of civilian law enforcement.

Mr. RUDD. That is what I am talking about.

But there would be no objection to the presence of military personnel at the situs of an arrest?

Mr. HUGHES. If in fact their presence is there in a capacity approved by the Defense Department under regulations which the Defense Department is required under section 374 to promulgate.

Mr. RUDD. I thank the gentleman.

Mr. BENNETT. Mr. Chairman, will the gentleman yield?

Mr. HUGHES. I yield to the gentleman from Florida.

Mr. BENNETT. Mr. Chairman, I just want to make one thing clear.

I think the gentleman misconstrued a little bit the language of section 375, because it does provide: "The Secretary of Defense, upon request from a Federal drug agency, is authorized to assign members of the Armed Forces to assist Federal drug enforcement officials in drug seizures or arrests provided" these other things transpire.

And, of course, it was never my intention, not the intention of the requirement of that provision that they could not operate the material, they could not operate the ships. There is no way in which you are going to get the Department of Justice to operate a naval ship. So it is inherent in what I have provided here. If you want an amendment to make that clear, it certainly was my intention and the intention of the committee that they would operate these ships and do everything that the gentleman suggests under his amendment.

Mr. HUGHES. I say to the gentleman that I have no doubt that the gentleman intended to permit the military to assign personnel to operate and maintain the equipment, but it does not say that.

Mr. BENNETT. It is inherent in what is said here, and this colloquy has cleared it up. That is the intention of the law.

Mr. GILMAN. Mr. Chairman, will the gentleman yield?

Mr. HUGHES. I yield to the gentleman from New York.

The CHAIRMAN. The time of the gentleman from New Jersey (Mr. HUGHES) has again expired.

(On request of Mr. GILMAN and by unanimous consent, Mr. HUGHES was allowed to proceed for 2 additional minutes.)

Mr. GILMAN. Mr. Chairman, I want to associate myself with the remarks by the gentleman from New Jersey (Mr. HUGHES), and to commend him and his subcommittee for bringing this issue to the House floor.

I rise in support of the Judiciary Committee amendment, as amended by the gentleman from Texas (Mr. WHITE), permitting the assignment of military personnel to operate and maintain military equipment made available to civilian drug law enforcement authorities and limiting the operation of such equipment to monitor and communicate the movement of air and sea drug trafficking entering or leaving the United States.

I comment, too, the gentleman from Florida (Mr. BENNETT) for his efforts to help stem the flow of drug trafficking into our Nation, but I believe that the gentleman's proposal would go too far by also authorizing our Armed Forces to make drug seizures and arrests. I have been informed that the Department of Defense opposes the direct involvement of Armed Forces personnel in such civilian law enforcement functions.

As a cosponsor of a measure similar to the measure offered by the Judiciary Committee and as a member of our Narcotics Select Committee that has extensively studied the drug problem both here and abroad, I want to remind my colleagues that if the war against drug trafficking is going to be won, then military intelligence, equipment, personnel, training, and technical advice to civilian drug law enforcement agencies are urgently needed. We should, however, resist efforts to clothe our Armed Forces with the policing authority or making drug searches, seizure, and arrests—a function that is beyond the scope of their training and expertise and one that is best left to civilian law enforcement authorities.

Narcotics trafficking and drug abuse in our Nation represent a staggering billion dollar business—a $64 billion business. Our drug law enforcement officials unfortunately lack the jet planes, the swift vessels, and other sophisticated equipment to compete with the highly organized, well-financed drug traffickers. The Judiciary Committee amendment, as amended by the White proposal, would shore up our defenses against the drug traffickers by providing our Nation with military equipment, base facilities, training capabilities, and personnel to help our drug law enforcement officials interdict the flow of illicit drugs crossing our extensive borders and thousands of miles of shoreline. Accordingly, I urge my colleagues to support the White amendment.

Mr. HUGHES. I thank my colleague, a very valued member of the Select Committee on Narcotics, who has been a leader in this entire area.

Mr. BETHUNE. Mr. Chairman, will the gentleman yield?

Mr. HUGHES. I yield to the gentleman from Arkansas.

Mr. BETHUNE. Mr. Chairman, I am genuinely concerned about the gentleman's approach to the situation, the Judiciary Committee's approach, and Chairman BENNETT's approach for reasons which I will get into as the debate wears on. But there is one that I would like to pursue at this moment.

The gentleman spoke a moment ago to the wisdom of the Judiciary Committee's approach in separating out arrest and search and seizure.

I have a letter here from the General Counsel of the Department of Defense addressed to the gentleman in the well, wherein he makes the point that law enforcement operations, particularly those involving drugs, tend to be intense confrontational matters and it is unreasonable to expect——

The CHAIRMAN. The time of the gentleman from New Jersey (Mr. HUGHES) has again expired.

(On request of Mr. BETHUNE, and by unanimous consent, Mr. HUGHES was allowed to proceed for 5 additional minutes.)

Mr. BETHUNE. And it says, further, that it is unreasonable to expect that the crew of a military helicopter or armored vehicle will stand by in the midst of an operation without assisting law enforcement officials in arrest or seizure should the situation necessitate such action.

And it occurred to me the other day, when we were debating this issue and I wandered in unexpectedly and asked a few questions, that perhaps we were creating some difficulties, perhaps we were creating a fertile field for those imaginative lawyers out there who would raise points and argue that evidence should be excluded, because we were drawing the line that the Judiciary Committee seeks to draw.

Mr. HUGHES. Well, the fact of the matter is that the gentleman has a broad background in law enforcement, as I do and as does our ranking minority member, and we believe that in fact what we have done is try to prevent what could be a rash of technical motions directed by the Defense counsel at personnel who are not trained in that type of confrontation situation, who are not versed in the area of arrests, search or seizure, who should not be subjected to the magistrate's proceedings, grand jury proceedings, and court trials. They are soldiers. They are not law enforcement officials.

Mr. BETHUNE. If I could make this point: Under the present state of the law, however, they are precluded from doing anything, and we still have a number of cases where they wander into the law enforcement situation, giving rise to Defense counsel's objection and motion to exclude evidence.

Mr. HUGHES. That is precisely why we have drafted our language so that we try to avoid that type of a confrontation.

The only area that civilian law enforcement needs help—I think this is the key—is in the area of providing equipment and personnel to operate that sophisticated equipment. That is why it is carefully drawn to provide the operation and maintenance of the equipment. The rest is basically a codification of existing practice.

Mr. BETHUNE. Does not the Coast Guard now have the power to——

Mr. HUGHES. That is by specific statute. They are a law enforcement agency.

Mr. BETHUNE. But presumably if we empower the military to get involved here, it would be to be sort of as deputy to the Coast Guard, if we limit it to extraterritorial effect.

Why should the Navy or the Marines, or whoever else comes in to assist the Coast Guard in those instances, have restrictions on them that will not be on the Coast Guard? And are we not then creating some delineations that will be used, as a matter of fact?

Mr. HUGHES. We are creating a very important delineation, and the delineation is that the military's mission is preparedness, national defense. They are not policemen, and they do not want to be policemen, and we do not want them to be policemen. The law enforcement agencies of the country, including the Justice Department and every agency that has testified before our committee believes that they do not need that authority. They have ample manpower to take the lead in making arrests and seizures, and they have a difficult enough time trying to contain evidence even when they are trained to do it let alone having people who are untrained actively participating in an operation.

□ 1430

Mr. BETHUNE. The gentleman mentioned a moment ago that he has not discussed the idea of criminal sanctions yet on the committee, or have not at least shaped any sanctions that might be employed. This is a very important point, because many of the court decisions I have read in the last few days make the point that there has never really been a prosecution under those statutes for violation of posse comitatus prohibition, and the courts say there have not been enough unlawful searches and seizures and arrest procedures by the military up to this point for them to fashion an exclusionary rule. So, therefore they have really done nothing and there are no sanctions there right now.

Mr. HUGHES. There are sanctions. There is a criminal penalty.

Mr. BETHUNE. But it has never been prosecuted. The court, I can cite case after case——

Mr. HUGHES. I say to the gentleman, what difference does it make? It is still a criminal statute and any field commander that has to make a fast decision as to whether to give a piece of equipment is going to think about the Federal statute. That is one of the reasons we are trying to address the concerns of the law enforcement community.

Mr. BETHUNE. Have there been prosecutions?

Mr. HUGHES. There have been no prosecutions.

Mr. BETHUNE. It has been on the books for 100 years.

Mr. HUGHES. The fact of the matter is, it is there, and it has had a chilling effect. The testimony is that there are times when field commanders will resolve an issue against a law enforcement agency for fear that they might invoke that criminal statute.

Mr. McCLORY. Mr. Chairman, will the gentleman yield?

Mr. HUGHES. I yield to my colleague from Illinois.

Mr. McCLORY. Mr. Chairman, I think the importance of this legislation is that it would remove the restraints which have prevented the military from providing the kind of support through information and through use of equipment and through training of personnel that can be so extremely useful, particularly in the drug traffic.

The CHAIRMAN. The time of the gentleman from New Jersey has again expired.

(At the request of Mr. McCLORY and by unanimous consent, Mr. HUGHES was allowed to proceed for 2 additional minutes.)

Mr. McCLORY. If the gentleman will yield further, I think the fact that there have been no prosecutions is entirely beside the point. The fact that there has been a lack of cooperation has been a recognition of what the existing law is, but as the gentleman pointed out, most of this amendment that we are offering here is in existing law, and the amendment to our amendment which is offered, being offered by the gentleman from Texas (Mr. WHITE), does limit the use of equipment and personnel to areas outside the United States, so that we are not having the military involved in any kind of support operation within the country, and then at the same time it is authorizing the assignment of personnel for the purpose of operating and maintaining and assisting in the operation and maintaining of equipment, as the gentleman stated.

So that, the Judiciary Committee amendment, plus the amendment to be offered by the gentleman from Texas does, it seems to me, specifically identify the kind of support that we want, particularly in the area of drug enforcement, but incidentally in connection with immigration and customs cases.

Mr. HUGHES. The gentleman is absolutely right. In fact, the White amendment does provide for those instances where aircraft have to take off and land in the continental United States, and it takes care of the coastal problems we have and problems in the estuaries. So, the amendment has been carefully drafted to take care of the needs of the law enforcement community, and we have provided for the law enforcement agencies exactly what they have requested.

Mr. McCLORY. I want to commend the gentleman from New Jersey and the ranking minority member the gentleman from Michigan (Mr. SAWYER) for their major contribution in perfecting this part of the Department of Defense authorization legislation.

Mr. HUGHES. I thank the gentleman, and commend him for his leadership.

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. HUGHES. I will be happy to yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Chairman, I too would like to add my commendation. As a member of the Judiciary Committee, I was very concerned when the question came before us.

The CHAIRMAN. The time of the gentleman from New Jersey has again expired.

(At the request of Mr. SEIBERLING and by unanimous consent, Mr. HUGHES was allowed to proceed for 3 additional minutes.)

Mr. SEIBERLING. We are all threatened and our children are threatened by the drug traffic, but that does not mean we should not be very careful in how we proceed against it.

As I understand, the Posse Comitatus Act came out of the abuse of the military law enforcement in the so-called reconstruction era, and it was out of the same experience of that time and some of the other disorders that the act was enacted. I think the gentleman's amendment strikes a good balance between cautious authorization of the use of military equipment in appropriate circumstances, particularly with the amendment to be offered by the gentleman from Texas (Mr. WHITE) limiting it to offshore areas and aerial surveillance.

Now, in recent experience we used military law enforcement, military enforcement of civilian laws in an area which happens to be in my district. In Kent State University in 1970 the National Guard was given a practically blank check to enforce the civilian laws against civil disorders. Result: four students killed, another group of students wounded, and a bunch of

GI's and officers dragged through the courts for 10 years. Why? Because they had no experience in this kind of situation. They were not given the adequate backup by the civilian authorities, and I would hope that we would learn from that more recent experience that we must be very, very cautious about involving the military in civilian law enforcement.

Rather significantly, the Defense Department itself wrote us a letter and asked that we not get them involved. So, I feel that the gentleman has moved about as far as we ought to go, and at the same time has preserved the very distinct line between military functions and those of the civil law enforcement authorities.

Mr. HUGHES. I thank the gentleman for his very important statement, and I urge my colleagues to vote for the Judiciary Committee amendment to the armed services bill.

Mr. SAWYER. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I realize this has now been pretty well talked to death, and I as ranking Republican on the Crimes Subcommittee am in total agreement with the amendment as now offered and as will be amended by the amendment to be offered by Mr. WHITE of Texas.

Basically, I cannot feel very upset about allowing the military to intervene and assist civilian law enforcement, but we nevertheless bring down a great wave of concern once we do that. It does have some open avenues of abuse. The military are not trained in such things as Miranda warnings which might render unusable admissions or confessions that are made. They are not familiar with the restrictions on seizure of properties and whatnot. This is just not their training.

I am sure that if we were to follow up the concern of legal counsel for the Department of Defense, who says it is totally unrealistic to think the military would stand by while the civilian arresters were, let us say, viciously attacked without assisting, I agree it would be unrealistic. On the other hand, I cannot conceive of any court convicting them of a violation of the criminal statute of posse comitatus under those circumstances. I think that rather than add legitimacy to military participation in civilian law enforcement, for which they are not trained, we have gone about as far as we should go. We expressly permit the military's operation of sophisticated equipment. We remove the fear of prosecution, if you will, that military commanders are kind of wont to use, that they do not want to help or they do not want to even give information because they might be subject to this criminal penalty.

I think we have clarified that. While it is true that there never have been any criminal prosecutions, I too have read all the cases under this statute and there have been denials of claims under the Tort Claims Act on the basis that the military, who are merely helping look for some escaped convicts with their helicopters, were operating outside their duty and in violation of the law. Therefore, some injured people were denied their Federal tort claims resulting from the crash of a helicopter. So, its validity has been recognized even though not criminally enforced. I think with the amendments to be offered by the gentleman from Texas, going as far as the gentleman from New Jersey and I and our subcommittee hearings, both the Defense Department and the Justice Department say they do not need military assistance and participation in the arrest or seizures, we have gone just about as far as we should go and we get the maximum mileage.

□ 1440

Mr. RAILSBACK. Mr. Chairman, will the gentleman yield?

Mr. SAWYER. I yield to the gentleman from Illinois.

Mr. RAILSBACK. Mr. Chairman, I want to agree with the gentleman in the well. I happen to be a member of the Judiciary Committee, but in addition, I happen to be a member of the Select Committee on Narcotics, and I think it is most significant that the testimony before the Narcotics Committee indicates that the law enforcement people believed they would have no trouble handling the job, but they wanted the use of the very sophisticated tracking equipment and the intelligence capability that the armed services could provide to them.

I agree with what the gentleman in the well has said, and I want to commend him and the others who have made the points he made. I would also say that the members of the Armed Services Committee, however, including the gentleman from Florida (Mr. BENNETT), are, I think, doing the right thing in making the effort to do what they are trying to do; namely, to help combat drug abuse. I just think the bill goes a little too far, although I think the thrust of the two bills, the amendment and what is contained in the bill, is the same. I think the Judiciary Committee refines it and reverses what has been the traditional practice.

Mr. SAWYER. Mr. Chairman, I thank the gentleman from Illinois (Mr. RAILSBACK).

I would say that the amendment is strictly a refinement of a weak link in the chain and makes an improvement on what was basically the initiative of the gentleman from Florida.

Mr. BETHUNE. Mr. Chairman, will the gentleman yield?

Mr. SAWYER. I yield to the gentleman from Arkansas.

Mr. BETHUNE. Mr. Chairman, I thank the gentleman for yielding, and I do not mean to be a bother. I am not on the Judiciary Committee, so I am just trying to catch up to its speed here.

Mr. SAWYER. Yes. We are doing a pretty good job.

Mr. BETHUNE. Not being on the committee is either an advantage or a disadvantage, and I have not decided which yet.

Mr. SAWYER. To the gentleman or to the committee?

Mr. BETHUNE. Mr. Chairman, last week I asked the gentleman in the well whether or not we might encounter a situation under the Judiciary Committee's approach where a defense attorney would argue that a military man had involved himself in someway or another peripherally in the arrest circumstance, and, therefore, running afoul of the Judiciary Committee approach, the evidence should be excluded.

The CHAIRMAN. The time of the gentleman from Michigan (Mr. SAWYER) has expired.

(On request of Mr. BETHUNE, and by unanimous consent, Mr. SAWYER was allowed to proceed for 2 additional minutes.)

Mr. BETHUNE. Mr. Chairman, if the gentleman will yield further, I think the gentleman's response was that he was not certain that that would occur or he did not know of any cases to that effect.

I, in the meantime, have looked very assiduously for a case in the gentleman's own jurisdiction, and I found one wherein the court held that the use by the State police of a member of the U.S. Air Force in arresting a drug traffic offender was not proper, that posse comitatus was designed to prohibit the use of military personnel as agents for enforcement of civil law, and the airman, therefore, could not properly testify in the criminal case.

So this is the point I was trying to make. If we are going to limit the effect of what we are doing here to extraterritorial instances so we are only talking about things that happen outside the territory of the United States, the Coast Guard presently has the authority to arrest and search and seize.

We are creating a line of delineation here for the Navy which might involve itself with the Coast Guard, so a defense attorney might come in and use this act and say, "Well, the Coast Guard might have had the right to be involved in the arrest circumstance or the search and seizure circumstance, but the Navy did not, and, therefore, I move to exclude the admission of the cargo of heroin," or whatever it might be.

Now, I want to stop drug trafficking as well as anybody else and spread the burden in law enforcement, but I think that is a valid point, and I do not think the committee has satisfactorily answered it as far as I am concerned.

Mr. SAWYER. Mr. Chairman, if I may recapture my time, I think clearly that we have eliminated the impact of the case the gentleman has named in that we have prohibited or not given authority to the military to participate in the actual arrest or seizure. They can be there, they can operate the equipment, they can provide information, they can track, they can do all those things.

If the gentleman thinks that by any statute we can outstrip the imagination of criminal lawyers who would be offering motions to suppress evidence or testimony, then I think the gentleman is overly optimistic. No matter what we do, the criminal lawyer's imagination is unlimited.

The CHAIRMAN. The time of the gentleman from Michigan (Mr. SAWYER) has again expired.

(On request of Mr. HUGHES, and by unanimous consent, Mr. SAWYER was allowed to proceed for 3 additional minutes.)

Mr. HUGHES. Mr. Chairman, will the gentleman yield?

Mr. SAWYER. I yield to the gentleman from New Jersey.

Mr. HUGHES. Mr. Chairman, I just want to say in addition that what we have attempted to do once again is to avoid the confrontation, because indeed what I think we would do if we permitted the average military personnel to participate in the arrest or seizure is that we would open up Pandora's box, because civilian law enforcement personnel make enough mistakes now, and they are trained. So if anything, what we are trying to do is we are trying to minimize the effect of a motion to suppress.

Mr. BETHUNE. Mr. Chairman, will the gentleman yield further?

Mr. SAWYER. I yield to the gentleman from Arkansas.

Mr. BETHUNE. Mr. Chairman, the point of the Department of Defense and the point of the Armed Services Committee and the point I made last week is that due to the nature of law enforcement and confrontations of that nature, especially drug violations, we cannot separate the arrest from all the other functions. We cannot separate search and seizure. We are limiting arrest and search and seizure, but there are a lot of other functions in law enforcement that we have not treated, like electronic surveillance, the interrogation of witnesses, and all that.

Mr. HUGHES. Mr. Chairman, will the gentleman yield further?

Mr. SAWYER. I yield to the gentleman from New Jersey.

Mr. HUGHES. Mr. Chairman, I thank the gentleman for yielding.

The fact of the matter is that we are only talking about those instances where civilian law enforcement personnel believe they need a piece of equipment that they do not have available to them, and it is only to be used in those instances where the equipment is offered and there is not sufficient time to train the civilian law enforcement personnel. They are then loaned military officials to operate that equipment in accordance with regulation.

So it is only in those situations. It is not going to be a routine, regular situation. It is going to be an emergency situation where we happen to have a particular need.

Mr. BETHUNE. Mr. Chairman, if the gentleman will yield further, I clearly see the point the gentleman is making, and he has made it repeatedly. It is that he hopes to narrow down the scope of activities.

I would hope that if we do this, we can narrow down the scope of activities. The point I have been trying to make is that I think we are rushing pell-mell to do away with a hundred-year-old rule of law that must have had a number of good reasons behind it.

There is some very good language in the decisions suggesting that this might even be in the nature of a constitutional right approximating that of separation of church and state, and the gentleman in the well, by his own statement, indicated that we have not even treated the issue of sanctions on his subcommittee. Yet he wants the House to pass a bill to dispense with a hundred-year-old rule of law, and we have not even tested it.

Mr. SAWYER. Mr. Chairman, if I may recapture my time, the gentleman seems to be arguing in circles. At first, if I understood the gentleman, he felt it was unreasonable not to allow the military to assist in the arrest or seizure because otherwise defense attorneys would raise all these objections—either where they did or where they did not. And now the gentleman is in effect saying that we ought not to allow even the use of the equipment. The gentleman is very much confusing the issue.

Mr. BETHUNE. Mr. Chairman, the gentleman is questioning my logic, and may I respond?

Mr. BIAGGI. Mr. Chairman, will the gentleman yield?

Mr. SAWYER. I yield to the gentleman from New York.

Mr. BIAGGI. Mr. Chairman, this has been a very interesting discussion, and to a great extent we are just going around and around. I understand the language that represents the committee's position. I speak not only as a member of law enforcement for many years but as former chairman of the Coast Guard Subcommittee which has addressed itself to this issue.

Time and time again the interdiction of the flow of drugs that come in from the Caribbean has been addressed.

The CHAIRMAN. The time of the gentleman from Michigan (Mr. SAWYER) has again expired.

(On request of Mr. BIAGGI, and by unanimous consent, Mr. SAWYER was allowed to proceed for 5 additional minutes.)

Mr. BIAGGI. Mr. Chairman, if the gentleman will yield further, we were clearly confronted with the situation that our Government did not have the capacity to respond to the problem—a problem on the seas and a problem in the air. This Congress voted for legislation last year—and it was enacted into law—that kind of closed the loophole as far as the free and easy manner in which the traffickers' functions is concerned. They would be arrested, they would remain silent, and they would be processed, and then they would be out within several hours and then back to their abode with no indictments or convictions.

Now, one of the major difficulties that was found by the Coast Guard, as well as the Customs Service and the DEA, was the inability to detect and determine the planes that were coming in carrying drugs and the vessels that were doing likewise, because of the limited amount of equipment.

So it was hoped and suggested that perhaps we could employ some military equipment for two express purposes—for surveillance and for monitoring. What has been established during those hearings and by these committees and by these different agencies is the development of a profile. Certain types of aircraft would be subject to surveillance, identification, and reporting to ground crews, to the established agencies that were concerned with this problem. They needed certain profiles of a vessel that would be similarly identified and reported to the Coast Guard or the Customs Service that would respond with their equipment, and we did not have that capacity.

□ 1450

Frankly, the language contained in the amendment offered by the gentleman from Texas (Mr. WHITE) is sufficient to provide the kind of response so that we can practically and effectively respond to the needs of the agencies, because currently we have hundreds of planes flying in, low-level planes flying in and landing on strips and farms and we are not aware of their existence.

With this sophisticated equipment they can be almost immediately identified when they are several hundred miles out and there can be a response on the part of the agencies.

This in my judgment is necessary. This in my judgment is a critical supplement to the entire law enforcement area. To go any further at this point, I think: First, would be premature; and second, might be begging for troubles, the kind of troubles that have been articulated here by the gentleman who is on his feet and by many others.

If we are concerned about really producing a meaningful response to a genuine need, to the law enforcement area, the gentleman's amendment, the amendment of the gentleman from Texas (Mr. WHITE), is the one that should be supported.

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. SAWYER. I yield to the gentleman from Ohio.

Mr. SEIBERLING. I thank the gentleman for yielding.

I wonder if the gentleman from Arkansas understands that the amendment offered by the gentleman from New Jersey is a strict limitation of a very broad authority that exists in the committee's bill. The committee's bill would authorize military personnel to enforce the drug laws, and that would get into the area that the gentleman from Arkansas is so rightly concerned about; whereas the amendment of the gentleman from New Jersey, further amended by that of the amendment to it of the gentleman from Texas, would put very strict limitations, limited to loaning equipment and limited to offshore and aerial surveillance only, and it seems to me that ties right in with what the gentleman from New York (Mr. BIAGGI) said and at the same time it prevents real danger to civilian law enforcement.

I would think this amendment addresses the concerns of the gentleman.

Mr. BETHUNE. Mr. Chairman, will the gentleman yield?

Mr. SAWYER. I yield to the gentleman from Arkansas.

Mr. BETHUNE. I thank the gentleman for yielding.

My logic has been called into question and it has been suggested that there is some circuity in the arguments that I make.

In a word, I would like to say this. I think that if we are going to enact something here in the interest of controlling crime, then the proposition brought forward by the Defense Committee is the right one when paired with the amendment of the gentleman from Texas (Mr. WHITE), because having been limited to extraterritorial matters it empowers them to do the job that we want them to do and we would not have to worry about it happening within the territory. That is my position if I were looking at that one solely.

On the other hand, as I view the Judiciary Committee's approach, I think it creates problems, which I have tried to enunciate here before. Frankly and honestly, I really admire the work of the committee, they are usually very thoughtful, but when the gentleman said we have not even considered the sanctions that would be imposed in the event of encroachment——

The CHAIRMAN. The time of the gentleman from Michigan (Mr. SAWYER) has expired.

(At the request of Mr. BETHUNE and by unanimous consent, Mr. SAWYER was allowed to proceed for 1 additional minute.)

Mr. BETHUNE. Mr. Chairman, will the gentleman yield further?

Mr. SAWYER. I yield to the gentleman from Arkansas.

Mr. BETHUNE. It truly occurs to me that we are moving a little fast when it comes to a rule of law that has stood inviolate for 100 years, and so my position is, as I stated on both the defense and the judiciary approach, but my position is that we should go back to the drawing board and resolve some of these questions that have been raised here, and I think rightfully so, and to say that we need to stop drug trafficking in this country and use that as an excuse for rushing through this particular piece does not make sense.

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. SAWYER. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Then certainly the gentleman from Arkansas should support the amendment of the gentleman from New Jersey (Mr. HUGHES), because the alternative is to adopt the committee's language which was adopted without any hearings and without any concern for these questions.

The Defense Department supported the kind of limitations that the gentleman from Texas (Mr. WHITE) and the gentleman from New Jersey (Mr. HUGHES) wanted to add to this bill.

Mr. BETHUNE. If the gentleman will yield further, if I felt that the Judiciary Committee's hearings were extensive and comprehensive and had been finished and had treated the issue of sanction, then I think to compare it with——

The CHAIRMAN. The time of the gentleman from Michigan (Mr. SAWYER) has again expired.

(At the request of Mr. FISH and by unanimous consent, Mr. SAWYER was allowed to proceed for 2 additional minutes.)

Mr. FISH. Mr. Chairman, will the gentleman yield?

Mr. SAWYER. I yield to the gentleman from New York.

Mr. FISH. I thank the gentleman for yielding.

Mr. Chairman, I support the concept embodied in section 908 of H.R. 3519, the Defense Department authorization bill for fiscal year 1982. The gentleman from Florida and the other members of the Armed Services Committee are to be highly commended for making an important contribution to facilitating cooperation between the military and civilian law enforcement authorities. Our Subcommittee on Crime and the full Judiciary Committee agreed that such authorization was needed, with some adjustments. I strongly support the bipartisan version reported by our committee and the amendment that will be offered by the gentleman from Texas. The gentleman's amendment wisely extends certain types of assistance into the areas of immigration and customs law.

Posse comitatus is a criminal law enacted during reconstruction which prevents the Army and Air Force from serving as a posse. The confusion created by this law is a barrier to cooperation between the military and civilian law enforcement officials. Specifically, under that law, it is unclear what sort of assistance the military may legally provide and even which parts of the military are affected. Even though no one has apparently ever been prosecuted under the posse comitatus provision, it may form a basis for excluding evidence in criminal trials and an obstacle to recover under the Federal Tort Claims Act. Testimony before the Subcommittee on Crime earlier this year convinced us that something needed to be done about the problems created by posse comitatus, particularly in the area of drug smuggling and immigration.

The Judiciary Committee's version of section 908 addresses the problems that I have outlined by essentially codifying existing authority for the military to provide essential and appropriate assistance to civilian law enforcement authorities. By codifying this authority, we clarify the limits on military involvement in law enforcement, thus eliminating the confusion. We do not, however, authorize Armed Forces personnel to assist civilian law enforcement in making arrests and seizures. I believe that our approach is preferable to the language reported by the Armed Services Committee, which expands existing authority by permitting the military to participate in such activities.

First, our language would specify which branches of the military are in fact affected. Second, like the Armed Services Committee's version, it would provide for the sharing of intelligence, equipment, and base facilities, and would authorize training. It would also prohibit military assistance which would adversely affect this country's military preparedness and would encourage reimbursement to the Defense Department. However, unlike the language recommended by the Armed Services Committee, our language would specifically prohibit military personnel from participating in hands-

on arrests and seizures. This type of assistance is a departure from traditional military-civilian relations and was not requested by the Drug Enforcement Administration when they testified before our subcommittee about the posse comitatus problem.

On the other hand, we felt that it was necessary to insure that the offer of equipment was not an empty one because we envisioned situations where there would not be time for civilian law enforcement authorities to be trained to operate sophisticated military equipment or where such training would not be cost effective. For this reason, we included authority for the Secretary of the Treasury, at the request of the head of a Federal agency responsible for enforcing the Controlled Substances Act, to make military personnel available for the maintenance and operation of equipment. Under the amendment offered by the gentleman from Texas, agency heads responsible for enforcing the Immigration and Nationality Act and the customs laws also make such requests. I support that change.

Despite certain claims that have been advanced, the Judiciary Committe's version is not a departure from traditional military-civilian relations. However, providing authority for the military to arrest persons and make seizures would be such a departure. Military personnel are not trained to perform such functions. As a result, their arrests and seizures would more likely be reversed by the courts on technical grounds. Furthermore, let me stress that the head of the Drug Enforcement Administration emphatically stated before our subcommittee that there was no need for that sort of military participation.

We share with our colleagues on the Armed Services Committee the strong conviction that military assistance is needed in the war against crime, particularly in the fight against drug trafficking. I believe the Judiciary Committee's version and the amendment offered by the gentleman from Texas represent an appropriate balance.

Mr. EDWARDS of California. Mr. Chairman, will the gentleman yield?

Mr. SAWYER. I yield to the gentleman from California.

Mr. EDWARDS of California. Mr. Chairman, I also want to join with the others in complimenting the gentleman from New Jersey, and of course, the gentleman from Texas, who will offer a most important amendment, and I urge support of those amendments.

However, I do agree with the gentleman from Arkansas that we are talking about a rather important consitutional separation and constitutional right here, actually, and that we should tread very lightly and it is not very appropriate to be considering this important issue in the context of a military appropriations bill.

Mr. Chairman, I rise in support of this amendment.

Sections 371-375 of the legislation before us profoundly affect the traditional separation of the military from routine civilian law enforcement. At the outset, I must question the wisdom of allowing a defense authorization bill to be the vehicle by which we relinquish a treasured constitutional safeguard. Such a change deserves a more careful scrutiny than it is likely to get in the context of a budget debate. The better forum would seem to be in legislation to reform the Federal criminal code.

Assuming, however, that we are determined to embark on such a course, now, we should at the very least adopt the amendment offered by the gentleman from Texas to narrow the scope of the intrusion. Even the Department of Defense opposes the bill's expansion of military involvement into civilian law enforcement. We are warned that the use of military equipment thrusts military personnel into situations involving the use of force—situtions the military is not trained for and which may expose them to civil liability. It appears the military has shown more concern for our traditional political system than has Congress.

Moreover, the Department of Justice—the agency responsible for Federal law enforcement—itself opposes any law enforcement role for the military within the United States itself.

This bill contains no provisions to limit the use of the military in routine domestic law enforcement activities, including, lest we so soon forget, the surveillance of civilian political activity. The provisions now in the bill are so broad as to permit military involvement in the enforcement of any and all aspects of criminal law.

Although I congratulate my colleague from New Jersey's efforts to narrow the sweeping scope of the Armed Services Committee bill, I believe we should act to narrow it still further. I supported such an effort in the full Judiciary Committee and I am happy to see that my colleague from New Jersey does so now.

I urge adoption of this amendment.

AMENDMENT OFFERED BY MR. WHITE TO THE JUDICIARY COMMITTEE AMENDMENT

Mr. WHITE. Mr. Chairman, I offer an amendment to the Judiciary Committee amendment.

The Clerk read as follows:

Amendment offered by Mr. WHITE to the Judicary Committee amendment: Page 47, strike out line 19 and all that follows through line 4 on page 48 and insert in lieu thereof the following:

"§ 375. Assistance by Department of Defense personnel

"(a) Subject to subsection (b), the Secretary of Defense, upon request from the head of an agency with jurisdiction to enforce the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), any of sections 274 through 278 of the Immigration and Nationality Act (8 U.S.C. 1324-1328), or a law relating to the arrival or departure of merchandise (as defined in section 401 of the Tariff Act of 1930 (19 U.S.C. 1401)) into or out of the customs territory of the United States (as defined in general headnote 2 of the Tariff Schedules of the United States) (19 U.S.C. 1202) or any other territory or possession of the United States, may assign personnel of the Department of Defense to operate and maintain or assist in operating and maintaining equipment made available under section 372 of this title with respect to any criminal violation of any such provision of law and to take necessary action incidental to such operation or assistance.

"(b) No equipment made available under section 372 of this title may be operated in the land area of the United States (or of any territory or other possession of the United States) by or with the assistance of personnel assigned under subsection (a) except to the extent the equipment (1) is used for monitoring and communicating the movement of air and sea traffic, or (2) is entering or leaving the land area of the United States (or any possession or other territory of the United States) incidental to a mission assigned to be accomplished only outside such area.".

Conform the table of sections after line 19 on page 45 accordingly.

Mr. WHITE. Mr. Chairman, I certainly applaud the purpose of the gentleman from Florida (Mr. BENNETT) in what he is trying to do, to control nefarious trafficking of drugs, but in trying to do good we must not do harm, that is, harm to our defense, harm to our troops, harm to our society and freedoms, and potential harm to international relations.

My amendment to the amendment of the Committee on the Judiciary and the Hughes amendment is designed to accomplish good results without harm. It is a product of careful crafting and compromising with Judiciary and other Members of Congress.

Now, compare the language of the bill of the gentleman from Florida (Mr. BENNETT) to my particular amendment. The language of the bill of the gentleman from Florida (Mr. BENNETT) calls for the use of military personnel only, not any experts in the civilian capacity in the military, but merely military only, to search and seize anywhere at sea, in the United States or on the borders of this country, internally too, if you will, because there is no limitation.

I really believe this was the purpose initially of the original bill, which prohibited the use of military in enforcement procedures, because in its very extreme, it could be the predicate for developing, if you would, without trying to sound alarmist, a police state.

My amendment with the consent of the Secretary of Defense, Defense per-

sonnel, military and civilian, could track, monitor and communicate the movement of air and sea traffic with Defense equipment, such as ships, planes, radar and we have big sections in southern parts of this country that are not even covered by radar that should be covered by radar and other surveillance equipment.

The enforcement personnel, DEA, or Immigration or Customs could be transported on such ships and aircraft and they would make the searches and seizures, they would have their own craft to make searches and seizures. They would seize the illicit drugs. They would arrest the offenders, apprehend illegal aliens, or seize other contraband, and this as pointed out was necessary to include other offenses besides illicit drugs, because otherwise, we might have a real question arising in courts if we stopped and apprehended for one offense and found another offense, and I so acceded to that particular change.

□ 1500

But the troops would not be used to search and seize. Why is it better not to use troops to seize and arrest as the language of the gentleman from Florida (Mr. BENNETT) provides?

Our military numbers are founded on military need. We are already having difficulty recruiting enough people into the military. To use troops to operate their equipment would not put more strain on the military. Their activities and operating equipment is more in the nature of training exercises; but to require them to seize and arrest, would require many more troops.

Some future budget-cutting administrator might try to substitute troops for trained DEA, immigration or customs personnel, and therefore there would be less control of drugs, contraband and aliens.

Of course, illegal aliens are very critical at the present time at sea, because we have had an incident of recent time of boat people illegally coming into this country and they could be controlled by surveillance by military personnel.

Law enforcement, especially to control drugs, contraband and aliens, requires special training and skills, often including language skills. It requires special training in the techniques of arrest to prevent injury or death of the seizing and arresting officer.

It is unlikely that troops would have that training and experience, and to require them to search and seize will expose them to injury and death in a pursuit for which they did not enlist. Surviving parents and spouses would rightfully be incensed.

For what I next say, those favoring the language of the gentleman from Florida (Mr. BENNETT) might say that the location and circumstances of searches and seizures must first be approved by the Secretary of State, as in the amendment the gentleman provided; but remember, we are proposing to change the law existing since the 1870's. Administrations and their attitudes change, so we cannot predict the commonsense of future administrations or future Secretaries of State. We have to make permanent law and assume the worst whenever you make law.

Judging from the past, there has been very little understanding by many administrations of the delicacies of international relations along the Mexican-American border. I have lived on the Mexican-American border all my life. As other colleagues who are familiar with the border and Mexico know well, the Mexican and Canadian borders traditionally have no military troops patrolling or guarding the borders. To change this by having uniformed troops on the border would destroy this tradition and international good will. Within 1 year or less there would arise a grave international incident under the latitude of the language of the gentleman from Florida (Mr. BENNETT) that would allow troops to patrol, seize, and arrest. Shots inevitably would be fired in the dangerous night and troops would be injured or killed and shots would impact in Mexico, if it were on the international border of Mexico. Repercussions would follow, especially if innocent citizens and children of Mexico were killed or injured.

Even trained enforcement officers and personnel on the borders during the day and at night are killed through accidents of the night, not knowing the identity of the other and shooting at each other in the night. We have fire fights on the border and that is precisely what you would be exposing troops to if you allowed them to seize and arrest on the border for drug contraband.

The CHAIRMAN. The time of the gentleman from Texas (Mr. WHITE) has expired.

(By unanimous consent, Mr. WHITE was allowed to proceed for 3 additional minutes.)

Mr. WHITE. The ability to speak Spanish can save lives in the night. Troops probably would not have this skill.

Therefore, rather than get more control with the language of the gentleman from Florida (Mr. BENNETT), we could get less control, less defense and more needless casualties in the military and some severe international embarrassment.

The language of the amendment I have introduced will allow the Defense Department to do what it can do best in operating its equipment, ships, planes and surveillance equipment to track, monitor and communicate the movements of suspected violators, for the professionals trained to search, seize and apprehend, without the bad results I have outlined, without the casualties and the international incidents.

Mr. HUGHES. Mr. Chairman, would the gentleman yield?

Mr. WHITE. I yield to the gentleman from New Jersey.

Mr. HUGHES. Mr. Chairman, I thank the gentleman for yielding. He has made a very important statement and I commend the gentleman for his leadership.

The gentleman's amendment is agreeable to this side of the aisle. I believe that it adds to the amendment. It is delimiting in nature. In fact, it was an amendment that we considered in the Judiciary Committee as a way of delimiting the loaning of equipment and the providing of personnel in the continental United States. So I commend the gentleman.

I just want to make one additional point. The gentleman referred to the arrest and seizure and search aspect of the Bennett language. I might point out to my colleagues that the Bennett language permits arrests and seizure but not search authority.

Now, that means, if, in fact, the military were utilized, as envisioned by the gentleman from Florida (Mr. BENNETT) in making a direct arrest or seizure, there would be no authority to search. That means, in effect, that if the arresting military official wanted to ascertain whether the people that he confronted had weapons, he would not have the right to search. He would not have the right to search in any other part of the vessel, for instance, under the language of the bill, because it is strictly limited to arrest and seizure.

Now, I am sure that that was inadvertent, but it points out just exactly why we should not be designing language of this nature without giving it very careful thought. It is that precise reason why we are trying to avoid a confrontational situation and all the problems inherent in an arrest situation; so I commend the gentleman. We accept his amendment on this side.

Mr. WHITE. Well, I thank the gentleman for his clarification and, of course, too, the Bennett language would allow use of troops anywhere in the United States internally and not as we have tried to do externally and off the shores of the United States to help work with the authorities.

Mr. KAZEN. Mr. Chairman, will the gentleman yield?

Mr. WHITE. I yield to the gentleman from Texas.

Mr. KAZEN. Mr. Chairman, I would like to associate myself with the remarks of the gentleman in the well.

I would shudder to think that a member of the armed services along the Mexican border taking part in what is purported to be a seizure of

drugs and it turns out that someone is wounded or killed by a military personnel, by a member of the Armed Forces of the United States on the friendly border with Mexico, would bring about repercussions that we cannot even comprehend. I appreciate the gentleman's position.

The CHAIRMAN. The time of the gentleman from Texas (Mr. WHITE) has again expired.

(At the request of Mr. SAWYER, and by unanimous consent, Mr. WHITE was allowed to proceed for 2 additional minutes.)

Mr. SAWYER. Mr. Chairman, will the gentleman yield?

Mr. WHITE. I yield to the gentleman from Michigan.

Mr. SAWYER. Mr. Chairman, I want to associate myself with the gentleman's remarks and state that his amendment is agreeable to this side of the aisle also.

Mr. BETHUNE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I do not know whether any other issue has interested me as much as this since I have been in the Congress, but for some reason or another when I heard the debate last week it occurred to me that we were discussing something that was perhaps more important than it seemed at first blush; so I asked for some briefings on the subject and tried to dig into it some.

This business of posse comitatus and the rule of law that has existed now since 1875 is a pretty significant piece of law. It has held firm for a long, long time. I have wondered why it has held firm and there have been no encroachments on the law over the years. I mean, the most serious encroachment that got outside of the area of putting down riots or holding down rebellions or insurrection or domestic violence or something like that that I could find was to protect the rights of discoverers of the Guano Islands. Somehow that crept in as an exception to the law some years ago.

Now, I do not know what the argument was at that time which permitted that exception, but I do know that the law has withstood virtually every other argument since that time.

In reading some of the court decisions right on up to and including the decisions of the U.S. Supreme Court, I found some very strong language which indicates that many people who have given thoughtful consideration to this issue see the business of posse comitatus and this particular law that we are discussing here today as approximating a constitutional right to keep separate from civilian law enforcement the use of military force, the use of military might. The arguments go along the line that military personnel are trained in most instances to do a particular mission in disregard of civil rights, whereas on the other hand, at least in the last 20 or 30 years, law enforcement personnel are trained now to respect civil rights and to appreciate civil rights.

So as I began to read more about those cases, I began to understand why our courts and why this Congress has thrown off every attempt in the last 100 years to make a serious encroachment on this.

Then as I heard the debate today, I heard someone even say that we have talked this matter to death. I take respectful issue with that. We have only devoted 2 or 3 hours to a debate here before the whole House on this issue. We have not talked it to death. We have not talked about the sanctions that would be employed if the military were to run afoul of this law and to exceed their authority.

We have not talked about what will happen when the cases get to court and how the exclusionary rule should be treated by the court.

I think that this Congress if it is going to breach this law, this Congress has the responsibility to give some criteria to the court as to how it should respond when the cases come, and they will come when we involve the military with civilian law enforcement.

□ 1510

I think the points that have been made here have been good points. I think everyone is working as hard as they can to control this heinous spread of drug traffic in this country.

But that does not mean that we have to throw down all of our responsibilities here and pass a law in this Congress contravening 100 years of history without even discussing it completely and thoroughly and finally out in the subcommittee.

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. BETHUNE. I yield to the gentleman from Michigan (Mr. CONYERS).

Mr. CONYERS. I want to commend the gentleman for his thoughtful attention to this part of our bill. It is very important and I think it has been understated.

Does the amendment offered by the gentleman from Texas (Mr. WHITE) change any of the views of the gentleman from Arkansas?

Mr. BETHUNE. Not really. I think the amendment of the gentleman from Texas (Mr. WHITE) does purport to set some geographical limitations which are certainly better than to lay out these very fuzzy limitations such as arrest and search and seizure. I think that is a step in the right direction but it does not settle the issue with me completely and principally for the last point that I made. If I could, I would like to bring out the case of *United States* v. *Wolffs*, 594 Fed. 2nd 77, a 1979 case, wherein the court did not reach the question of whether there was a violation of the statute. They said they really did not need to get into that because "application of the exclusionary rule is not warranted."

The CHAIRMAN. The time of the gentleman from Arkansas has expired.

(At the request of Mr. CONYERS and by unanimous consent Mr. BETHUNE was allowed to proceed for 3 additional minutes.)

Mr. BETHUNE. The court went on to say:

> The application of an exclusionary rule is not warranted. If this court should be confronted in the future with widespread and repeated violations of the Posse Comitatus Act, an exclusionary rule can be fashioned at that time.

It went on to say:

> Such an extraordinary remedy is not required until such time as repeated cases involving military enforcement of civil laws demonstrates a need for such sanction.

In other instances the courts have noted that there have been no prosecutions under the Posse Comitatus Act of 1865. So, as a matter of fact, we really have not treated the issue of sanctions in the rule previously and we have not treated the issue of sanctions here today. I think we should do that before we pass an exception to the law. That is my point.

Mr. CONYERS. If the gentleman will continue to yield, the problem that bothers me was enunciated by my colleague on the Judiciary Committee, the gentleman from Michigan. He said we of course envision that there could be confrontations between drug pushers and the military, but "so what?" The "so what" is that we will have military people forced into physical confrontation with civilians, and I cannot see where the amendment of the gentleman from Texas (Mr. WHITE) will change that one bit. We will still be confronted with a situation, from what I gathered from the reactions of most Members to that remark, that would be absolutely outrageous. It would be unthinkable that the Congress would deliberately involve U.S. Armed Forces in the routine enforcement of civilian laws for any reason.

I hate drugs as much as anybody else here. But we are already now talking about using military personnel to enforce customs laws.

Mr. BETHUNE. That is my point.

Mr. LEVITAS. Mr. Chairman, will the gentleman yield?

Mr. BETHUNE. I yield to the gentleman from Georgia (Mr. LEVITAS).

Mr. LEVITAS. I thank the gentleman for yielding and I want to commend the gentleman. I am not sure I agree with his conclusion, but I commend him for his concern and focusing on this issue and elucidating something that is of great importance under our system of government and

separation of civil from military authority.

But I am concerned at where we are in this debate. As I understand the gentleman, he is opposed to the utilization of military personnel in law enforcement, civilian law enforcement matters.

Mr. BETHUNE. As a general rule.

Mr. LEVITAS. As a general rule, and the gentleman would not like to see any change in the posse comitatus law.

The CHAIRMAN. The time of the gentleman from Arkansas has again expired.

(At the request of Mr. LEVITAS and by unanimous consent, Mr. BETHUNE was allowed to proceed for 2 additional minutes.)

Mr. LEVITAS. If the gentleman will continue to yield, the question is whether or not we adopt the Judiciary amendment as amended by the gentleman from Texas (Mr. WHITE) or whether we adopt the amendment of the Armed Services Committee. The question before us at this point is not whether we should leave the law intact as it is today but whether or not we accept the Judiciary Committee provision, as amended by the gentleman from Texas, or the gentleman from Florida's (Mr. BENNETT), provision from the armed services bill.

So in dealing with a vote on this matter, if the gentleman would explain to me what he from his point of view would urge the Members to do under that circumstance.

Mr. BETHUNE. I am going to support the amendment of the gentleman from Texas (Mr. WHITE). I think that I am going to vote against both of the other proposals for the reason that I think more consideration needs to be given out in the committee to the questions that I have raised here. I do not think the time is of such necessity here that we need to push forward.

I would just like to correct the record, because the gentleman said I am not for any change in the posse comitatus law. As a general rule, I think it is a wise law. But I am not certain yet that it should be changed, and that is the point I have made repeatedly here. I have not been convinced by the members of the Judiciary Committee so far, that it should be changed without further study and review.

Mr. HUGHES. Mr. Chairman, will the gentleman yield?

Mr. BETHUNE. I yield to the gentleman from New Jersey (Mr. HUGHES).

Mr. HUGHES. I thank the gentleman for yielding. I want to assure the gentleman that we could not have taken up the question of penal sanctions because of the way it came to the Judiciary Committee, which was by sequential referral. We would have to remand title XVII to get at that segment dealing with penalty.

But let me just assure the gentleman our hearing was exhaustive from the standpoint of what is actually needed to try to provide a limited amount of additional cooperation between the military and civilian law enforcement agencies and still maintain that important separation.

The CHAIRMAN. The time of the gentleman from Arkansas has again expired.

(At the request of Mr. HUGHES and by unanimous consent, Mr. BETHUNE was allowed to proceed for 2 additional minutes.)

Mr. BETHUNE. I yield to the gentleman from New Jersey (Mr. HUGHES).

Mr. HUGHES. So I have listened to the gentleman very carefully and he has given obviously a lot of thought to this, both from the standpoint of case law that has been developed as well as the rationale behind the original posse comitatus law. I say to my colleague the first four sections, and I am going to repeat it again, are a codification of existing practice. The only additional change, section 375, is very narrowly focused and it is to minimize the confrontation situation the gentleman is concerned about. What it does, in effect, is it says under section 375 where we loan equipment we are also going to provide where manpower is needed because there is not enough time to train manpower from the military and we are going to permit the military, where it is consistent with our military mission, to loan people to operate that sophisticated equipment. That is as far as we go.

Mr. BETHUNE. I disagree that it is just a codification of existing law and maybe this would be a good time to discuss it.

Mr. HUGHES. That happens to be the case.

Mr. BETHUNE. I disagree. It is my opinion that it is not. But maybe this would be a good time to make the point if this Congress did nothing, did not make any inroads on the posse comitatus law as presently written, that the Navy Department tomorrow, if they wanted to, by changing their regulation, could go ahead and do what the Coast Guard is doing because they are not covered by the original law to begin with.

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. BETHUNE. I yield to the gentleman from Michigan (Mr. CONYERS).

Mr. CONYERS. Let us examine this notion about merely codifying the existing practice. When one codifies existing practices, one is carving them in stone and making them law. That is a little bit different, I think, from what the gentleman from Arkansas is concerned about and what the subcommittee chairman is implying is happening.

□ 1520

What I am telling you now is that these practices, once codified into law, are now going to be the law.

The CHAIRMAN. The time of the gentleman from Arkansas (Mr. BETHUNE) has expired.

(On request of Mr. CONYERS and by unanimous consent, Mr. BETHUNE was allowed to proceed for 3 additional minutes.)

Mr. CONYERS. What we are doing, with a very few number of cases, is codifying existing practices before we have even examined what they are. I think that is what the gentleman from Arkansas is saying.

What I am going to do, contrary to the gentleman's suggestion to the gentleman from Georgia that the Members should support the White amendment and then vote against the rest, is oppose the White amendment because what we are trying to do is clean up something that cannot be cleaned up. This issue belongs in committee.

Now, another member from Judiciary asserted that the Defense Department supported this bill. Well, as a good friend of the Pentagon, I want to tell the Members that that is exactly not the case.

The Defense Department is not in support of this measure. It is ironic that I am the only Member who can rise from Judiciary to remind the Members of that. They are no in support of getting this additional power.

Why? Because they know that once they send equipment and personnel to a drug raid, the personnel are quite likely to become directly involved. They are not going to stand by while some punk narcotic pusher tries to draw a .45 and hold off the Coast Guard or the U.S. Marines. That is why they do not want it. The gentleman from Arkansas should be commended for thoughtfully forcing us to address this matter.

Mr. HUGHES. Mr. Chairman, would the gentleman yield?

Mr. BETHUNE. I yield to the gentleman from New Jersey.

Mr. HUGHES. Mr. Chairman, the fact of the matter is that the Defense Department opposes the Bennett language. The fact of the matter is that the Defense Department does support the White amendment to the Judiciary Committee bill, which parallels pretty much the Senate bill which the defense Department has been generally supportive of.

So to characterize the Defense Department's position as being opposed to the bill is not accurate. The Defense Department is adamantly opposed to the Bennett approach.

Now, the fact of the matter is, also that we are dealing, as the gentleman from Georgia has indicated, with two versions of a bill, the Judiciary Committee approach as opposed to the

Armed Services Committee approach. And it seems to me that the approach taken by the Judiciary is the one that is very carefully crafted, the one that is very delineative, that only extends the authority to those areas where a case has been made. And even though it had been suggested that what we are doing is codifying language, I do not know of anybody who complains about the sharing of intelligence information.

Is the gentleman from Michigan opposed to the military sharing intelligence information with drug enforcement agencies? Is the gentleman from Michigan opposed to the military providing a piece of equipment so that the Drug Enforcement Administration or the Coast Guard can carry out a mission because they do not have equipment? Is the gentleman saying he is opposed to that? Because that is what we are doing.

The CHAIRMAN. The time of the gentleman from Arkansas (Mr. BETHUNE) has again expired.

(On request of Mr. CONYERS and by unanimous consent, Mr. BETHUNE was allowed to proceed for 4 additional minutes.)

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. BETHUNE. I yield to the gentleman from Michigan.

Mr. CONYERS. I thank the gentleman for yielding.

Mr. Chairman, I would like to point out that the White amendment was not in existence at the time the subcommittee handled the matter; so I do not know how the Department could at that time have had some insight about whether they were for it or not.

Now, in a letter to the Crime Subcommittee chairman, dated June 3, 1981, the Defense Department points out—this is a quote—

> The operation of equipment cannot reasonably be separated from the direct application of force in the course of law enforcement.

It seems to me that you could fairly deduce that the Department of Defense has some strong reservations about this legislation. And that is what I am referring to. This is just a matter of simple fact.

Now, either they are anxious for it or they are not anxious for it. I suggest to the Members that this language tells me that they do not want this responsibility.

They also say, and I quote from the letter:

> There is a substantial problem of civil liability of military personnel.

They are perfectly well aware of the problems that the gentleman from Arkansas has articulated that they will be getting into.

Now, we also happen to have a multi-billion-dollar administrative agency devoted to fighting drugs. It is not as if we are defenseless. There are plenty of ways that we can funnel some assistance to drug law enforcement without changing a tradition almost of a constitutional nature by allowing the military to intrude upon the enforcement of civilian laws.

Do not any of the other Members feel a little bit disturbed about what that suggests?

In Kent State we had an experience that I will talk about later, and in Detroit we had an experience. We are still feeling the effects of that military intrusion today.

I thank the gentleman for yielding.

Mr. BROOKS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I want to commend the Judiciary Committee and the distinguished chairman of its Subcommittee on Crime, Mr. HUGHES, for their constructive amendment to H.R. 3519, the Department of Defense Authorization Act. Section 908 of the bill, which was sequentially referred to the Judiciary Committee, also contains a matter of longstanding concern to the Committee on Government Operations; namely, the management and disposal of Federal Government property.

Section 908 as reported by the House Armed Services Committee allows the Secretary of Defense to make available any equipment, base facility, or research facility of the Armed Forces to law enforcement officials if it does not adversely affect U.S. military preparedness. If unchanged, this provision would have a substantial impact on the Federal property disposal system which is conducted under the terms of the Federal Property and Administrative Services Act.

The Judiciary Committee has taken note of the Government Operations Committee's concern in this area and has added the phrase, "In accordance with other applicable law," to the property disposal provision. With the understanding that this amendment brings the authority under the provisions of the Federal Property and Administrative Services Act and related statutes, I urge support of the Judiciary Committee's amendment to H.R. 3519.

Also, as originally reported, section 908 of H.R. 3519 would allow the Secretary of Defense to provide to Federal, State, and local civilian law enforcement officials any information collected during the normal course of military operations that may be relevant to a violation of any Federal or State law. The Privacy Act, which comes within the jurisdiction of the Government Operations Committee, presently contains guidelines for the disclosure of information or private citizens for law enforcement purposes. This section would go substantially beyond the Privacy Act's restrictions on disclosure. The Judiciary Committee has amended this provision of section 908 so that such release will be "in accordance with other applicable law," and the Judiciary Committee's report makes clear that this phrase is meant to continue the application of the Privacy Act to this type of intelligence sharing. With this understanding, I again urge approval of the Judiciary Committee's amendment on this section.

I would also mention that there are several other provisions of H.R. 3519 which appear to conflict with provisions presently contained in the Privacy Act. First, section 904 of the bill would require Selective Service registrants to provide their social security number. This conflicts with section 7 of the Privacy Act, which forbids any Federal agency from denying any individuals "any right, benefit or privilege provided by law" for refusal to disclose his social security number. This section of H.R. 3519 also would give the President authority to require the Social Security Administration to turn over personal data, including social security numbers, to the Selective Service and would allow the President to require that Internal Revenue Service records be made available to the Selective Service.

Further, this information could be shared with the heads of the service agencies for recruiting purposes. The committee is concerned over this provision because of its potential for creation of a computer data bank linking numerous information systems. The Privacy Act was meant to place a moratorium on the use of social security numbers as vehicles for compiling data in such large systems pending the establishment of congressional policy in this area.

The disclosure and use of social security numbers and IRS data is a very sensitive issue which should be carefully reviewed by the appropriate committees of the Congress, and I would hope until that can be done that any use of that authority under this bill would be undertaken with caution.

Meanwhile, I again urge support of the Judiciary Committee amendments.

Mr. McCLORY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am in strong support of the Judiciary Committee amendment as amended by the amendment offered by the gentleman from Texas (Mr. WHITE).

I want to assure the Members of this body that I feel that there are full and adequate protections to the civilian community in every area of activity as a result of the Judiciary Committee's amendment, as amended by the gentleman from Texas. This is vital legislation. It is essential support in our fight against the terrible drug trafficking that is going on.

I hope that our committee amendment and the amendment of the gentleman from Texas can be adopted expeditiously and that this important legislation be promptly enacted.

Mr. Chairman, I rise in support of the Judiciary Committee amendment to H.R. 3519, as amended by the amendment offered by the gentleman from Texas.

Clearly, we are all in agreement on the general proposition that the military should be authorized to provide certain types of assistance to civilian law enforcement authorities. There is no dispute about the sharing of information, equipment and training. Where we do part company, however, is on the extent of military personnel involvement in law enforcement activities.

Mr. Chairman, I firmly believe that it is essential to preserve the cherished tradition of separating the military and civilian law enforcement authorities in this country. The Posse Comitatus Act, to which we are providing one of a very few exceptions, was originally enacted because of the abuses which arose during reconstruction when the military was brought in to enforce civil law. Although we all agree that every appropriate weapon should be used in the war against drugs, we must act cautiously to avoid setting a precedent for military involvement in other areas of law enforcement, which are more controversial and where military intrusion would be more offensive.

The Judiciary Committee amendment, as amended, would authorize limited personnel assistance for which a very clear need has been demonstrated. Furthermore, it is structured to minimize the possibility of abuse and to maximize the potential for achieving the outcome we all support—the incarceration of the drug traffickers who have caused so much pain in this country.

Mr. Chairman, I strongly oppose any version of section 908 which would permit the military to make arrests and seizures. Limiting such authority to areas outside the land area of the United States would constitute only a slight improvement. Although the proponents' goal of cracking down on drug traffickers is highly commendable and one we all share, I fear that arrest authority would not ultimately achieve that goal. The military is simply not trained to make arrests and seizures which will ultimately result in the incarceration of the offender and the forfeiture of the fruits of his illegal trade. Furthermore, there is no evidence to suggest that there is any need for such involvement. The Drug Enforcement Administration emphasized in recent testimony before the Subcommittee on Crime that arrest authority is neither needed, nor wanted. The assistance requested by the DEA is adequately provided for in the Judiciary Committee amendment and in the amendment offered by the gentleman from Texas.

Finally, Mr. Chairman, I would like to commend the gentleman from Texas for including in his amendment authority for military personnel to assist in the operation and maintenance of loaned equipment to enforce Federal immigration and customs law as well. Like drug enforcement, these are areas where such assistance will prove invaluable. I understand that the Justice Department supports this approach.

In conclusion, Mr. Chairman, I urge my colleagues to support our committee's version of section 908, as amended by the amendment offered by the gentleman from Texas, and to resist any effort to extend military involvement into the area of arrests and seizures.

Mr. COUGHLIN. Mr. Chairman, will the gentleman yield?

Mr. McCLORY. I yield to the gentleman from Pennsylvania.

Mr. COUGHLIN. Mr. Chairman, I rise in support of the Judiciary Committee amendment to section 908 of H.R. 3519, the fiscal year 1982 Department of Defense Authorization Act. The basic purpose of this section would be to permit military cooperation with civilian law enforcement officials under certain circumstances. The amendment proposed by the Judiciary Committee would prohibit the direct participation of military members in searches and seizures, arrests, or similar activities while permitting military personnel to operate and maintain equipment on loan to civilian law enforcement officials. Use of sophisticated equipment and trained personnel who know how to operate and maintain it is where the real need for military assistance to civilian law enforcement agencies, particularly drug enforcement agencies, lies. The need is not for additional personnel to conduct searches and make arrests.

Mr. Chairman, present interpretation of the Posse Comitatus Act has generally prohibited the military from enforcing civil laws. The result has been that the military has been extremely hesitant to respond to requests from civilian law enforcement officials for assistance. Section 908 of the fiscal year 1982 DOD authorization bill now before this body would clarify the intent of Congress on this matter.

In recent hearings before the Select Committee on Narcotics Abuse and Control, on which I serve, an array of State and local law enforcement officials testified that a new wave of international drug smuggling is underway. The results are reflected in higher figures for drug abuse, drug-related deaths, and drug-related crimes in most major metropolitan areas. It has been estimated that only 10 percent, or perhaps less, of all illegal drugs bound for the United States are presently seized by law enforcement agencies. With virtually unlimited financial resources, unpatrolled coastline, and unmonitored airspace, the drug smugglers have an enormous edge. Local and Federal drug enforcement officials have their hands full and need any help available.

While careful not to impinge on the military's paramount function of providing for national defense, section 908 recognizes that the military is in a key position to lend assistance in the massive drug enforcement effort. Military facilities and personnel are widespread geographically and their broad scope of activity and monitoring for defense purposes frequently brings them into contact with illegal drug trafficking operations.

Section 908 is a sensible and much-needed step to make available some of the vast resources of the Department of Defense on a limited basis to assist drug enforcement officials in their uphill battle against the mounting tide of illegal international narcotics traffic. I strongly support it and urge approval of this measure.

Mr. SHAW. Mr. Chairman, will the gentleman yield?

Mr. McCLORY. I yield to the gentleman from Florida.

Mr. SHAW. Mr. Chairman, I have been listening to the debate, and I have been staying rather quiet because I have a further amendment to offer following the White amendment. However, I feel that in support of the concept of this bill, as well as the concept behind the bill from the gentleman from Florida (Mr. BENNETT), I think we have gotten off track.

Neither one of these bills puts the military in control in any particular instances. It simply lends, for purposes of equipment or purposes of personnel, whether it is directly involved, as in the case of the Bennett proposal, or indirectly involved in the operation of equipment under the Hughes proposal.

Mr. McCLORY. Mr. Chairman, I think the gentleman is essentially correct. The only thing I would point out is that the Judiciary Committee amendment does insure that the military will not be involved in civilian-type searches and seizures and will not be involved in civilian-type arrests. I think those are essential protections in our modification of the posse comitatus law to accommodate the needs that have arisen as a result of drug trafficking.

Mr. BETHUNE. Mr. Chairman, will the gentleman yield?

Mr. McCLORY. I yield to the gentleman from Arkansas.

Mr. BETHUNE. The gentleman says that it insures that they will not be in-

volved in civilian law enforcement with respect to the arrests and search and seizures, I suppose.

Mr. McCLORY. That is correct.

Mr. BETHUNE. But the point I have made a number of times here is that there is much more to law enforcement than arrest and search and seizures. There are a number of other functions. They overlap. It is very hard to define them.

Mr. McCLORY. Let me point out that we are providing for the exchange of intelligence and for other kinds of support that we think is essential, particularly in connection with drug trafficking. It is a dire situation that we are confronting.

Mr. BETHUNE. If the gentleman will yield, what are we going to do to the military officer or military man or military commander who goes beyond his authority?

Mr. McCLORY. Anyone who violates the law is subject to any applicable penalties. By modifying the law in this respect and adopting these amendments, we are not inviting anybody to violate the law.

Mr. BETHUNE. Will the exclusionary rule be in effect?

Mr. McCLORY. The courts will be fully capable of interpreting what we do here today. I think that we are making our intent and purpose very, very clear, so that there should be no misunderstanding on the part of any court or law enforcement agency with regard to our intent in adopting this amendment.

□ 1530

Mr. BETHUNE. Before we expand the law, should we not treat the issue of what the penalty would be if they violate, or under what circumstances the exclusionary rule will apply?

Mr. McCLORY. I think that there is urgent need for this legislation. I have given the problems that you mention thoughtful consideration as have my colleagues on the committee. Furthermore, this issue has been given full and fair debate here on the floor of the House today. I think it is now time for us to exercise our judgment. My judgment is that the Congress should adopt the Judiciary Committee amendment, as amended by the gentleman from Texas. If that happens, I think we will be making some very good law.

Mr. WHITE. Mr. Chairman, will the gentleman yield?

Mr. McCLORY. I yield to the gentleman from Texas.

Mr. WHITE. Mr. Chairman, just briefly I want to point out to the gentleman from Arkansas that on page 47 it says:

"§374. Regulations

"(a) The Secretary of Defense shall issue such regulations as may be necessary to assure that the provision of any assistance, or the provision of any equipment or facility, to any law enforcement official under this chapter does not—

"(1) adversely affect the military preparedness of the United States; or

"(2) include or permit direct participation by any member of the Army, Navy, Air Force, or Marine Corps in any search and seizure, arrest, or other similar activity unless participation in such activity by such member is otherwise authorized by law.

"(b) The Secretary of Defense shall issue regulations providing that reimbursement may be a condition of assistance to any law enforcement official under this chapter.

Mr. BENNETT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, after hearing over an hour and a half debate on this without having the position of the Armed Services Committee yet enunciated, I hope Members will be liberal in allowing me some extension of time.

First of all, it may be a good idea to discuss just exactly what we are talking about, and that is this posse comitatus provision. It was injected into our law, the words "posse comitatus" in the 1870's. There was no reason for that language being put in there, and we have made a mystique out of it which far exceeds the thoughtfulness that went behind that law.

This is how the law came about, that law came about because of the fact that the South had at last obtained enough Members of Congress who would vote favorably for this position. The Reconstruction governments, however, were there and they were imposing local law upon the people that the people did not enjoy having, such as interfering with the Ku Klux Klan and other matters of that type.

So, they went to Congress and got the law passed so that there would be no possibility of having the Federals of the Yankee side of the late war imposing laws which were imposed by the carpetbag governments upon the South. That is exactly what this law is. It is not exactly part of the Parables of the Lord or the Psalms, or the prophets. It comes from a rather dingy background.

Actually, the philosophy of our country was quite to the contrary. George Washington put down the so-called Whiskey Rebellion with U.S. troops, where people did not want to pay any money to produce their bootleg whiskey in Pennsylvania. Then down in the Florida-Georgia boundary there were people who were playing around with the idea of making Florida into a territory, and George Washington sent Captain Randolph and others down there to see that they did not do it, and be threatened to put them in jail if they did do it. There are many other illustrations about what happened in the early days of our country and later days of our country. But Congress did pass this law to take care of dissension with the carpetbag government of post Civil War.

But, since that time we have passed 20-some odd amendments to that law. We passed an amendment saying that we could use the military to take care of anybody who trespassed on Indian lands, or on national parks, and to enforce civil rights. Everybody knows about the enforcement of civil rights laws with troops in this country. It has already been mentioned, Customs was also taken care of by an amendment; then crimes against Members of Congress, including threatened assaults on Members of Congress. We can call out the military to put that down. As has been mentioned before, If one happens to have a proprietary right in bird droppings they can get the Federal Government military officials, officers, and enlisted men to enforce the law. So, that is what the law actually is, not a very distinguished law and often amended for things of less significance than drug law enforcement.

What do some people think about it that have given it a lot of thought? The National Anti-Drug Coalition has written this:

It is the coalition's belief that the legislation now pending in Congress would provide a crucial weapon in the antidrug enforcement arsenal. The NADC believes that the provision (section 375) added by Rep. Bennett to the amendment, specifying that military involvement in arrests and seizures be confined to drug enforcement activities, comes closest to the appropriate constitutional spirit of the issue, while it provides the strongest measures against drug traffickers, it also maintains the spirit of the posse comitatus law by restricting military involvement in such activities to drug smuggling cases, thereby eliminating the possibility that such legislation could be employed against law abiding civilians.

This is the section 375 I added to the Senate provision. So, these people who are bound together throughout the United States have looked at my provision and say that it is superior to that of any other provision before us today.

The House of Representatives of the State of Florida asked that we put compulsion on the Department of Defense to utilize equipment, personnel, and technical resources to assist local law enforcement officers to apprehend those in the illegal drug trade. That was passed May 5, 1981. It is as follows:

STATE OF FLORIDA—RESOLUTION 1178

Be It Resolved by the House of Representatives of the State of Florida:

Whereas, illegal drugs are a menace to society and drug traffickers prey on our nation's youth, and

Whereas, the flow of illegal drugs coming into the United States has grown in recent years to epidemic proportions, and

Whereas, the law enforcement agencies of the State of Florida and those of the other states in the Union are strained to the limit in the effort to combat this situation, and

Whereas, federal law enforcement agencies have not been able to provide all of the required assistance, and

Whereas, the Armed Forces of the United States has the capability of rendering assistance in locating and seizing airplanes and boats involved in drug traffic, Now, Therefore, be it

Resolved by the House of Representatives of the State of Florida: That the House of Representatives respectfully requests His Excellency, the Governor of Florida, to ask the President of the United States, under his powers as Commander-in-Chief, to order and compel the Department of Defense to implement a plan to utilize the equipment, personnel, and technological resources of the Armed Services to locate and apprehend those who traffic in illegal drugs.

The National Defense Council wrote me on July 13, as follows:

I am writing on behalf of the National Defense Council in support of your amendment modifying the posse comitatus law to aid in drug enforcement activities in the United States.

The continuous flow of drugs into the United States is a threat not only to the lives of our citizens but to our national security as well. It is readily evident that civilian law enforcement agencies cannot check their constantly growing drug trade. Modification of posse comitatus would bring together the forces necessary to successfully combat this problem.

As elected representatives of the people it is Congress' duty and responsibility to provide the most effective means available for dealing with the problem of illegal importation of drugs into our country. If this can be achieved through the modification of posse comitatus laws then it must be done without delay.

We, therefore, urge you and your colleagues in both Houses of Congress to answer this problem through passage of this amendment.

That is the amendment which I introduced, not the amendment which has been offered by others.

Then, I have here before me a letter that came to me from Judge Thomas Russell Jones of the Supreme Court of the State of New York:

SUPREME COURT OF THE
STATE OF NEW YORK,
Brooklyn, N.Y., July 7, 1981.

Hon. CHARLES E. BENNETT,
House Office Building,
Washington, D.C.

DEAR CONGRESSMAN BENNETT: Judges who know how effectively the terror tactics of drug smugglers and drug sellers against potential witnesses and informers have frustrated criminal prosecutions in drug traffic cases, support your bill to permit the United States military to share personnel and equipment in the fight against the corrupters of our civilization.

Sincerely,

THOMAS R. JONES, J.S.C.

Finally, as far as quotations are concerned, I have here a letter from Adm. "Mark" Hill, speaking for the Association of Naval Aviation, Inc.:

ASSOCIATION OF NAVAL AVIATION, INC.,
Falls Church, Va., July 13, 1981.

Hon. CHARLES E. BENNETT,
Chairman, Sea Power Subcommittee, Committee on Armed Services, Rayburn House Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: In my conversations with Admiral Tom Moorer concerning the problem of the runaway drug trade in the United States, we both agreed that our country would benefit from your proposed modification of the Posse Comitatus Law. By allowing for military participation in drug enforcement activities of our country, I heartily agree that this amendment would result in immediate reduction of the widespread drug smuggling that now occurs.

Civilian law enforcement agencies are currently overburdened by a problem that demands more resources than they have. If they could have access to additional resources (both manpower and equipment) and information of the military, they could properly perform their duties and reduce illegal drug trade.

At the same time, the military would have an opportunity to perfect their skills in a low intensity, controlled combat environment. Hence, both the military and civilian agencies will operate more efficiently.

Even more importantly, the general population now plagued by the lack of strong drug enforcement will immediately feel the good results of the enhanced capabilities of our civilian law enforcement agencies. If we are to stop the widespread smuggling of drugs into our country and its accompanying ill effects, we must take special action. By modifying Posse Comitatus we are addressing the problem simply and directly. For these reasons, we strongly urge and support the passage of this amendment.

Sincerely,

C. A. "MARK" HILL, Jr.,
Rear Admiral, U.S. Navy (Ret.),
Vice President, Government Relations.

They are referring to the amendment which I offered to the Armed Services Committee bill, not the ones which have been submitted here today.

Now, of course, this requires courage. Of course, this is disturbing. Almost everything of importance that man does, almost everything that a legislative body does that is important, distresses somebody, worries somebody. There is always somebody on both sides. There are always people who will say, "Let's wait. Let's do this tomorrow, let's don't do this thing, it is too disturbing."

I have already told the Members that this posse comitatus is not a part of the Constitution. It is contrary to the views of George Washington and Thomas Jefferson and others who enforced the laws in the early times of our country. It is not a part of that tradition whatsoever in our country. It is in fact a law which has been a hampering to our country. We have seen fit to amend it with respect to rather trivial things—some of them important like civil rights and customs—but some very trivial, like bird droppings and assaults on Members of Congress. These are hardly very significant things.

This is a tremendous problem in our country. The latest news magazines that came out in the last 2 or 3 days pointed to the annual figure of about $80 billion; in Florida, maybe $7 or $8 billion or more than that. The facts are that only 15 percent of the drugs which attempt to get into the shores of the United States are stopped; 85 percent of them are not stopped.

□ 1540

And so what a callous thing for the Department of Justice to say that we can have officers there all the time to stop it. They are not there; they do not see it. The fact is that they do have an arrest opportunity when they have everything well in hand. When they have the dope well in hand and everybody is there, they can arrest; they are in good shape to do that but how about the 85 percent which escape them?

What is our problem in this country today? The first thing is the tremendous importation of drugs into our country. This leads to the destruction of the American society more cruelly and more directly and more truly than any other way in which it is being destroyed today. There is not a single other way which is more destructive. There is nothing more ominous upon the scene of American society today than drugs. Russia, Afghanistan, Iran, all these problems are nothing compared to what is happening with drugs. We are really in fact destroying a great proportion of the population of our country, and we are destroying the operation of our country and preventing it from being the kind of a country it ought to be.

This is a tremendous problem, and yet we have people who apologize one way or the other and who dream up all kinds of ideas why something like this should not be done.

How many hard decisions have we made in Congress?

I have been here 33 years, and many hard decisions have been made. I have in that time made many hard decisions. The way to make a decision is to get all the facts, and that is what I am trying to do. We have had an hour and a half on the other side, and I am trying to give the Members some of the facts from my side.

The CHAIRMAN. The time of the gentleman from Florida (Mr. BENNETT) has expired.

(By unanimous consent, Mr. BENNETT was allowed to proceed for 5 additional minutes.)

Mr. BENNETT. So this is indeed an extremely important decision, and it is something we must address. The reason why it should be addressed in the way it is being addressed in this committee amendment that we have here is, first of all, that it did have a lot of good study. It was studied thoroughly by the Senate. My amendment was not unique to me. It came first from the Senate. I just added to it.

There are only a few ships available in the Coast Guard to do the job. There are only a few enlisted men and officers who are able to do it. In my hometown and around the Mayport

area there are 42 naval ships. There are thousands and thousands of military personnel who are thoroughly capable of doing this job.

Let us understand who makes most of these arrests. Most of these arrests are not made by somebody in the Department of Justice; they are made by the Coast Guard. They are made by Coast Guard vessels. They do not have enough vessels, and they do not have enough presence. They are not there.

There is no particular mystique about the Coast Guard. I had a Coast Guard son myself, a very fine and a very capable man. But to say that they are much more capable of doing these things than the military is not true. Actually there are many more arrests made by the military—by the Navy, the Air Force, and the Army—than by Coast Guard members.

The Members must remember that I have worked and I have thought about this. Suppose we treat the problem of putting a coastguardsman on every Navy ship. In the first place, they say they have to have two. Multiplying that out for 453 Navy ships it came to $12 million, $12 million a year. That is not much money, but I just do not believe it is very workable to have just two coastguardsmen on every Navy ship. It is $12 million for just having somebody stand by and not have any regular duties to perform.

Another way to do it would be to buy the ships for the Coast Guard. How much would that cost? It has been testified to. It would take $4 billion to buy the ships, and it would take 4 years to build the ships. That is $4 billion to buy the necessary ships. That is the amount of money that would be necessary to buy Coast Guard ships.

In addition to that, there is the personnel involved. We would have to have 20,000 personnel involved for the Coast Guard if we did an adequate job on this. That 20,000 personnel adds up to $180 million a year. So that is $4 billion for the capital investment, and it takes 4 years to get the ships, and we would have to pay $180 million a year in personnel costs to take care of what is needed for the Coast Guard to do an adequate job with regard to drug enforcement. There is no way that this Congress would even consider making such expenditures.

Let us look for a moment at what this provision is. The basic provision was taken from the Senate, and it is a provision which was studied very carefully. It was not inadequately studied; it was very thoroughly studied. There was only one section that I added, and that is the one about arrest and seizure; the rest of it comes from the Senate version. I told the committee when I introduced it that it was a workable provision, and the committee agreed it was so. The gentleman from Georgia (Mr. EVANS) had a large part to do in this, in drafting this, and we introduced it. He was a leader in this effort.

I added this particular section because I really do not feel that there is any comparability between what these two bills are doing. Some people are talking about this as if it were a very small amendment. It is no small amendment; it is a terrific amendment, it is a colossal amendment, and it makes a tremendous difference.

The difference is that there is no comparability between the two. Why is that so? It is so because if we pass the amendment I provided, every time a military plane is overhead or a ship on the sea, every time that is so, the smuggler will know that he has a real possibility of being arrested or being detected. He will know that is a real possibility that may occur. There is no way in which the other provision that has been suggested here would take care of that, because the smugglers will know that is not going to be the case.

So the two basic things that are debated here is, No. 1, whether we are going to allow military personnel to do any actual arresting, and whether or not we are going to allow people to do this on the land of the United States. I would like to address that for a moment.

Why do I not want to eliminate the land use? Simply because I grew up in a town which was full of drugs. I grew up in Tampa, Fla., and when I was a youngster, many city officials were at that time, long ago, involved in drugs and prostitution and everything else that made quick money.

The CHAIRMAN. The time of the gentleman from Florida (Mr. BENNETT) has again expired.

(By unanimous consent, Mr. BENNETT was allowed to proceed for 5 additional minutes.)

Mr. BENNETT. Mr. Chairman, the heinous effect of these things upon public servants is felt even today. We just read about 12 people who were arrested in Miami just the other day by law enforcement officials for drug trafficking or for being involved in the matter. It is very easy for smugglers when they have billions and billions of dollars involved. There was a man the other day who skipped bail of $1 million, and they say that is the highest bail that has ever been skipped. And there was another one for half a billion. Money means nothing to them at all.

I was going to address for a moment why it is important for me to have the land in here. It is not the end of the world if we do not have the land in here, but I think it is gravely important to have it in there, and it is a real loss if we take it out.

Why is it a loss if we take it out? It is a real loss because once we close up the Gulf of Mexico, once we close up the coast of Florida, and once we close up the Pacific coast, they are going to move across the Mexican border, and there are 1 million people coming across the Mexican border every year. They are not now toting drugs, but they will be toting drugs. We can be sure of that, if smugglers see that the land cannot be involved in this law.

So I put the protection of the land in there. Incidentally, there was a letter addressed to the committee, and the gentleman from New Jersey (Mr. HUGHES), on June 3 from the Department of Defense, and it was pointed out in essence that if you are going to do anything like you suggest in the Hughes bill, you had better put in the things you left out of the Bennett bill, because the Bennett bill was the best, and not the other amendment the State Department had to agree. So I put them in there. Even the wisest man in the Department of Justice, none of them, suggested that my language was not good—not a one. No one said it was unartfully drawn up. They agreed it was well drawn. In fact, the Department of Defense said, do not pass the Hughes bill without having those provisions in there, those which are in my section of the bill and which are left out of the Hughes bill.

So in summary, Mr. Chairman, I would like to say that this is not a trivial thing. This is probably the most serious thing that has happened in my lifetime, and I hope the committee passes the bill.

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. BENNETT. I yield to the gentleman from Michigan.

Mr. CONYERS. Mr. Chairman, I want to commend the gentleman from Florida (Mr. BENNETT) on his very sincere presentation. He has taken now 15 minutes, and I can understand why. Is the gentleman instructing the House, then, to vote against the White amendment?

Mr. BENNETT. Well, I do not like the portion of the White amendment which limits the land. I really am not debating that.

But I really would say that all of the other amendments suggest to me that we are dealing with just little curlicues, small things in a small portion, of a very important measure.

Mr. CONYERS. Mr. Chairman, what I mean is that if those who support the gentleman's position are to vote for it, there is no point in approving another position on the amendment?

Mr. BENNETT. I am not vigorously supporting the White position because I think the language of my amendment that is in the bill, the original bill, is sufficiently protecting what the gentleman from Texas (Mr. WHITE) is worried about.

I like the gentleman from Texas (Mr. WHITE), and I may vote for the

amendment for that reason, but it does not make that much difference. It will buy some intelligence information, that is fine, and it is a step forward, but it is not girding up for a real battle against a real enemy like this, not like my amendment does.

□ 1550

Mr. HUNTER. Mr. Chairman, will the gentleman yield?

Mr. BENNETT. I yield to the gentleman from California.

Mr. HUNTER. I thank the gentleman for yielding.

I would like to commend the gentleman for a tremendous statement, and I think that he has made the one major point that perhaps the Judiciary Committee has missed, and that is that in looking at the illicit drug trade, we are looking at a trade and operation that is in itself a military operation. It is complete with generals, soldiers, it has got an extensive armada of vessels and ships, it has got a huge budget, it has got a tremendous intelligence operation, and the Coast Guard, at least in Florida, we are all aware, is not up to snuff in combating this operation.

We have talked about Miranda and whether or not some of these cases are going to fly and whether we are going to be able to train our military people to make proper arrests.

I think the point that has been missed is regardless if there is a suppression motion, perhaps it wins, and there is no conviction, that 100,000 heroin or whatever that was confiscated can still be destroyed and it is not going to be flowing into the arms of American children.

And another point that I think that has been missed by a lot of people on the judiciary side is the fact that our naval officers with years of discipline and experience are probably better able to follow the mandates of Mairanda than some of our rookie policemen.

So, I commend the gentleman and I support the language in the bill, which is his language.

Mr. HUGHES. Mr. Chairman, will the gentleman yield?

Mr. BENNETT. I yield to the gentleman from New Jersey.

The CHAIRMAN. The time of the gentleman from Florida (Mr. BENNETT) has expired.

(At the request of Mr. HUGHES and by unanimous consent, Mr. BENNETT was allowed to proceed for 3 additional minutes.)

Mr. HUTTO. Mr. Chairman, will the gentleman yield?

Mr. BENNETT. I yield to the gentleman from Florida.

Mr. HUTTO. I thank the gentleman for yielding.

Mr. Chairman, I want to commend my colleagues from Florida for the tremendous statement that he has made and for the great amount of work that he has done on this problem which affects our great Sunshine State of Florida I guess more than any other, and I want this body to know that with the amendment that the gentleman from Florida (Mr. BENNETT) has in the Armed Services Committee bill that I believe at least we will finally be able to do something about the drug trafficking into the United States of America, and particularly as it comes into Florida and to the other coastal areas, and also I would like to ask the gentleman to please verify again that under his amendment that nothing could be done without the authorization of the civilian authority.

Mr. BENNETT. That is correct.

Mr. HUTTO. Without the Secretary of Defense's authorization?

Mr. BENNETT. Yes, and the Secretary of State. It remains under the control of the civilian authority, always.

Mr. HUTTO. It seems to me that has plenty of restrictive language to make sure it is still under civilian authority and also, is it not true that any operations against the drug trafficking would have to be conducted by the drug enforcement agency?

Mr. BENNETT. That is correct; that is clear under my language.

Mr. HUTTO. If the gentleman will continue to yield, it seems to me we have plenty of restrictions as far as the separation of civilian and the military enforcement of the law is concerned.

Mr. BENNETT. Yes; that is correct.

Mr. HUTTO. I commend the gentleman on a great statement.

Mr. BENNETT. I thank the gentleman.

Mr. HUGHES. Mr. Chairman, will the gentleman yield?

Mr. BENNETT. I yield to the gentleman from New Jersey.

Mr. HUGHES. I thank the gentleman for yielding.

I want to commend the gentleman. We pay each other, as a matter of course, a lot of compliments. It just seems to me, I say this in all sincerity, the gentleman has performed, in my judgment, a great public service by advancing the issue to begin with.

Mr. BENNETT. I thank the gentleman for his courtesies and kindness and ability in what he has done.

Mr. HUGHES. What we have done is not in derogation of great work that the gentleman has done in armed services. We are concerned, however, as the gentleman is concerned, about the drug problems. In the Subcommittee on Crime, we have primary jurisdiction over the Drug Enforcement Administration. I also happen to serve with our colleague from Florida on the Committee on Merchant Marine and Fisheries, and we are concerned over the lack of resourses on the part of the Coast Guard and the Drug Enforcement Administration, but the fact of the matter is that the equipment often that these military agencies have is not the equipment that we need and we cannot use a destroyer or battleship often. Much of the equipment that we have talked about just does not lend itself to the type of civilian law enforcement operations that are essential in this country. We have got to begin to realistically fund our drug enforcement efforts.

If we really mean business about directing our efforts against drug abuse, then we have got to do more than we have done today.

If we look at the budget, we are cutting across the board in every area dealing with drug enforcement, including task force operations, training, and what have you. So, posse comitatus is an important component of the overall problem we are trying to deal with.

The CHAIRMAN. The time of the gentleman from Florida (Mr. BENNETT) has again expired.

(At the request of Mr. HUGHES and by unanimous consent, Mr. BENNETT was allowed to proceed for 3 additional minutes.)

Mr. HUGHES. If the gentleman will continue to yield, the bottom line is the law enforcement community has requested specific help. They need the sharing of intelligence data. They need to use from time to time facilities that are within the realm of the military. They need research facilities from time to time and we have provided all of those things just as they have provided them as a matter of course in most instances over the last decade or so.

They have asked for one additional thing. They need from time to time a piece of equipment and just do not have it.

When we try to address that particular concern—and that is all the law enforcement community wants—they do not want the right to arrest or seize.

Mr. BENNETT. That is really not an inquiry and I would like to reply to it in my time.

I would like to say that I understand what the gentleman is saying and there has never been a finer gentleman in the U.S. House of Representatives than the gentleman from New Jersey. The gentleman is a fine and able legislator. I am a crude man compared to the gentleman in every respect.

But it is not true that there is nothing that is needed but a little bit of equipment. It may be true in some procedures that we know about, but it is not true that they do not need these ships off the coast of Florida.

They have too few ships. The Coast Guard has said they need 4 billion dollars' worth of new ships which will take 4 years to build. They need 20,000 new men just to fight in drugs, $4 bil-

lion worth of ships and 20,000 men, at $180 million a year. That is what they need to enforce the drug situation. They will have it under control if they do it. It is not a little bit of equipment, it is a very serious thing we are facing, and it would be a good thing to pass.

What the Judiciary Committee has brought out is a good thing, but it is a very, very small thing; it will not seriously end in any great degree the drug trafficking into the United States, while the provision which I have introduced—and which is in the Armed Services Committee—will. Therefore, I plead with the Members of Congress please to pass what is in the bill and turn down, I would say, all amendments in the end result.

Mr. SCHEUER. Mr. Chairman, will the gentleman yield?

Mr. BENNETT. I yield to the gentleman from New York.

Mr. SCHEUER. I thank the gentleman for yielding.

I want to congratulate the distinguished gentleman from Florida for the tremendous job that he has done on this issue. It goes a long ways to curing, to enabling our society to stop this devastating flow of drugs into our country that so far we are absolutely helpless to control.

I have served on the Select Committee on Narcotics since its inception, and I share the frustration of the members of the committee and indeed the Members of the Congress with our total inability to cope with the flow of drugs that are flooding our country. We do not think and DEA does not think perhaps more than 5 percent of the drugs that come into this country—it is a desperately tragic situation.

I am also concerned about the problem of illegal immigration, whereby perhaps a million or a million and a half illegal immigrants are coming into our shores every year. It is on that specific matter that I wish to ask the gentleman a question.

The CHAIRMAN. The time of the gentleman from Florida (Mr. BENNETT) has again expired.

(At the request of Mr. SCHEUER and by unanimous consent, Mr. BENNETT was allowed to proceed for 3 additional minutes.)

Mr. SCHEUER. If the gentleman will continue to yield, I ask the gentleman, under his legislation, without the White amendment—because the White amendment does cover the immigration nationality—under the gentleman's amendment, would the equipment, the surveillance equipment and the like be available.

Mr. BENNETT. For immigration?

Mr. SCHEUER. To help domestic agencies in the identification and the apprehension of illegal refugees trying to get over our borders?

Mr. BENNETT. Well, say the question again.

Mr. SCHEUER. It is obvious that the gentleman's language is very well crafted to meet the needs of the DEA and other agencies that are trying to control the influx of drugs, the trafficking of drugs into our country.

Mr. BENNETT. Particularly 375, section 375.

Mr. SCHEUER. What I also am asking is, in addition to identification of drug traffickers, could the surveillance system and the equipment be used for the identification of illegal immigrants?

Mr. BENNETT. It could. It would, yes.

Mr. SCHEUER. Is the gentleman sure?

Mr. BENNETT. Absolutely.

Well, that is true because of the broad sections which came from the Senate. They are broad enough to cover that, also which the Judiciary Committee approved and the way the gentleman frames the question, that is the reason I got the gentleman to restate it because the gentleman used one word that threw me a little bit, because the gentleman left that word out in his further reply. Leaving the word out, it became a thing that I can say, yes, it does cover.

□ 1600

Mr. SCHEUER. If the gentleman's language is passed, the surveillance system, the equipment, and the manpower could be used to help the Immigration and Naturalization Service identify the time and place and the circumstances of illegal immigration taking place across the border.

Mr. BENNETT. Yes; correct. They could not apprehend the people.

Mr. SCHEUER. They could not apprehend them.

Mr. BENNETT. Yes. The first way the gentleman was asking the question, it seemed to me the gentleman was asking whether they could arrest or not.

Mr. SCHEUER. Short of apprehension.

Mr. BENNETT. Short of apprehension.

Mr. SCHEUER. All the surveillance and equipment could be used identify for the INS.

Mr. BENNETT. I think that is true of all the views, everything here, except the views of the gentleman from Michigan (Mr. CONYERS).

Mr. SCHEUER. It is specifically true of the amendment of the gentleman from Texas (Mr. WHITE), because he mentions the Immigration and Nationality Act. I just wanted to clarify for the record that, under the gentleman's language, this entire surveillance system and all the equipment could be used to help the INS to know where, when, and how illegal immigration was taking place.

Mr. BENNETT. That was the intention when it passed the Senate. It was my intention, when I offered it in the Committee on Armed Services, and I think it is clear by the language.

Mr. WHITE. Mr. Chairman, will the gentleman yield?

Mr. SCHEUER. May I yield to my colleague, the gentleman from Texas (Mr. WHITE)?

Mr. BENNETT. Yes.

Mr. WHITE. I thank the gentleman for yielding.

Let me read the language of the gentleman from Florida (Mr. BENNETT):

> The Secretary of Defense, upon request from the Federal Drug Agency, is authorized to assign members of the Armed Forces to assist Federal Drug Enforcement officials in drug seizures or arrests, provided that—

Mr. BENNETT. Yes; but he talked about the whole amendment. The whole amendment deals with the other section. It deals with 371, 372, and 373.

Mr. WHITE. But there is no reference to the Nationality Act.

The CHAIRMAN. The time of the gentleman from Florida (Mr. BENNETT) has again expired.

(By unanimous consent, Mr. BENNETT was allowed to proceed for 5 additional minutes.)

Mr. BENNETT. Mr. Chairman, I have asked for 5 additional minutes because I am not getting much of my time. Everybody else is using it up but me.

Now I will decide to whom I am going to yield. I will yield to the gentleman from New Jersey (Mr. HUGHES) in just a minute.

It is true that section 375 deals only with drugs, but the other portions of the bill do not deal only with drugs. They are very broad and they would include immigration.

Mr. Chairman, I yield to the gentleman from New Jersey (Mr. HUGHES).

Mr. HUGHES. Mr. Chairman, I thank the gentleman for yielding.

I have a couple concerns with section 375 of the gentleman's bill. The language recites that the Secretary of Defense, upon request from the Federal drug agency, is authorized to assign members of the Armed Forces. By definition, the Coast Guard is defined as being one of the Armed Forces.

Now, it would seem to me that what the gentleman has done is made the Coast Guard now subject to the Department of Defense in drug-related matters.

Mr. BENNETT. It may seem that way to the gentleman, but I am not doing that.

Mr. SHAW. Mr. Chairman, will the gentleman yield?

Mr. BENNETT. I yield to the gentleman from Florida.

Mr. SHAW. Mr. Chairman, for purposes of clarification and in specific reply to the question of the gentleman from Texas with regard to the use in immigration problems, section 371 of

the bill of the gentleman from Florida (Mr. BENNETT) says that the Secretary of Defense may provide to Federal, State, or local law enforcement officials any information collected during the normal course of military operations that may be relevant to a violation of any Federal or State law.

I believe that covers the question that was raised.

Mr. BENNETT. I knew that some members of the Judiciary Committee felt that, but there was no intention to exclude Immigration or Customs. In fact, Customs is a specific exception to the comitatus anyway.

I am thankful for your attention. I am sorry I trespassed so much upon our time.

Mr. CONYERS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, well, here we have it. The fact of the matter is that there is very little difference between either of these amendments, even with the proposed White amendment being added to the Judiciary Committee amendment. Both amendments are feared by the Department of Defense.

Just when has it arisen that the Judiciary Committee and the Armed Services Committee suddenly have a wisdom greater than the Department that they are saddling these impossible programs to be carried out with?

I would like to read to you from the testimony given on behalf of the U.S. Department of Defense on June 3, 1981, by the General Counsel of the Department of Defense, William H. Taft IV, Esq. Here is what he said:

The position of the Department of Defense on the proposed legislation is characterized by two overriding considerations. First, the mission of the Department of Defense is military preparedness. Assistance to law enforcement agencies should be provided only when incidental to the performance of the Department's mission.

What is he trying to tell the subcommittee?

Second, the Department is sensitive to the historic separation between military and civilian spheres of activity. This distinction is embodied in the Posse Comitatus Act, 18 U.S.C. § 1385—

Incidentally, a criminal statute—

which generally prohibits military participation in civilian law enforcement, with limited exceptions.

What are those exceptions? An emergency: the Governor of a State declares he can no longer maintain law and order; an invasion by a foreign enemy; the quelling of a domestic insurrection against the Government.

Mr. Taft goes on to say:

Preservation of this distinction is one of the most fundamental precepts of our form of government.

This is not the American Civil Liberties Union speaking, but the Department of Defense, sensitive to its obligations.

Then Mr. Taft goes on to review what happened in the Senate, which was a tragedy as far as the Defense Department was concerned, and so he again expresses the point iterated previously.

There is another important consideration before we vote on this matter. Mr. Taft notes that—

Members of the armed forces put in long, arduous duty hours in furtherance of the training and operation necessary for military preparedness. Military readiness is further enhanced by eliminating performance on nonmilitary tasks by members of the armed forces in order to provide increased time for military training. Assignment of military personnel to civilian law enforcement duties would be contrary to the goal of military preparedness, because civilian operations are not an adequate substitute for military training.

This is the Department of Defense. The Pentagon is telling us that they cannot conduct these operations effectively because to do so would deter from its military preparedness. Mr. Taft concludes by stating that—

Such operations normally cannot replicate the training necessary to meet military contingencies. Moreover, participation in civilian law enforcement activities would require specialized training with respect to civilian operations.

Mr. SHAW. Mr. Chairman, will the gentleman yield, please, on that point?

Mr. CONYERS. Yes; I will yield to the gentleman from Florida.

Mr. SHAW. Mr. Chairman, I would like to address the particular question as to military preparedness. In the Bennett amendment, it provides in section 375 that this assistance shall not be granted if it should be shown that it would adversely affect the military preparedness of the United States.

Mr. CONYERS. Exactly.

Mr. SHAW. I would like to say also that in the Hughes amendment the same question is addressed and it provides in section 374 that the military will not be used if it adversely affects the military preparedness of the United States. And both bills adequately address that question.

Mr. CONYERS. I presume by the gentleman bringing this point to our attention that the gentleman would not want the preparedness to be interrupted by such activities, if that were the case.

Mr. SHAW. Both bills specifically prohibit that.

The CHAIRMAN. The time of the gentleman from Michigan (Mr. CONYERS) has expired.

(By unanimous consent, Mr. CONYERS was allowed to proceed for 5 additional minutes.)

Mr. CONYERS. In that case, I would bring the gentleman to the next paragraph of the testimony before the Crime Subcommittee of the Pentagon's representative. Here is how many provisos he added. The gentleman mentioned one. He said that these considerations are also applicable to section 375 of the proposed amendment, and he said that unless four conditions were met in terms of having members of the armed services participate in drug enforcement operations, we could not possibly support the legislation:

(1) the Secretary of Defense must find that such assistance will not impair military preparedness; (2) the Secretary must verify that the drug enforcement operation may not succeed without military personnel assistance;

Must verify—

(3) Federal drug enforcement officials must maintain ultimate control over the activities; and (4) the assignment cannot take place in any location or circumstances not previously approved by the Secretary of State. The Senate bill does not contain a similar provision.

In other words, Mr. Chairman, if you enforce all four provisos, there is no way they could ever get there in time to intervene with anything. That is why the Pentagon has been telling us in one way or another that with all the limitations they are saddled with, plus the White amendment which now keeps them—how many miles, 12 miles, 60 miles out somewhere in the waters—makes the whole thing totally impracticable, even if you are not sensitive to the constitutional considerations that we have been trying so long to get across to this body.

□ 1610

What we are talking about is no idle matter. We are talking about bringing the U.S. armed services into the normal, ordinary enforcement of civilian laws By doing what? By loaning equipment and personnel to operate that equipment to civilian authorities.

If we loan the equipment with the pilots, the officers and the troops, as soon as one of those are endangered, what is the automatic military response, Miranda warnings to the contrary notwithstanding? Wipe them out. Blow them away. That is what they are trained to do, is it not?

Do they have any understanding of whether the Governor of Florida wants them to come in, or whether the mayor of some drug-infested town approves of it, or where is the Coast Guard as opposed to the merchant marine as opposed to the Army? They see it for what it is, a totally impracticable but well-intentioned notion about how we should deal with the drug problem.

Little has been said about the multibillion-dollar Drug Enforcement Administration. Why do we not just give them some more money? Why do we not loan, or dare I suggest, give them some equipment? If we have so much in the procurement bill that the Navy or somebody has some excessive equip-

ment, let us give it to them and keep them out of enforcing civilian laws.

There are constitutional considerations that are being ignored in this debate. I plead with my colleagues to examine what this could ultimately lead to. It would routinely authorize the armed services to intrude into the civilian laws of the United States. That is the beginning of a police state, I say to my colleagues. Nobody here wants that. Already we are talking about hitting the aliens at the same time. Already we are talking about knocking out terrorists along with drugpushers. Where does it end?

Let us pause for a moment. If it is the collective judgment of this body to change a long-standing principle of our form of government, then obviously I will be unable to restrain that. But let us not do it in a military authorization bill that addresses how much equipment we are going to build for the greatest military instrument on the face of the globe.

Mr. JACOBS. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, somebody wrote to me about this proposal a couple of weeks ago, I think, and my offhand response was that it sounded like a pretty good idea to me. But this debate has messed up my thinking with some facts.

The first fact that has messed up my thinking is what happened in the Boston Massacre. Although not generally noted in our history books, the first American citizen to die in the Boston Massacre was a man named Crispus Attucks.

Military law enforcement agencies, without the finery of procedures, shot dead several people in that gathering, that demonstration on that day. It was the precursor, I suppose, of the Kent State tragedy to which reference was made earlier.

My father used to say there are too many people making history who have never read history. I think that has been the problem with most republics throughout history. My father also, a colleague of my dear friend from Florida, Mr. BENNETT, was probably one of the first people to vote in Congress against our unfortunate involvement in the Vietnam war, because there was legislation in the Congress to provide only weapons, not manpower, to the French in their Southeast Asia war. The RECORD will show that my father in that debate many, many decades ago said in this very Chamber that if the equipment goes, our men will follow, eventually, inevitably.

Mr. Chairman, I am a former police officer. I know something about training police officers, and I know something about arrests on the street. Much has been said about protection of the defendant's rights here. What about protection of the public's rights?

The public is entitled to an arresting officer who is trained in the preservation and presentation of evidence, an officer who can give evidence and obtain a conviction. Those who are trained in the military sphere are simply not trained that way, with the possible exception of the military police.

If the tools are lent to the law enforcement agencies, those best capable of operating those tools will, in my opinion, inevitably follow; indeed, they will be there in the first place if the gentleman from Florida's (Mr. BENNETT) proposal is ultimately accepted.

So I caution the committee to think a little bit about history, to think about the cause for the third amendment, the third part of our Bill of Rights, and to think a little bit about the practical means for improving our law enforcement agencies in this area.

The gentleman from Michigan has suggested that the equipment be given to the law enforcement agencies. Why not? The only reason I could think of is the military may still need the equipment. If the military still needs the equipment it probably means that it has the personnel to operate that same equipment. That also probably means that same personnel would end up operating the equipment in its civilian law enforcement role.

As to civilian control of the forces, my colleagues, the civilian part of our Government already controls the military. The President of the United States is the Commander in Chief.

That does not insure constitutional protection of our citizens and their right to have effective, constitutional law enforcement.

In the novel "On the Beach," Nevil Shute wrote that in the final destruction of the Earth, there were five missiles left in China and five missiles left in the Soviet Union. The Prime Minister of Australia reached a Chinese lieutenant who had charge of the five missiles in an effort to stop the last exchange of missiles on Earth. Somebody asked what the answer of the Chinese lieutenant was. And the answer was "If you were trained to fire missiles in hostility, and that was the only training you had, what would your answer have been?"

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. JACOBS. I yield to the gentleman from Michigan (Mr. CONYERS).

Mr. CONYERS. I thank the gentleman for his contribution.

In 1967 Detroit had the largest riot in the history of this country, I am sorry to say. The President of the United States ordered troops into Detroit and Michigan. Without lawful authority, in defiance of national traditions, and in secrecy, the Army seized on that event as an excuse to convert its intelligence unit into a nationwide detective force and to assign 1,500 of their agents to spy as plainclothes agents on civilians and organizations.

The CHAIRMAN. The time of the gentleman from Indiana has expired.

(By unanimous consent Mr. JACOBS was allowed to proceed for 3 additional minutes.)

Mr. CONYERS. One of those organizations was the House of Representatives. We had Members who were the subject of that kind of activity.

Could we have secret intelligence actions going on as a result of this authority being granted?

Whether we could do anything about it is yet another question. I hope the gentleman's remarks on these issues will be considered by every Member who is casting a vote on this matter.

Mr. JACOBS. I thank the gentleman for his contribution. I might just say, Mr. Chairman, that I believe the need to do something should not lead to the willingness to try anything. I urge extreme caution in this area.

Mr. WHITE. Mr. Chairman, will the gentleman yield?

Mr. JACOBS. I yield to the gentleman from Texas.

Mr. WHITE. The gentleman would be then very willing to vote for whatever amendment would eliminate the power of arrest and seizure, from what he says. And from what the gentleman from Michigan (Mr. CONYERS) says, the power to merely use equipment and not to make surveillance and not to arrest and seize and search.

Is that correct?

Mr. JACOBS. I do not believe the gentleman grasps the purport of my remarks. I am simply saying that no matter what the statutory prohibition is, when the Constitution in this case becomes a little bit pregnant, eventually "Rosemary's Baby" will be born.

Mr. HARTNETT. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I have sat here this afternoon and listened to the debate. Before I sat here, I knew very little about it. And perhaps I am still not as well versed on the subject matter as many of the Members who have preceded me to these podiums.

I have heard the gentleman from Michigan say to us that we should be concerned that the Department of Defense is opposed to this, and wherein do we think that the wisdom collective of the Judiciary Committee and the Armed Services Committee exceeds that of the Department of Defense?

I would answer that by asking the gentleman or saying to him that I do not know of any group of people or any agency that is more adversely affected by illegal drug use than our military. It threatens the very survival of this Nation as a free nation and our

capabilities of being able to defend ourselves.

The gentleman from Florida pointed out that when things have threatened this Nation internally, such as the great civil rights strife which we have had in past years, and we saw that was an issue that was about to destroy this great Nation from within, no one objected then to the use of our military forces to enforce a law that was about to destroy the American people and our Nation from within.

And what was so capably pointed out by the distinguished gentleman from Florida was: What, Mr. Chairman, what issue in society today more threatens to destroy our Nation from within than the drug problem which we have, to destroy our society, the minds and bodies of countless millions, many of whom happen to be minority members of our great Nation? What greater issue right now than the drug traffic problem?

And we say, "We have got to do something, but we do not want to step on the constitutional rights of those who would prey on the very right to life of many of our young people."

How many of you in your States—and many of you served in your State legislatures—knew that your highway department on peak Labor Day weekends and Fourth of July weekends would park empty patrol cars, highway patrol cars, State trooper cars on sides of roads? Do you know what it would do? Just the presence of that empty automobile alone caused people to be more conscious that there were such people as drug enforcement officers and law enforcement officers nearby, and they would slow down and drive more carefully or be more cognizant of our traffic laws.

And again as was very ably pointed out by the distinguished gentleman from Florida, their mere presence to a drug-trafficking ship passing a naval vessel or a Coast Guard vessel at sea would cause them to think twice about what their cargo might be.

And maybe we will not get convictions. But maybe countless billions of dollars of illegal drugs will be destroyed, and that will keep that terrible agent from reaching, as was so ably pointed out by my distinguished friend from California, the young people of this country.

So maybe it has got to be a temporary thing, I say to the gentleman from Michigan. Maybe it is something that you and I fear because God knows we do not want a police state, we do not want military people stopping your wife or mine, or your husbands or children as they travel our highways and byways. But I think in the cause of eliminating what is the most insidious cancer that is preying on the American society now, maybe—just maybe—we could put the faith in our Department of Defense and our military people and urge them to do what they can to eliminate this terrible, terrible cancer.

So, Mr. BENNETT—I understand you are not supposed to mention names on the floor, but I do not know why. I think when people deserve bouquets, they ought to get them; when they deserve brickbats, they ought to get them. But I salute you and take off my hat to you, sir, for pointing out and being a leader in what I think is an idea that will go a long way toward eliminating a lot of the drug traffic problem which we have, and I hope that this body will see fit to pass what I think is the first step forward in bringing about some control, some first step forward in bringing some relief to our society and this terrible problem that has infected it.

Mr. EVANS of Georgia. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman and my colleagues, I am in a unique position of supporting all versions of the posse comitatus because I think anything that can be done in this area is an improvement over the present situation.

It has been pointed out that posse comitatus has a constitutional, almost a constitutional mandate, that it is a constitutional right for the separation from the military and the civilian.

Congress passed that law in 1875. It can certainly amend it today to deal with the kind of problem that the previous speaker has just addressed.

We are talking about a situation in which several people have pointed out, "Well, why do we not just give more resources to our civilian law enforcement?" The many billions of dollars that it would cost—the gentleman who mentioned that knows—will not be done under this administration or any other administration because we are talking about a $70 or $80 billion industry that has the ability to buy the kind of equipment, the kind of communication, the kind of sophisticated means to evade law enforcement that we cannot compete with and take out of the taxpayers' pockets.

It seems ludicrous, to me, to have the equipment and personnel available. We have the military. What is our military doing? We are not engaging in any war. We can at this time, consistent with routine flights and with routine training, with routine observation, through our military personnel and the use of the equipment that was bought at the expense of the taxpayers, assist law enforcement with a serious problem. Why can we not wait for every minute? Every few minutes that we wait, we have another child caught up in the drug scene.

Mr. SKELTON. Mr. Chairman, will the gentleman yield?

Mr. EVANS of Georgia. I yield to the gentleman from Missouri.

Mr. SKELTON. Mr. Chairman, a lot has been said today in the name of history, and I would like to join with the gentleman in his thoughts. The gentleman mentioned a few moments ago that the law that did away with the military enforcing civilian law was in 1875. I know the gentleman will recall this as a corrective law that corrected the Reconstruction Era and the excesses of that day which were part of our American history.

This is a different situation today.

The drug problem, as the gentleman has so aptly pointed out, is one of the most, if not the most, devastating to the youth of America.

I certainly hope that in looking at history we will not look at it through the wrong tinted glasses and look at this foursquare because we must do something; and the use of history to divert us from a true and correct solution is not the way to go.

I commend the gentleman on his comments.

□ 1630

Mr. EVANS of Georgia. I thank the gentleman. I would like to further point out that in dealing with not only the cost that we have talked about before and what it would cost to put in the same thing that we have available through our military into civilian law enforcement, it would cost tens of billions of dollars. We do not need full-time equipment. We just need the surveillance. We need the assistance when we need it, and Congress certainly has the authority to do that.

It has been pointed out by law enforcement officials that if they could get someone to just tell them when suspicious ships were coming in or suspicious planes were flying in, they can follow that in to where the plane landed. They could confiscate the drugs or make the arrests. There is no reason why the taxpayers of this country have to face the great drug problem because we do not have the good sense to duplicate the use or to double the use of what we already have available.

Mr. WHITE. Mr. Chairman, will the gentleman yield?

Mr. EVANS of Georgia. I yield to the gentleman from Texas.

Mr. WHITE. Mr. Chairman, I want to thank the gentleman for yielding. Pertaining to one of the statements the gentleman made earlier as to the use of the equipment, and why should we not use this equipment and personnel, I merely wanted to point out one very important difference between the Bennett bill and the one I have provided.

The CHAIRMAN pro tempore. The time of the gentleman from Georgia has expired.

(At the request of Mr. WHITE and by unanimous consent, Mr. EVANS of

Georgia was allowed to proceed for 5 additional minutes.)

Mr. WHITE. In the Bennett language there is no provision for the use of equipment by the military personnel for the surveillance of those who would violate our narcotics laws. There is no provision in there whatever. The only provision that exists in the language of Mr. BENNETT that is now in the Armed Services Committee bill is that they will provide any information collected during the course of military operations. Otherwise, there is no mention of the use of equipment by military personnel. The only other provision is the lending of military equipment.

Now, this is very sophisticated equipment. Much of it needs to be operated by the military personnel. The amendment I have presented to the Judiciary Committee's amendment does provide for the lending of the equipment, but also provides for the operation of the equipment by the military personnel for the purpose of surveillance, monitoring, tracking those who violate the narcotics laws, and those who are illegal aliens and contraband. So, those are provided specifically in the bill we are supporting here.

Mr. EVANS of Georgia. I thank the gentleman, and I would like to reclaim the balance of my time and conclude my remarks.

The whole point I was trying to make here is not so much which bill to support. I personally believe that the Bennett bill would be much more effective in coping with the drug traffic. At the same time, I believe that the Hughes amendment, as amended by White, would do a great deal because the problem in the past has not been the overuse of the military; the problem has been that the people in charge of the military bases have used the posse comitatus statute to not do anything to assist civilian law enforcement. They have acted on an individual basis depending on who the commander was to not participate, and all this fear of what is going to happen when the military takes over is in direct contradiction to what the facts are.

We have had hearings all over the Southwest; we have had hearings in the Judiciary Committee; we have had hearings in the Defense Committee, and all those hearings indicate that the problem is not abuse, the problem is inaction. The problem is, nobody is doing anything and our children every day, more and more, are being infested with this problem.

If we want to sit here and talk about fine points and talk about the Constitution, where it does not apply to this particular case, and let more and more of our kids go down the drain, and let more and more of our parents be brokenhearted because they have lost their kids, then I think what we ought to do is just sit here and engage in a fine debate and talk about all the fine points and talk about the rights of poor criminals who are making billions of dollars out of killer-dealing death to our young people. If we want to do that, let us do it, but I would say, let us do something today, whether it be Hughes amended by White or Bennett. Let us do something, pass something, and show the criminal element of this country that we mean business about the drug traffic in this country.

Mr. HUGHES. Mr. Chairman, will the gentleman yield?

Mr. EVANS of Georgia. I yield to the gentleman from New Jersey.

Mr. HUGHES. Mr. Chairman, first let me just commend the gentleman for his superb leadership in this entire area. He has been very deeply in this for a number of years, and goes back to before he came to this Congress. He is to be commended.

Let me, if I might, raise another concern that I have about the Bennett language. Section 375 of the Armed Services Committee bill provides that the Secretary of Defense has to make certain findings. One of the findings, and let me read it, is:

> The Secretary of Defense has to verify that the drug enforcement operation may not succeed without military personnel assistance.

Now, our colleague from Michigan aptly pointed out that the Department of Defense does not really want any additional authority. They like it as it is. They are going to say to the Secretary of Defense, "Before you can provide equipment and personnel, you have got to make a finding that the operation would not succeed without your intervention."

How is the Secretary of Defense going to do that? In fact, it gives him an out. All a Secretrary of Defense has to do as an excuse for not cooperating, as often they do not cooperate, as the gentleman knows, is to find that it would have succeeded without them.

Mr. EVANS of Georgia. May I answer the gentleman's question by stating that, if I understand the rules, the Hughes amendment will come up first. I intend to support that. I intend to support Mr. WHITE, and if for some reason they do not pass, I intend to support Mr. BENNETT. The point is, we need to do something. I understand the practical effect. We have a conference committee that will take this and perfect the language if it needs to be perfected, but the important thing today is that we get a version of this bill passed.

The CHAIRMAN pro tempore. The time of the gentleman from Georgia has again expired.

(At the request of Mr. HUGHES and by unanimous consent, Mr. EVANS of Georgia was allowed to proceed for 1 additional minute.)

Mr. HUGHES. Let me just say that in the final analysis we all want to get the ball to the goal line.

Mr. EVANS of Georgia. Yes.

Mr. HUGHES. The important thing is to try to do something of significance to combat the drug traffic. I say to my colleague, whatever we do has to be carefully crafted because if, in fact, in our endeavor to try to provide law enforcement with assistance we in fact undermine law enforcement capabilities by providing personnel that are not trained, then we have not done our job.

Mr. EVANS of Georgia. I would answer the gentleman's question by saying that should the military desire not to do anything, they may be able to use that language not to do it, but that is a guess on my part, and my colleague from Florida may disagree.

Ms. FIEDLER. Mr. Chairman, I move to strike the requisite number of words.

I would like to make an inquiry of the gentleman from Texas. I would like to ask Congressman WHITE for some information regarding the amendment.

I live in the State of California, and there has been a tremendous flow of illicit drugs over the border from Mexico. I am very concerned that the gentleman's amendment might limit any surveillance or involvement on the part of the military where there happen to be a number of bases close by that might be involved, so I would like to know what the limits are of the amendment regarding the geography.

Mr. WHITE. The limits are these: They can monitor, they can survey, they can pass the information. They cannot arrest or seize. They put out sensory devices. They can use radar to catch planes. A good deal of narcotics are coming across in small aircraft. They can use radar, but they cannot go in and seize.

I do not think the gentlewoman from California would want to see any troops where they do not have any military posts on the border, going there in the dead of night when they are coming across, trying to make arrests and seizures, because there may be shootings, international incidents, and we will not have expert apprehensions.

Ms. FIEDLER. Is the gentleman indicating, then, that in the situation on land as between California and Mexico, that it would not be permissible under the gentleman's amendment to seize illicit drugs?

Mr. WHITE. It is not permissible in any event by my amendment to seize, and no arrest whether at sea or on land. It removes the troops from the seizure and apprehension because that is not what their service is for, but it does permit the full limit, unlike the Bennett amendment. It allows them to

be used on request for surveillance. They do not provide for surveillance specifically for narcotics and for other purposes. Theirs is only in relation to military use. Ours is specifically requested to survey, to monitor, to track, and pass that information on to the arresting and seizing officers; have them working in tandem with DEA, Customs, border patrol, with all working in tandem.

□ 1640

They would be the arresting officials, not the military. We would not expose the troops to the shooting and all the other problems and to the poor establishment of evidence as we would if we just used civilian people.

Ms. FIEDLER. Mr. Chairman, I thank the gentleman very much for his explanation.

I simply want to add my support to the efforts of the gentleman from Florida (Mr. BENNETT). I would, in fact, support the use of the military in the event it were necessary and in the event that it was there onsite when there was illicit drug traffic.

As a former member of the Los Angeles school board, I have seen the terrible implications of drug abuse among children. We see it on an ongoing basis in our increasing crime statistics, and I think unless we get it under control, we are going to see a continual erosion of law.

I cannot in strong enough terms indicate that where there is abuse and illegal action and where we have resources on the spot, we ought to utilize them. To do anything less is really a disservice to the people of our country and particularly our children.

Mr. PRICE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to see if we could come to some agreement on winding this up. We have been on this one issue for about 2½ or 3 hours.

I wonder, Mr. Chairman, if we could agree to take the vote on this in 10 minutes, and I make that as a unanimous-consent request.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

Mr. HUGHES. Mr. Chairman, reserving the right to object, is the gentleman talking about debate on the White amendment?

Mr. PRICE. On the issue before us.

Mr. HUGHES. The White amendment?

Mr. PRICE. The White amendment and all amendments thereto.

Mr. HUGHES. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mrs. CHISHOLM. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I was viewing the proceedings in my office, and I recognized that I just could not sit still any longer. It was necessary for me to come over here and at least register my deep concern over what is taking place in this Chamber today.

This is a very basic issue. It is a very important issue. First of all, we are cognizant of the fact that the Department of Defense is not interested in this particular situation at all.

Second, if indeed the Department of Justice really feels that we are not winning our battles in the drug war and that one of the several reasons might be the necessity for new kinds of equipment and materials, why is it that the money and the equipment cannot be placed in that particular unit?

Third, I think we have to recognize that because of the training of persons in the military, there is no question of the fact that in the event they have to pursue a number of drugpushers or persons engaged in the drug business, the immediate response would be to put into operation the kind of training and the kind of attitudes that have been engendered in said persons as a result of that kind of training that goes on over a period of years. And in many instances I do not think that many of us can really foresee that there is a possibility of many persons really getting killed and getting hurt unnecesssarily.

There is no room in our society for the intervention by the military in terms of civilian life. We are moving in recent days in the direction of acknowledging that we have failed, in spite of the tremendous amounts of money that we have placed in different areas, to do a job, and in a state of panic and in a state of paralysis or stagnation, dependent on how we view it, we are now going to come forth with suggestions that would help the situation irrespective of what the implications and the ramifications of these suggestions might mean to the people in this country.

I just could not believe that we are moving in the direction of involving the military in terms of the civilian life and the problems that we are finding in our society with respect to the drug business. I do not know if we have really sat down and thought it out very, very carefully as to what we are really doing, and in our panic and with the fact of what the statistics show in terms of the drug trade and in terms of the breakdown of family units and morality in this country, the feeling is that what we must do is come up with anything irrespective of what is meant without taking into consideration what this could do to our society as a whole in the future.

I have been here now going on 13 years, and this has really shocked me more than anything else that I have observed since I have been in the U.S. House of Representatives, because we are moving in our society toward a terrible control on every level and we are moving into a society in which there will be a great deal of control and a great deal of intervention in the lives of people.

Mr. Chairman, it just frightens me to death that we cannot find other ways of combating this particular drug trade that we have in our country without now going to the military and bringing them into our civilian lives.

Mr. CONYERS. Mr. Chairman, will the gentlewoman yield?

Mrs. CHISHOLM. I yield to the gentleman from Michigan.

Mr. CONYERS. Mr. Chairman, I appreciate the gentlewoman's presentation, because it is a nonlawyer but humane, responsible, legislative examination of what we are doing here.

Now, constant reference has been made to brushing the Constitution aside because this is an important social question. A number of Members here have carelessly gotten up and said, "So what, if it is just a matter of arguing about somebody's constitutional rights?"

But certainly the constitutional rights are those of the American people, not the drug-pushers that we are concerned about here.

The CHAIRMAN. The time of the gentlewoman from New York (Mrs. CHISHOLM) has expired.

(On request of Mr. CONYERS, and by unanimous consent, Mrs. CHISHOLM was allowed to proceed for 4 additional minutes.)

Mr. CONYERS. Mr. Chairman, if the gentlewoman will yield further, let me tell the Members that for everybody who has recognized that there is a constitutional issue involved in this amendment, others are saying, "Well, this is just an argument between lawyers and legislators about an old law, so we will change it." Right?

Wrong. Because if it has a constitutional basis, then we cannot change it without peril to the Federal judiciary and setting it aside. Because of what? Unconstitutionality.

So I ask, could we merely take that into passing consideration? If we decide in our ultimate wisdom that we are going to change this 100-year-old law that has admitted constitutional sacredness, please, let us consider that we are tampering with the Constitution here. I ask all the Members to very carefully consider that one fact.

Mr. Chairman, I thank the gentlewoman for yielding.

Mr. STRATTON. Mr. Chairman, will the gentlewoman yield?

Mrs. CHISHOLM. I yield to the gentleman from New York.

Mr. STRATTON. Mr. Chairman, I appreciate my colleague, the gentlewoman from New York, yielding to me.

I do not pretend to be a constitutional expert nor a lawyer, but I believe the false interpretation of what she said she heard on the tube which brought her over here may be slightly distorted. My understanding of what the proposal that is included in our bill and that was offered by the gentleman from Florida (Mr. BENNETT) and which was defended very ably by him on the floor is directed primarily toward keeping out of the United States those people who would bring in these drugs from somewhere around the world to damage the American people.

This proposal, as I understand it, is not suggesting that we hire the Army to track down the drugpushers on the streets of New York City, for example. It is an attempt to try to establish some kind of border situation, as long as we have a Navy available, that would track down people who are preying primarily on American citizens, people from other countries that bring in drugs and think they can keep it up.

□ 1650

Mrs. CHISHOLM. Mr. Chairman, I yield no further because I think what the gentleman is attempting to do is to really in a sense distort what I have said.

The basic question, the bottom line of what I have said is that we are now going to involve the military in some form with respect to this particular issue, and I am asking the question as to why is it necessary at this point in time to involve the military or any aspect of the military? Why is it that we could not give the equipment and the materials and all of the things that are necessary to those units of Government that are already handling the issue because of the ramifications of involvement of the military in any sense?

Mr. STRATTON. Mr. Chairman, will the gentlewoman yield?

Mr. CONYERS. Mr. Chairman, will the gentlewoman yield?

Mrs. CHISHOLM. I yield to the gentleman from Michigan.

Mr. CONYERS. May I point out the gentleman from New York is in gross error. The Bennett language is not in anyway restrictive in limiting it anywhere in its operation. No. 2, the armed services already have the authority to operate exterritorial. They do not have to get a special law from us to operate overseas and in other places.

Mr. HUGHES. Mr. Chairman, will the gentlewoman yield?

Mrs. CHISHOLM. I yield to the gentleman from New Jersey.

Mr. HUGHES. I thank the gentlewoman for yielding.

What the gentlewoman has said, I think, is apt. What we should be doing is providing more equipment, more personnel, to our law enforcement community. We are not doing that. We put back into the budget about $3.2 million needed by DEA, but it is still inadequate. Each year it keeps going down.

The CHAIRMAN. The time of the gentlewoman from New York (Mrs. CHISHOLM) has expired.

(At the request of Mr. HUGHES and by unanimous consent, Mrs. CHISHOLM was allowed to proceed for 2 additional minutes.)

Mr. HUGHES. If the gentlewoman will yield further, the issue we see on the Judiciary Committee part is a meager effort to try to encourage cooperation where that is possible. The sharing of intelligence information, the sharing of that equipment, where that can be done without taking away from the military mission.

In fact, by regulation, under section 374, the Secretary of Defense can do just as the gentlewoman has suggested, provide the separate arm for the equipment so that when that is loaned out that there is a separate group that would operate that equipment. That can be done by regulation. So, it can be carried out.

But unfortunately, the arguments have gotten off on tangents. The bill as drafted by Judiciary is very narrowly crafted to provide what law enforcement has requested, and unfortunately we have gotten off on a whole host of other issues that are interesting, but they really are not relevant to the Judiciary Committee bill.

Mr. BENNETT. Mr. Chairman, will the gentlewoman yield?

Mrs. CHISHOLM. I yield to the gentleman from Florida.

Mr. BENNETT. I thank the gentlewoman for yielding.

The gentlewoman did ask why not do this through appropriated money? I do not believe the gentlewoman probably understood the statistics cited here. The Coast Guard says it would cost $4 billion to build the ships necessary to make a reasonable attack on the drug trade coming in. It would require 20,000 new personnel. That is $180 million a year. That is $4 billion which we are not going to get. We are not even getting $3 million.

We are actually cutting down, this Congress is cutting down on what is done.

Mr. CONYERS. Mr. Chairman, will the gentlewoman yield?

Mr. CHISHOLM. I yield to the gentleman from Michigan.

Mr. CONYERS. I thank the gentlewoman for yielding.

We have two sets of views here. One, that this is the most horrendous problem we have ever faced, and, two, we know darn well we will not allocate any money to it.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. WHITE) to the Judiciary Committee amendment.

The question was taken; and the Chairman announced that the ayes appeared to have it.

Mr. CONYERS. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

□ 1700

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have responded. A quorum of the Committee of the Whole is present. Pursuant to rule XXIII, clause 2, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

On the voice vote, the Chair will rule that the amendment had carried.

So the amendment to the Judiciary Committee amendment was agreed to.

AMENDMENT OFFERED BY MR. SHAW TO THE JUDICIARY COMMITTEE AMENDMENT, AS AMENDED

Mr. SHAW. Mr. Chairman, I offer an amendment to the Judiciary Committee amendment, as amended.

The Clerk read as follows:

Amendment offered by Mr. SHAW to the Judiciary Committee amendment, as amended: Page 47, strike out line 14 and insert in lieu thereof the following: "member is authorized by section 375 of this title or is otherwise authorized by law.".

At the end of the amendment add the following:

"(g) The Secretary of Defense, upon request from the head of a Federal agency with jurisdiction to enforce the Controlled Substances Act (21 U.S.C. 801 et seq.) or the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), may assign members of the armed forces to assist such agency's drug enforcement officials in drug seizures or arrests outside the land area of the United States (or of the territories and possessions of the United States) if (1) that assistance will not adversely affect the military preparedness of the United States, (2) the Secretary of Defense verifies that the drug enforcement operation may not succeed without military personnel assistance, and (3) Federal drug enforcement officials maintain ultimate control over the activities and direction of any drug enforcement operation."

Mr. SHAW (during the reading). Mr. Chairman, I ask unanimous consent to dispense with further reading of the amendment, and that the amendment be considered as read printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. SHAW. Mr. Chairman, I will be brief in my remarks. I believe that we have thoroughly debated the proposition before the House with regard to the amendment to that provision. We have heard, I think, eloquent debate late this afternoon.

I think that there is no question in this House in anyone's mind that the drug problem is the No. 1 domestic problem that we have in the country today. In my opinion, it surpasses the problems that we have with a crippled economy that we are dealing with; it surpasses the problem that we are having dealing with the tax problem and the tax cut. We have a cancer that is totally out of control in this country. We have two amendments that are yet to be considered after my amendment. We have two very fine amendments to be considered; one by the gentleman from Florida (Mr. BENNETT) of the Armed Services Committee, which is an excellent amendment. It provides that the military can be used in effecting seizures, as well as arrests. The other is by the Judiciary Committee, as offered by the gentleman from New Jersey (Mr. HUGHES), and amended by the amendment of the gentleman from Texas (Mr. WHITE). It also is a very fine amendment. It restricts the use of military personnel and equipment to providing intelligence and also operating equipment.

What we are trying to do by my amendment is to strike a compromise. We have heard this afternoon statements about the placement of troops on the American-Mexican borders and how that would be repugnant to many of the people here.

We do have a drug problem that we have totally been unable to deal with through local and Federal law enforcement officials. I think it has been very aptly pointed out that the drug traffickers are in themselves a military force outfitted with the finest equipment and with well-trained personnel. They have us outmanned, they have us outequipped, and they have us outgunned.

I therefore think that it is vitally important that we permit in some instances the actual use of military personnel in making seizures and making arrests.

I am specifically concerned about the waters surrounding the United States as the route over which the vast majority of drugs are brought into our country so I am proposing an amendment that would be an amendment to the bill of the gentleman from New Jersey (Mr. HUGHES) which would provide that in those instances outside of the land areas of the United States and our territories under very specific circumstances when military personnel are required to assist in making arrests and seizures, that they would be able to do so.

In all instances, however, the Federal Drug Enforcement officials would maintain the ultimate control over the activities and directions of this enforcement operation.

I think that for us to have the military personnel that we have, and I am specifically concerned with the Navy personnel that we have under our command as a nation, and for us not to effectively use them is very bad judgment, indeed.

I do believe that with their use, we can make a significant dent in the trafficking of drugs coming into this country.

I would like to quickly say, though, that I intend to vote "yes" on the Hughes amendment with or without my amendment attached to it. If that does not pass, I intend to vote "yes" on the Bennett amendment, because I think that it is very important. It is vital that we pass here in this House a bill that will qualify the provisions of posse comitatus to use the military in the enforcement of our drug laws.

□ 1710

Mr. STRATTON. Mr. Chairman, will the gentleman yield?

Mr. SHAW. I yield to the gentleman from New York (Mr. STRATTON).

Mr. STRATTON. The effect of the gentleman's amendment is to permit the military to do what?

Mr. SHAW. It permits—the big significant difference or difference that this would make to the Hughes amendment is to allow the Armed Forces to be used outside of the land area of the United States and its territories to assist the Drug Enforcement officials in making arrests and in seizures.

Mr. STRATTON. The Hughes amendment would not allow their use either inside or outside the United States; is that correct?

Mr. SHAW. That is correct.

Mr. STRATTON. So the gentleman would oppose the use within the United States but not outside?

The CHAIRMAN. The time of the gentleman from Florida has expired.

(By unanimous consent Mr. SHAW was allowed to proceed for 5 additional minutes.)

Mr. SHAW. I would ask the gentleman to repeat the question, please.

Mr. STRATTON. In other words, the gentleman's amendment is a perfecting amendment to the Hughes amendment, as I understand it; is that right?

Mr. SHAW. I think it is a compromise. I think Mr. HUGHES would disagree that it is perfecting.

Mr. STRATTON. Is the gentleman offering his amendment as an amendment to the Hughes amendment or as a substitute?

Mr. SHAW. It is an amendment to the Hughes amendment.

Mr. STRATTON. So the gentleman would go further than the Hughes amendment by at least allowing the use of American military forces at sea, if not on land?

Mr. SHAW. Outside of the land area of the United States.

Mr. STRATTON. The Hughes amendment, as I understand it, would say it is all right to use the military, but not use the military people.

Mr. SHAW. The gentleman says it is all right to use the military, but not in arrests and seizures.

Mr. STRATTON. I appreciate the clarification. I have listened to this for so long that it is all getting a little confusing. I think the gentleman's amendment is a good one and I will support it.

Mr. SHAW. I thank the gentleman. We seem to be catching our tail here this evening, but I do think it is an important distinction and I think it is so important that when we have the military personnel out there, one of the most valuable tools that they have in defense of their own safety is the power to make an arrest. This is true of any law enforcement official and I think it is particularly true here when the military is under the control of the law enforcement agency.

Mr. STRATTON. If the gentleman will yield to me further, one of the major sources of drugs, as I understand it, is not just the boats that come in from Cuba to the gentleman from Florida's home State, but that we also have a lot of little planes that fly over from Mexico. If we send some American planes after these people who are coming in with drugs, is that in line with the gentleman's amendment or not?

Mr. SHAW. I believe that the Hughes amendment already addresses that with or without my amendment as far as surveillance is concerned. The only thing my amendment really adds is the arrest and seizure provision outside the land area of the United States.

Mr. STRATTON. They can surveille but they cannot shoot them down.

Mr. SHAW. They cannot shoot them down under either provision; but the gentleman is correct.

Mr. STRATTON. It is a little hard to make an arrest in the air.

Mr. SHAW. I would certainly agree with that.

Mr. Chairman, I yield back the balance of my time.

Mr. HUGHES. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, it has been a long afternoon and I know that we have

spent a lot more time than a lot of people envisioned, but it is an important issue.

I oppose the Shaw amendment, not because it is not well intended, because it is. I understand my colleagues' utter frustration. They have a mind-boggling drug problem in Florida. Some reports suggest it is larger than the citrus industry in money being generated. Their law enforcement community today just cannot cope with the problem. So I understand where the gentleman is coming from.

But the bottom line is we are talking about soldiers and sailors. They are not policemen. They have not been trained as policemen. They have not been trained as witnesses.

My colleague, in all fairness, would provide the right to arrest and seize, but not search. That in itself may seem to be somewhat innocuous, but think of it for just a moment, a military officer on the scene with the authority to arrest and to seize, but not to search. One of the first things one wants to give a police officer, first of all, is the right to search in the event whatever he is seizing does not prompt the person he is seizing it from to assault him. So, under this amendment, you do not have authority to search either the individual or the property in whatever situation is presented.

In addition to that, the gentleman's amendment would make the Coast Guard, and I am sure the gentleman does not want to do this, subject to the authority of the Secretary of Defense in peacetime. By definition, the Armed Forces that he refers to in his amendment incorporate into that the Coast Guard. The last thing we should want to do is make the Coast Guard subject to the Secretary of Defense in peacetime operation. We have enough problems in trying to get agencies to talk to one another.

Finally, and another concern of mine, and it is just as real, is that in order for the Secretary of Defense to act he has to find and verify that the drug enforcement operation may not succeed without military personnel or assistance. I ask my colleagues: How can the Secretary of Defense know whether or not a law enforcement operation is going to succeed?

The reason we are here today is because the Secretary of Defense does not want this authority anyway. He does not want to cooperate. If we require him to make a finding and verification that the operation will not succeed before cooperation is available he will have a perfect out. That is precisely why we did not like the language when we first looked at it.

If my colleagues want to help law enforcement, give them what they want. All they have asked for is, first of all, a sharing of intelligence, a sharing of base facilities, a sharing of research, and they need equipment from time to time. Second, it is an empty gesture to give them equipment without an operator if it is so sophisticated that DEA cannot operate it. Where we are confronted with an emergency situation, where equipment is not available to DEA or the Coast Guard, this permits that agency to seek help from the Secretary of Defense if, in fact, the Secretary can provide it without taking them away from the military mission, which is paramount. That is all the law enforcement community has requested. They do not want the right to arrest inherent in the military role. They cannot possibly train every soldier and Navy personnel in the art of arresting and seizing.

Yet, that is what we would have to do, in effect, to responsibly comply with the mandate that would give them the right to search and seize. So I would urge my colleagues to reject the Shaw amendment. It is well intentioned, but it falls far short of the mark and, in fact, would just be counterproductive. The Justice Department is opposed to it. The Defense Department is opposed to it. And every law enforcement officer that has testified before our committee is opposed to it.

I yield back the balance of my time.

Mr. McCOLLUM. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the Shaw amendment.

Mr. Chairman, as a member of the Judiciary Committee, and as a person very vitally concerned with this particular problem, who sat here all afternoon listening to this particular debate, I am very pleased to rise in support of the amendment offered by the gentleman from Florida (Mr. SHAW). I happen to think that my colleague from Florida has hit the nail on the head in perfecting what otherwise is basically a good amendment by the Judiciary Committee.

The efforts by my colleague from Florida (Mr. BENNETT) in bringing this about are to be commended. His objective, which is incorporated in the Shaw amendment, of providing military personnel, at least on the seas, in a real war on drugs, is very appropriate and very necessary if we are going to control the drug traffic incoming in the United States. That is precisely the beauty and the benefit of what the Shaw amendment provides.

Let me speak for a moment to the facts of life in the military. As far as the military justice system is concerned, there are plenty of opportunities and have been historically for the training of military personnel to be engaged in the pursuit of seizures, and arrests as well as seizures.

□ 1720

I have spent 4 years on active duty in the U.S. Navy's Judge Advocate General Corps. I have been a reservist ever since that time wearing that particular banner. And I can tell the Members that the military law under the UCMJ is far more stringent in this area of its requirements than the civilian criminal law area. The military personnel, particulary the officers in command of the vessels and the craft and the units involved, have very strong backgrounds and stringent backgrounds in obeying the constitutional principles involved in enforcing laws of this nature. So I do not think that problem merits the kind of attention that it has gotten today.

Although it should be discussed, it does not hold water.

I can further say that I do not think there is any greater position where there would be a better use of the term "war" on something outside of a foreign enemy than on drugs in this country.

We have talked about wars on poverty, we have talked about wars on hunger. We have talked about a lot of wars, but there is no place better suited to talk about a war than when we talk about the equivalence of piracy on the seas, which is what is going on in this case in our Caribbean in particular, and in some other territorial waters immediately offshore.

We need to use every ship we can possibly use to intercept this particular invader in this particular instance. There is no reason why we cannot follow the piracy precedents in our history while we are talking about that, to use our military for this purpose. And there is no reason why we should not empower, as actually in listening to and in reading the letter from the gentleman representing the Department of Defense. There is no reason why we should not, if we are going to put the equipment out there, let it be used, and have some personnel to operate it. There is no reason why we should not allow the military to protect itself and the military manpower of this country to be used as it would be required to be used in order to implement the Judiciary Committee's approach.

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. McCOLLUM. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Why not just draft the DEA and draft Immigration Service and put them in the military? Why do we not just draft the police and put them in the military? Then they will have plenty of funds, and they can enforce the drug laws to the hilt?

Mr. McCOLLUM. The answer to that is, very simply, we do not have enough personnel to do both of those jobs, but the military does.

Mr. STRATTON. Mr. Chairman, will the gentleman yield?

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Mr. McCOLLUM. I yield to the gentleman from New York.

Mr. STRATTON. The gentleman is making a very fine statement, and I support his view.

The gentleman from New Jersey indicated that the Secretary of Defense was against the Shaw amendment, that the Secretary of the Treasury was against the Shaw amendment.

Is it not also likely that the drug pushers are against the amendment, too?

Mr. McCOLLUM. I think the gentleman's point is well taken.

May I say something in response, also?

The letter of the Secretary of Defense, which I have read—the gentleman from New Jersey very eloquently presented it before our Committee—does say that the Secretary of Defense is opposed to any of this. But the fact is he also says in that letter, if I am interpreting it correctly—and I will ask the gentleman from New Jersey to correct me if I am wrong—that if we are giving this power out there, we have got a real problem if the military manpower is out on the seas and is not allowed, in essence, to defend itself or to participate in the activities.

Mr. HUGHES. Mr. Chairman, will the gentleman yield?

Mr. McCOLLUM. I yield to the gentleman from New Jersey.

Mr. HUGHES. Mr. Chairman, I can say, without hesitation, that the language built into the White amendment and existing law is that the military has the authority to defend itself. So any suggestion that the military would not have the authority to defend itself is not accurate.

The CHAIRMAN. The time of the gentleman from Florida (Mr. McCOLLUM) has expired.

(On request of Mr. HUGHES, and by unanimous consent, Mr. McCOLLUM was allowed to proceed for 2 additional minutes.)

Mr. HUGHES. Let me just say to my colleague, the gentleman from New York, I think that all versions, whether we are talking about DICK WHITE's attempt or whether you are talking about the attempt on the part of the author of the armed services amendment, the gentleman from Florida (Mr. BENNETT), are all sincere efforts to try to provide law enforcement with some additional tools. But you have two different approaches.

One, in fact, is very limited, suggested by the law enforcement community, indicating to us what they need, and we tried to craft the language that would meet the needs of the law enforcement community.

Frankly, much of the equipment which is held by the military is not the type of equipment, as the gentleman knows, that we need in law enforcement. And even what we are doing today is inadequate. If you look at the Drug Enforcement budget or the BATF budget or the FBI budget, we are really losing ground on all fronts.

We talk about combating drug abuse. We are doing a lousy job of combating drug abuse when we cut across the board, as we have done in the last several years. If you look at the Drug Enforcement Administration's budget just this year, we have lost ground again. So that is where we ought to be shoring up our resources, right there. And even though the language in our bill is going to help, it is not going to be the cure-all. It seems to me that any effort to give the military the right to arrest and seize is going way beyond what is needed and in fact is going to be counterproductive.

Mr. STRATTON. Mr. Chairman, will the gentleman yield?

Mr. McCOLLUM. I yield to the gentleman from New York.

Mr. STRATTON. The gentleman from New Jersey says that there are two different ways of proceeding against this.

I might borrow a saying from my friends from the other side of the aisle that the other system that we have been using so far has not worked. Maybe the idea of the gentleman from Florida (Mr. BENNETT) will be a little bit more effective.

Mr. McCOLLUM. I think that the key crux to this whole matter is that we need to stop the drug trafficking. The Coast Guard and the civil law enforcement authorities do not have the equipment.

The CHAIRMAN. The time of the gentleman from Florida (Mr. McCOLLUM) has again expired.

(By unanimous consent, Mr. McCOLLUM was allowed to proceed for 1 additional minute.)

Mr. McCOLLUM. What we need to observe is the fact that the Coast Guard and the civilian law enforcement agencies of this Nation do not have either the equipment or the manpower to cover the vast seas and the limits of our territorial waters off the landmass. What the Shaw amendment does is to give them not only the equipment but also the manpower to cover that territory, not only for the purposes of interception by radar, but also for the purposes of arrest and seizure, which is what is demanded if we are really going to win the war on drugs.

Let me conclude by saying that I believe that it is far greater of a worry for us to be worried about winning the war on drugs than it is to be worried about some minor international embarrassment that might result from this, which I do not think will be the case in any event.

I urge the support of the Shaw amendment.

Mr. CONYERS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I will not, possibly, use the 5 minutes; but I should report to the Members what the Subcommittee on Criminal Justice, of which I am a member, is doing.

We are working right now, continuing efforts begun before the consideration of this bill, for additional funding for the Drug Enforcement Administration.

Now, we need that.

We are ready to violate the Constitution, some of us here, in a effort to get more resources to fight the drug problem.

So rather than jeopardize passing an unconstitutional piece of legislation, which is all the subcommittee chairman is suggesting this amendment will do to his already questionable piece of legislation, why do not some of the members join us and testify in support of additional funding, and then perhaps urge on this side of the aisle that the Department of Justice come before the Criminal Justice Committee and testify for what everybody knows is so necessary; namely, some additional funding for the resources that are leading us to beg, borrow, and steal from the armed services?

Mr. SAWYER. Mr. Chairman, will the gentleman yield for a question?

Mr. CONYERS. I yield to my colleague, the gentleman from Michigan, for a question.

Mr. SAWYER. Mr. Chairman, the gentleman has kept continuously referring to this being not changing an old law but violating the Constitution.

Mr. CONYERS. That is right.

Mr. SAWYER. Will the gentleman please cite me what article of the Constitution he is talking about?

Mr. CONYERS. Well, if the gentleman in his years of legal research and wealth of legal experience needs a constitutional citation to figure out whether this is constitutional or not, I am puzzled. Fifty Members have taken the floor and have suggested that there is a constitutional question. Every court case has suggested that there is a potential constitutional infirmity in this whole question of bringing the military into civilian law enforcement.

□ 1730

Mr. SAWYER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would just like to comment that the reason I asked the question is because there is in fact no constitutional problem at all. This is strictly what the gentleman from Michigan originally posed as a problem of changing an old law. It is not what he has then gone on to say, it is

more than that, to violate the Constitution.

The reason I asked is because I know there is no section of the Constitution involved. I have read every case decided under the statute, which I dare say is more than the gentleman from Michigan has done, and there has been no allusion to any constitutional problem at all.

I yield back the balance of my time.

Mr. DELLUMS. Mr. Chairman, I move to strike the requisite number of words.

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. DELLUMS. I yield to my colleague.

Mr. CONYERS. I want to thank my colleague from Michigan, a distinguished lawyer, for recognizing despite 2 days and 6 hours of debate that there was not any constitutional question at all.

Mr. DELLUMS. Mr. Chairman, this has been a very interesing debate, and I would first like to try to put this debate in its broadest context. What we are ostensibly here to do is to debate an authorization for the largest military budget in the history of this Nation, approximately $226.3 billion, a $53 billion increase in budget authority over what we spent last year. It would seem to me that we should spend our time here debating and assessing our perception of the world and America's role in that changing world, to determine whether or not we need to spend what has been purported to be somewhere in the neighborhood of $2.5 to $3 trillion in the next 10 years on the military function alone.

But, we have chosen not to do that. One of our colleagues has chosen to use this particular instrument, this authorization bill, to raise a significant question; that is, whether or not the military shall play some role in addressing one of the significant domestic problems we have; namely, the trafficking of drugs in this country.

Now, this gentleman would not argue with any Member of this body that we have a significant drug problem in this country. I would also not argue with any Members that we need to address this human misery. It is eating tens of thousands of people up every single day in this country. I would also, interestingly enough, not argue with any person that suggested that if we put the full weight and power of the military into this issue, that we could not solve the problem. I do not argue with that. If we put all of our troops with all of our sophisticated technology into this issue, we probably could eradicate it.

But the question is, at what price? Now, one of my colleagues suggested there is no constitutional problem. Perhaps that is true. This gentleman is not a constitutional lawyer, but I can say this, and I would like to raise for a moment two issues. One of our distinguished colleagues from the other side, in a very eloquent speech, suggested that one time in the not-too-distant past, in the 1960's, during the agony of the civil rights movement, Federal troops were used. The gentleman stated that no one argued with respect to that.

I approached the gentleman a little while ago, and I indicated to him that as one young black in this country concerned about those injustices, I had some significant problems with a country that needed Federal troops to march some tiny black children to schools. I also recall that there were a number of Governors in this country, in the full light of television cameras, who stood in the door and said, "To hell with Federal law. These black children will not integrate these schools."

So, I saw State officials abdicate their responsibility and say to the Federal Government, "We will not address these problems." I saw Bull Connors and other local law enforcement agents determined not to implement the mandate of the Federal Government. They did it with Federal troops. That was not a happy time in this country, but the one argument I would make with the gentleman who argued that there is no comparison here in that certainly Federal troops were being used because State and local law enforcement agents and public officials denied the right of young children to matriculate in schools. It was an ugly period in our history.

This gentleman felt anger that we had to have troops to do what civilian law enforcement agents should have been able to do, or local and State public officials, standing up for the rights of young black children to have an education along with other human beings in our society.

The second vision that I have is Nazi Germany, when you consider the Gestapo involved in enforcing laws. We have a very delicate form of government in this country. It is called a democracy. It is called a representative government.

The CHAIRMAN. The time of the gentleman from California has expired.

(By unanimous consent, Mr. DELLUMS was allowed to proceed for 5 additional minutes.)

Mr. DELLUMS. It would seem to me, Mr. Chairman, members of the committee, that all the people on this floor who believe strongly and powerfully that this drug problem must be addressed, I would simply say to them, in the process of dealing with the drug problem, will we unalterably distort and pervert our way of government and our way of life? We have never allowed ourselves to see law enforcement agents in military uniforms—never. Every time that issue came forward many of us felt great pain. I do not want to return to the days of the 1960's when we needed troops to implement laws that civilians were charged with the responsibility to implement, and I certainly do not want to go further than that, to Nazi Germany, where I can see uniforms involved in implementing laws and enforcing laws that civilians ought to be enforcing.

So, this gentleman will say to you, irrespective of whether there is a constitutional concern, we all in this room know that we have evolved a way of life that has separated out clearly the civilian function and the military function. I do not think we need $226 billion to be talking about waging war in the world, let alone waging war in this country.

I find it ludicrous and tragic that many of my colleagues supported a budget resolution that substantially cut the budget of the Drug Enforcement Agency and then said, "But I want to go home and tell my constituents that I am not soft on communism, so I voted for a big military budget—and oh, by the way, we have a drug problem, and since we cut the money out of DEA, let us go over where we are putting all the money and get the military to solve the problem."

Then, maybe this gentleman ought to say, "I think we need to deal with mass transit in this country. Maybe we ought to get the military to develop a mass transit system. I think we ought to better educate our children, but since all the money is going to the Pentagon, maybe we ought to get Pentagon personnel to educate our children. We need housing in this country for tens of thousands of human beings, but since much of our money is going to the Pentagon, maybe we ought to let the Corps of Engineers build the housing."

Your response would be, "That is a civilian function. We do not need the military to engage in this activity."

I am simply saying to you, if it is not good enough to try to build mass transit, to educate our children, it is reasonable to say that we will not do it in terms of law enforcement.

If we have a significant problem of law enforcement in this country, then let us address it, but let us not delude ourselves into believing we can simply throw the ball to the military and run home and say, "I have done something for the drug problem," when we have perverted and distorted our way of government.

We need to effectively keep that dichotomy between civilian and military. Once we put law enforcement people in military uniform, we conjure up in people's minds the agony of Nazi Germany and the pain in the 1960's when

many in this country chose not to address the problems, and we were forced to have the military deal with it. I do not think the drug enforcement agents are saying, "We do not want to implement the laws." What they are saying is, "We need the necessary capability to do it," and that is not turning that function over to the Pentagon. So, I would conclude by saying that it is my hope that we are not treading on constitutionality, and even if we are not, we are treading on a way of life that should be precious to us, and in the process of solving the problem let us not create problems for our children's future and their children's future.

□ 1740

Mr. JOHN L. BURTON. Mr. Chairman, will the gentleman yield?

Mr. DELLUMS. I yield to my colleague, the gentleman from California.

Mr. JOHN L. BURTON. Mr. Chairman, I thank the gentleman for yielding and for pointing out the most important point that we are on our way to establishing a national police force with this type of legislation.

We are not talking about whether it is constitutional or unconstitutional. This is a national police force in the form of the military, and I think that is something that those on the right, those on the left, and those in the middle should be afraid of.

Mr. Chairman, we want stronger drug enforcement. We have got an agency for that, the DEA, and let us fund it and let us stop them from destroying it in the reorganization plan if we want to do something about drug enforcement.

Mr. DELLUMS. Mr. Chairman, that is one of the clearest and most concise statements my distinguished colleague, the gentleman from California, has made, and I thank him for it.

Mr. Chairman, I yield back the balance of my time.

Mr. GONZALEZ. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the pending amendment.

Mr. Chairman, I rise also to identify myself with the position very eloquently stated heretofore by the distinguished gentleman from Michigan (Mr. CONYERS), a member of the Committee on the Judiciary, with the position, very particularly, of the gentlewoman from New York (Mrs. CHISHOLM), who I think capsulized the whole issue very accurately, and, most particularly, with the position of the last speaker, the gentleman from California (Mr. DELLUMS).

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida (Mr. SHAW) to the Judiciary Committee amendment, as amended.

The question was taken; and on a division (demanded by Mr. SHAW) there were—ayes 52, noes 57.

Mr. SHAW. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. A recorded vote has been demanded. All those in favor of a recorded vote please rise.

Mr. PRICE. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. MURTHA) having assumed the chair, Mr. SIMON, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 3519) to authorize appropriations for fiscal year 1982 for the Armed Forces for procurement, for research, development, test, and evaluation, and for operation and maintenance, to prescribe personnel strengths for such fiscal year for the Armed Forces and for civilian employees of the Department of Defense, to authorize appropriations for such fiscal year for civil defense, and for other purposes, had come to no resolution thereon.

REPORT ON RESOLUTION WAIVING CERTAIN POINTS OF ORDER AGAINST H.R. 4119, AGRICULTURE, RURAL DEVELOPMENT, AND RELATED AGENCIES APPROPRIATIONS, 1982

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 97-175) on the resolution (H. Res. 178) waiving certain points of order against the bill (H.R. 4119) making appropriations for Agriculture, rural development, and related agencies programs for the fiscal year ending September 30, 1982, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION WAIVING CERTAIN POINTS OF ORDER AGAINST H.R. 4120, LEGISLATIVE BRANCH APPROPRIATIONS, 1982

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 97-176) on the resolution (H. Res. 179) waiving certain points of order against the bill (H.R. 4120) making appropriations for the legislative branch for the fiscal year ending September 30, 1982, and for other purposes, which was referred to the House Calendar and ordered to be printed.

EXPLANATION AS TO VOTE

(Mr. DANIELSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DANIELSON. Mr. Speaker, I was absent from the House during the week beginning June 22, 1981, because of an illness in my family. During that week I missed a number of votes and I wish to state how I would have voted had I been present. In every instance my vote would not have changed the outcome. Those rollcall votes, and how I would have voted, are:

Tuesday, June 23, 1981:

Rollcall No. 92, the House, by a vote of 399 to 0, agreed to House Resolution 161, the rule under which it considered the bill H.R. 1257, to authorize appropriations to the National Aeronautics and Space Administration, I would have voted "yea."

Rollcall No. 93, passage of H.R. 1257, to authorize appropriations for the National Aeronautics and Space Administration, I would have voted "yea." The bill passed by a vote of 404 to 13.

Rollcall No. 94, by a vote of 360 to 50, the House passed H.R. 2614, Department of Defense Supplemental Authorization Act for fiscal year 1981, I would have voted "yea."

Rollcall No. 95, by a vote of 146 to 265, the House rejected an amendment to H.R. 3238, to reduce by $50 million and public broadcasting authorization for fiscal year 1984, $45 million for fiscal year 1985, and $30 million for fiscal year 1986, I would have voted "nay."

Wednesday, June 24, 1981:

Rollcall No. 96, by a vote of 344 to 16 the House approved the Journal of Tuesday, June 23, 1981, I would have voted "yea."

Rollcall No. 97, by a vote of 375 to 16 the House agreed to S. 1124, to authorize the Sergeant at Arms and Doorkeeper of the Senate, to enter into contracts which provide for the making of advance payments for computer programing services, I would have voted "yea."

Rollcall No. 98, by a vote of 398 to 9 the House agreed to the conference report on H.R. 31, to encourage cash discounts, I would have voted "yea."

Rollcall No. 99, by a vote of 385 to 16 the House agreed to resolve itself into the Committee of the Whole, to consider H.R. 3238 the public broadcasting authorization bill, I would have voted "yea."

Rollcall No. 100 was a quorum call.

Rollcall No. 101, by a vote of 171 to 226 the House rejected an amendment to H.R. 3238, to retain quarterly disbursement rather than annual, of funds to the Corporation for Public Broadcasting, I would have voted "nay."

Rollcall No. 102, by a vote of 323 to 86 the House passed H.R. 3238 authorizations of appropriations for public broadcasting, I would have voted "yea."

Thursday, June 25, 1981:

Rollcall No. 103, by a vote of 380 to 12 the House approved the Journal of

Wednesday, June 24, 1981, I would have voted "yea."

Rollcall No. 104, by a vote of 210 to 217 the House failed to order the previous question on House Resolution 169, the rule under which the Omnibus Budget Reconciliation Act of 1981, H.R. 3982 was to be considered, I would have voted "yea."

Rollcall No. 105, by a vote of 219 to 208 the House agreed to order the previous question on the amendment offered by Mr. LATTA to House Resolution 169, in the nature of a substitute, which provided for 8 hours of general debate, 2 hours on the Broyhill amendment and 4 hours on the Latta amendment, I would have voted "nay."

Rollcall No. 106, by a vote of 216 to 212 the House agreed to an amendment in the nature of a substitute to House Resolution 169, for the consideration of budget reconciliation, I would have voted "nay."

Rollcall No. 107, by a vote of 214 to 208 the House agreed to House Resolution 169, the rule under which the budget reconciliation bill, H.R. 3982 was considered, I would have voted "nay."

Friday, June 26, 1981:

Rollcall No. 108, by a vote of 346 to 37 the House approved the Journal of Thursday, June 25, 1981, I would have voted "yea."

Rollcall No. 109, by a vote of 316 to 84 the House resolved itself into the Committee of the Whole for further consideration of H.R. 3982, the budget reconciliation bill, I would have voted "yea."

Rollcall No. 110, by a vote of 412 to 4 the House agreed to the conference report on H.R. 3520, to amend the Clean Air Act to provide compliance date extensions for steelmaking facilities on a case-by-case basis, I would have voted "yea."

Rollcall No. 111, by a vote of 217 to 211 the House agreed to amendments en bloc to H.R. 3982, by Mr. LATTA, I would have voted "nay."

Rollcall No. 112, by a vote of 215 to 212 the House agreed to order the previous question on a motion to recommit H.R. 3982 to the Committee on the Budget with instructions to report it back forthwith containing an amendment to provide for semiannual cost-of-living adjustments for Federal employees, I would have voted "nay."

Rollcall No. 113, by a vote of 232 to 193 the House passed H.R. 3982, the budget reconciliation bill, I would have voted "nay."

Rollcall No. 114, by a vote of 187 to 150 the House agreed to table a motion to reconsider H.R. 3982, I would have voted "nay."

INNOVATIVE TUITION FINANCING BY WILKES COLLEGE IN PENNSYLVANIA

(Mr. NELLIGAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. NELLIGAN. Mr. Speaker, in light of our efforts to control Federal spending through substantive cuts and changes in eligibility criteria for Federal assistance, there has been much concern expressed over the continued availability of funds for tuition costs.

I wish to call to the attention of this body, the willingness of Wilkes College in Wilkes-Barre, Pa., to answer the financial needs of their students. Wilkes College has developed an installment payment plan for their students which is interest free. This proves to me that with some creative thought and initiative there are ways to achieve Federal spending cuts without students being denied access to funds for higher education.

The installment payment program of Wilkes College is innovative and should serve as a model for other institutions. I wish to insert in the RECORD at this point information on the plan for the benefit of my colleagues and their colleges and universities.

WILKES COLLEGE TUITION INSTALLMENT PAYMENT PLAN

A CONVENIENT WAY TO FINANCE AN EDUCATION

DEAR PARENTS: Wilkes College is keenly aware of the financial pressures that are beset upon parents of college students. However, like you, we do not feel that a college education should be compromised because of financial barriers.

In an effort to make it easier for you to finance your son or daughter's education at Wilkes, we offer to you an innovative payment program which will allow you to spread your payments over the course of an 11-month period. The Installment Payment Program (IPP) is explained fully below and includes a sample payment schedule for your review.

We are pleased to be able to provide this new service to you and we sincerely hope that you will find it useful and convenient.

If you would like to be considered for the IPP, return the attached card and a check for $35.

Sincerely,

JOSEPH J. CHISARICK,
Comptroller.

ELIGIBILITY

Ordinarily, parents of any Wilkes undergraduate student are eligible if their combined annual income is $15,000 or more. Parents who have a combined annual gross income of less than $15,000 should consult the Director of Financial Aid for other sources of financial aid. It is advised that the student make sure that all other sources of financial aid have been exhausted before applying for the IPP. Independent graduate and undergraduate students should consult the Assistant Comptroller for special permission to participate in the plan.

The amount financed through the plan is determined by the parents and student, and is subject to the following conditions:

(1) The amount must be greater than $1,000 and must be rounded to an even hundred (100) dollars; and

(2) The maximum amount which can be financed annually is the parents' contribution as determined by the Financial Aid Office, or $5,000.

The following table illustrates typical monthly payment schedules:

Cash price advance:	*Monthly payment*
$1,000	$90.91
1,500	136.36
2,000	181.82
2,500	227.27
3,000	272.73
3,500	318.18
4,000	363.64
4,500	409.09
5,000	454.55

SCHEDULE OF PAYMENTS

The first monthly payment will be due July 1 and subsequent payments will be due on the first day of each month thereafter. The plan will extend over a 11-month period, with the first payment due July 1 and the final payment due May 1.

OPTIONAL PAYMENTS

Additional optional payments over the basic schedule may be made at any time.

FEES

Although no finance charge will be assessed on the IPP, an application fee of $35 must accompany your application form. An additional fee of $15 will be assessed for early withdrawal from the plan.

RETAIL INSTALLMENT CONTRACT

The parent(s) will be required to sign a Retail Installment Contract providing for the purchase of the educational services involved. Parents may discontinue the plan at any time providing that the portion of the obligation then outstanding is repaid and the early withdrawal fee is paid.

PAYMENT COUPONS

Parent(s) will receive a book of dated coupons to identify each payment. Each monthly payment, along with the appropriate coupon, should be sent to the Comptroller's Office, Wilkes College, in the postage-paid envelope enclosed with the coupon book. A fee of $5 will be charged for a replacement coupon book.

SEMESTER BILL PAYMENTS

Payments made through the IPP will be credited to the student's account twice a year; once in September and once in January.

DELINQUENT PAYMENTS

A late charge of $5 will be charged on any monthly payment in default for a period of 10 days or more. If any payment is delinquent for 60 days or more, the entire unpaid balance of the IPP account may be declared immediately due and payable. If a check is returned by the bank for insufficient funds, a $10 processing fee will be charged in addition to the above late charge of $5.

APPLICATION DEADLINE

Parent(s) are urged to apply by June 15. If you have not received your financial aid package by this time, you may request an early decision from the Financial Aid Office by calling (717) 824-4651, Extension 420, 421. Parents may still participate after that time by making payment(s) sufficient to catch up to the regular payment schedule.

APPLICATION PROCEDURE

Complete the application form in this brochure and return it to the Comptroller's Office with the $35 application fee. If the application is approved, you will receive a completed Retail Installment Contract in the mail. Read the contract carefully; sign where indicated and return it to Wilkes with your first payment. We will send you a coupon payment book for each of your remaining ten payments.

HOW TO CALCULATE AMOUNT NEEDED THROUGH IPP

(1) Estimate the total annual bill for student's school year.

Tuition	$4,200	$.....
Activity fee	50	.....
Accident insurance	32	.....
Room and board	1,050	.....
Dorm damage deposit	50	.....
Total estimated expenses		

(2) Estimate the resources that will be available to pay that bill.

(a) Scholarships	$.....	$.....
PHEAA		
BEOG		
Wilkes		
Other		
(b) Student loans		
NDSL		
Nursing		
SGL		
Gulf Oil		
(c) Parents' contribution		
(d) Total estimated resources		

(3) Determine the amount of credit desired for the year through IPP. (This amount cannot exceed the difference between charges billed and estimated financial aid.) If the amount of credit requested is in excess of actual adjusted expenses, the amount of credit granted under IPP will be reduced accordingly.

(4) File the application request. The application is due by June 15. If you have not received your financial aid award by this time, you may request an early decision from the Financial Aid Office by calling (717) 824-4651, Extension 420, 421.

ADDITIONAL INFORMATION

For additional information about IPP, you may write to or call Mrs. Karen Campbell, Assistant Comptroller, at (717) 824-4651, Extension 423.

A CONTINUED FIGHT FOR BIG SOUTH FORK

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kentucky (Mr. ROGERS) is recognized for 10 minutes.

● Mr. ROGERS. Mr. Speaker, I rise today to voice my strong opposition to the action taken by the Appropriations Committee this morning, when reported out a bill which eliminated all funding for the Big South Fork National River and Recreation Area project.

Since my arrival in Congress I have been fighting for the very survival of Big South Fork. I have lobbied the administration. I have testified before the Appropriation Committee's Subcommittee on Water and Development. I have met with Governor Brown of my great State of Kentucky, Kentucky Secretary of Transportation Frank Metts, Col. Lee Tucker of the Nashville Corps of Engineers, representatives of the National Park Service, and representatives of McCreary, Pulaski, and Wayne Counties, to support the development of Big South Fork.

And on every occasion, my message has been firm: Big South Fork is essential to the development of this portion of my district. This project is not to be characterized as mere recreation—it is an enterprise essential to southeastern Kentucky.

It is expected to attract more than 1 million visitors to the area each year—mainly to Wayne, McCreary, and Pulaski Counties, as well as to the park area in adjoining Tennessee. These counties are chronically depressed, and this project can bring unprecedented economic development.

County and city governments are already preparing. In addition, the State is contemplating the construction of a major access road to the park from I-75. My constituents are fulfilling their end of this longstanding agreement with the Government.

Continued Federal support will encourage these local endeavors and will provide the necessary stimulus for the private development of the tourist industry which will enable this region to help itself.

Big South Fork has the potential to be the Yellowstone Park of the East, providing a tremendous economic boost and a great number of jobs to the area, so our people will not have to leave the State looking for jobs.

All of these facts lead us to one conclusion. Mr. Speaker, this project is far too important to the well-being of the people in the Fifth District of Kentucky for this to become cheap merchandise in political bartering.

This is not just another innocuous park to the people of McCreary, Wayne, and Pulaski Counties: It is an economic tool whereby they are working to provide needed jobs and development in our area.

We have worked too hard for too long for this project for us to just watch it be casually bartered today. The administration has requested $9.9 million to fund Big South Fork. I urge my colleagues to work with me in restoring the administration's request when the energy and water appropriations bill comes before the House.

LEGISLATION CLARIFYING CUSTOMS LAW PROVISION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota (Mr. FRENZEL) is recognized for 20 minutes.

● Mr. FRENZEL. Mr. Speaker, today I have introduced H.R. 4134, which attempts to clarify a probable inequity in customs law, which I do not believe was intended, that has resulted from a recent ruling by the Customs Service.

The ruling states that courier services may file informal or formal customs entries in their own name and therefore become a nominal consignee eligible to make entries on behalf of others by showing a carrier's certificate or duplicate bill of lading for merchandise about to be entered into this country. At the same time, customs law states that informal or formal customs business can only be transacted by a licensed broker—unless a person enters his own merchandise. Under the new ruling, it may be possible for nearly anyone to provide broker services as a consignee, but without becoming licensed, merely by showing an easily obtained piece of paper to customs officials. While the ruling appears in this instance to refer only to courier services as nominal consignees, I believe it could easily be extended to other unlicensed broker services such as banks, ships, railroads and freight forwarders, and perhaps others as well.

As a result of the ruling, our current system of providing customs clearance by reputable, licensed customs brokers would be eroded. Entries by licensed brokers are far more likely to be lawful entries. Under the new system, customs would have to inspect a far greater percentage of entries than it currently has the capability to handle, and it would be more difficult to keep drugs, criminals and other illegal materials out of this country.

My bill amends the Tariff Act of 1930 so that a nominal consignee cannot misuse his technical status as consignee to enter merchandise in his own name. Since this would appear to affect courier services when entering time-sensitive business materials, the bill also adds "time-sensitive correspondence" to the list of materials which are defined as "intangibles" requiring no entry procedure through customs. In this respect, much of the business documents that courier services bring into this country would be facilitated by avoiding normal customs entry inspections. On the other hand, couriers would not be allowed to make informal or formal entries, which they were never intended to handle, on behalf of others without a brokers license.

Finally, the bill specifies that carriers cannot knowingly certify an unlicensed party as owner or consignee or agent in order that such party could conduct customs business on behalf of another with no requirement to become qualified in customs procedures. This would further prohibit individuals other than licensed brokers from making formal or informal customs entries merely by being designated consignee.●

□ 1750

HEARINGS TO BE HELD ON INCARCERATION OF JAPANESE AMERICANS UNDER EXECUTIVE ORDER 9066

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. DYMALLY) is recognized for 5 minutes.

Mr. DYMALLY. Mr. Speaker, I wish to share with you and my colleagues testimony presented today before the Commission on Wartime Relocation and Internment of Civilians:

Madam Chairwoman, members of the Commission on Wartime Relocation and Internment of Civilians, and my distinguished colleagues, my name is Mervyn M. Dymally. I represent the 31st Congressional District of California, including Gardena, where more Japanese Americans reside than in any other city in the continental United States.

Today marks the beginning of an historical event. It is an event which many of us who are concerned with justice and the protection of civil rights are carefully scrutinizing. For today, this distinguished Commission will begin to hear testimony from individuals whose lives were directly effected by the bombing of Pearl Harbor and the implementation of Executive Order 9066.

It is certain that in the next 2 days of hearings in Washington, D.C., and the subsequent ones scheduled across the Nation, much factual information and many statistics will be presented. You will have the opportunity to review official documents related to the incarceration of the Japanese Americans. You will hear testimony from those who experienced personal tragedies and the loss of loved ones. You will meet some of those responsible for administering the uprooting of approximately 110,000 Japanese Americans from their homes and their assignment to "relocation camps." You will be given first-hand accounts of the suffering and hardship endured by our fellow Americans of Japanese descent. You will learn what it was like to be forced to remain within the confines of guarded, barb-wired grounds and to live under the constant surveillance of others who suspected you as the enemy. You will be reminded of how the Japanese Americans struggled to emerge from their oppressed and impoverished state. You will find that the impact of the war was so great that many Nikkei—those of Japanese descent—make a distinction in their lives of "before the war" and "after the war." You sit in a unique position, for you will watch history unfold before your eyes.

Although I am familiar with this matter, I claim no expertise in the details. One observation I do want to make, however, is that if we were to wait another 6 months, America could once again quietly ignore another anniversary of this tragic event. This should not surprise anyone, for up until now, we have somehow been able to successfully diminish the importance of this February 19, 1942, document. We have accepted the events as if we are sufficiently satisfied with the Government's justifications and explanations for these illegal acts. And at the same time, we have managed to mute the cries of those who have sought to expose the injustices imposed.

In other countries, many of those who were responsible for war crimes have stood trial and been punished by prison or death sentences. Yet through the years, despite the uncovering of reports, memoranda, and statements that discredit the notion that the Japanese Americans were disloyal and dangerous, the Government has allowed this belief to be perpetuated. It has done so by taking an unassuming posture. It has found ways to avoid addressing the real issue at hand: Whether or not the Government can justifiably deny the inalienable rights that the Constitution guarantees to everyone.

The Supreme Court has skirted the issue by discussing compliance with curfews and Executive orders, without looking at the constitutionality of this matter. It has also fallen into the trap of playing the game of semantics—of trying to determine whether the Japanese Americans were interned, incarcerated, or imprisoned in relocation centers or concentration camps. The fact of the matter is that many of the Nikkei put in these camps were American citizens and, in spite of the treatment accorded them, chose to fight side by side with their fellow countrymen.

All these points should not be taken lightly. We should not be so naive as to think we are incapable of committing a similar crime today. Just recently we had an opportunity to see a glimpse of our shortcomings when the Iranians held our 52 Americans hostage. It was suggested more than once that we round up the Iranians in the United States. As you can see, we have not progressed as far as we would like to believe.

It is for these very concerns that I come before this distinguished body today to convey my hopes and wishes that this Commission will not restrict itself to the limited and narrow scope of your predecessors. I urge you to actively seek the truth of this bleak period in our history, to take it upon yourselves to accurately report the truth, and more importantly, to have the courage to take the appropriate action to seek remedies in order to rectify the situation. This will undoubtedly be the most difficult task that you must seek to achieve as members of the Redress Commission. By sitting on this Commission, you have the unique opportunity to change the course of history. All eyes will be watching to see that your final recommendations are appropriate, compassionate, and fair.

Thank you for affording me this time. Chairwoman Bernstein, may I make one request? At the request of my constituents of the 31st District, in particular those of the City of Gardena, may I suggest that at least one night hearing be held in the City of Gardena so that these citizens can actively participate in these hearings?

Thank you once again.

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kentucky (Mr. MAZZOLI) is recognized for 5 minutes.

● Mr. MAZZOLI. Mr. Speaker, due to responsibilities in my district, I was absent on Friday, July 10, 1981.

Had I been present, I would have voted:

"Yea" on rollcall No. 123, on agreeing to resolve into the Committee of the Whole;

"Aye" on rollcall No. 124, the Government Operations Committee amendment to the Department of Defense authorization bill which sought to strike language in the bill which permits the Defense Department to procure research by grants where contracts are required under current law;

"Yea" on rollcall No. 125, House Resolution 171, the rule waiving certain points of order against H.R. 4034, the Department of Housing and Urban Development appropriations bill; and

"Yea" on rollcall No. 126, on agreeing to resolve into the Committee of the Whole.●

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. NELSON) is recognized for 5 minutes.

● Mr. NELSON. Mr. Speaker, I was not present during rollcalls 115 through 126 on July 8, 9, and 10. Had I been present, I would have voted as follows:

"Yes" on rollcall No. 115, to resolve the House into the Committee of the Whole on July 8 for consideration of H.R. 3519, to authorize funds for the Department of Defense;

"Yes" on rollcall No. 116, to resolve the House into the Committee of the Whole on July 9 for consideration of H.R. 3519, to authorize funds for the Department of Defense;

"No" on rollcall No. 117, the Simon amendment to the Hansen amendment to prohibit the expenditure of funds in the bill for the MX missile system until both Houses of Congress had adopted resolutions approving the MX missile system selected by the President;

"Yes" on rollcall No. 118, the motion to end debate on the amendment to delete $2.4 billion for development of the MX missile system;

"No" on rollcall No. 119, on the amendment to delete $2.4 billion for development of the MX missile system;

"No" on rollcall No. 120, on the amendment to make funds specified in the bill for the B-1 bomber available also for research and development of an advanced technology bomber;

"No" on rollcall No. 121, on the amendment to require that the Defense Department reduce the number of civilian employees in grades GS-13 to GS-18;

"Yes" on rollcall No. 122, on approval of the Journal of July 10 1981;

"Yes" on rollcall No. 123, on the motion to resolve the House into the Committee of the Whole on July 10 for consideration of H.R. 3519, to authorize funds for the Department of Defense;

"No" on rollcall No. 124, on the amendment that sought to strike language which would permit the Defense Department to procure research

by grants where contracts would be required under current law;

"Yes" on rollcall No. 125, approving the rule providing for consideration of H.R. 4034, making appropriations for the Department of Housing and Urban Development; and

"Yes" on rollcall No. 126, to resolve the House into the Committee of the Whole for consideration of H.R. 4034, making appropriations for the Department of Housing and Urban Development.●

SOVIET ENERGY CHALLENGE TO THE WEST, II

(Mr. LONG of Louisiana asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. LONG of Louisiana. Mr. Speaker, In my CONGRESSIONAL RECORD insert for July 10, 1981, I stressed the importance of adopting a flexible U.S. policy based on a range of possible Soviet energy production in the 1980's. I also highlighted the need to focus congressional attention on the proposed Soviet natural gas pipeline. To obtain insights into the Reagan administration's view on this project, I sent identical letters to the Secretaries of State, Treasury, Commerce, and Energy. My letter and their responses are appended. The respondents indicated they were engaged in an interagency review of the subjects and that they had coordinated their responses. I appreciate the objectivity and responsiveness of these agencies and the detail with which they replied. They tend to substantiate the analysis in our recent study, "Energy in Soviet Policy," partially reproduced in my earlier RECORD submission.

Several points from the Reagan administration responses should be highlighted:

First, the incremental energy is of very considerable importance to West Europe, as are the orders for energy equipment; and

Second, the new gas pipeline will be critical to Soviet energy supply plans and hard-currency earnings. Hence, it could represent a useful tool in U.S. diplomacy.

Thus, as noted in our committee report, the economic health of both East and West Europe may be significantly influenced by the completion of the pipeline.

However, as was also noted, the pipeline will increase the degree of energy dependence of our major allies in Europe. The gas lever in the hands of Moscow may be more effective on short-run foreign policy matters than the technology and credit lever of the West Europeans. What this calls for is a clarification of these complex issues and a thoughtful dialog with our European allies. Certainly we should be prepared to work toward a common policy at the Ottawa summit meeting in July.

We also asked the Reagan administration officials to comment on the Carter administration's policy on the use of export controls for foreign policy purposes as summarized in the letter from Secretary Klutznick to Speaker O'NEILL on December 31, 1980. In this report the Carter administration noted that the sale of energy equipment "continues to provide a flexible foreign policy tool to be used, when necessary and appropriate, to sensitize the Soviets regarding actions that are damaging to the U.S. foreign policy interests." Unfortunately, judging from their responses, the Reagan assessment of the Carter policy is not clear. It would be useful to review the Carter policy on energy-equipment sales to the U.S.S.R. and to assess its effectiveness and appropriateness for application to current issues—including the financing of the Yamburg natural gasline financing.

To facilitate further formulation of U.S. policy on the Yamburg pipeline, I am inserting a copy of my initial letter to Secretaries Haig, Regan, Baldrige, and Edwards, and a copy of Secretary Klutznik's report on export controls to Speaker O'NEILL.

WASHINGTON, D.C., *April 24, 1981.*

Hon. JAMES B. EDWARDS,
Secretary of Energy, Department of Energy, Washington, D.C.

DEAR MR. SECRETARY: The financing and construction of a massive new Soviet natural gas pipeline from the Yamburg gas field in the region in Siberia to West Europe appears to raise both foreign policy and international financial concerns for the United States. May I commend you for the early attention you seem to be giving to the economic aspects of East-West relations. As the development of this pipeline may have significant effect on our relations with the Soviet Union, the global energy balance, our allied relations, and our global posture, permit me to ask several specific questions:

1. What are the likely financial dimensions of the project? Who will provide the credit and at what terms? Will the Soviet Union continue to be a credit-worthy borrower? Would Soviet borrowing for the project dry up government and commercial credit markets in Europe and drive up interest rates? How will the rise of the Soviet debt be affected?

2. Congress opposed a somewhat similar arrangement (Project North Star) involving Siberian gas in 1974. We were correct then. Should we oppose the Yamburg project now? If we do oppose the Yamburg pipeline, how might we influence our allies to accept our judgment?

3. How many of the countries of West Europe would receive Soviet gas from the pipelines? What would be the specific allocation? Would France, the FRG, Austria and other countries become dependent on Soviet gas, in effect, energy hostages to Soviet policy? What would be the effect to Europe of not obtaining the Soviet gas? If there were a total Soviet shutoff, what reserves could be effectively drawn on to keep up European economic activity? What precautions can the U.S. realistically press the Europeans to take in case of a Soviet gas cutoff?

4. How would the incremental gas income affect Soviet hard-currency trade? What would the hard-currency balance of payment effect be at the completion of the project?

5. How much pipeline business can be expected to flow to individual European economies and specific European industries? What would be the economic impact of cancelling the Yamburg pipeline project? Would the threat to terminate orders be an effective lever in Soviet European policy?

6. The U.S. has led efforts to keep international credits at market dictated levels. Should we attempt to persuade the West Europeans, Japanese or others from providing lower than market interest rates on loans associated with the Yamburg project? The determination of the Export-Import Bank to meet subsidized foreign export credits can work to limit the use of export subsidies by our major trading partners. Will the proposed fiscal year 1982 Export-Import Bank funding levels allow the banks to offset the subsidized credit of our competitors?

7. What orders have come or might come to U.S. companies? What should the overall policy be for U.S. banks and businesses that want to become involved in the Yamburg project?

8. How dependent is the USSR on imports of Western technology to meet their plans? To what extent will hard-currency from gas sales represent a critical margin for the USSR? Secretary Klutznick in his letter to Speaker O'Neill of December 31, 1980, indicated that energy-equipment licensing was a "flexible foreign policy tool" for the United States. Would this be your view of sales of energy equipment to the USSR?

I would very much appreciate your earliest attention to these questions.

With warmest personal regards, I remain,

Sincerely,

GILLIS W. LONG,
Member of Congress.

THE SECRETARY OF ENERGY,
Washington, June 8, 1981.

Hon. GILLIS W. LONG,
House of Representatives,
Washington, D.C.

DEAR MR. LONG: Thank you for your recent letter regarding Soviet energy development and East-West relations. It is my understanding that the same questions have also been posed to the Departments of State, Treasury and Commerce. As these other agencies will be addressing those questions which relate directly to their expertise, I shall focus my comments on questions 3 and 4.

The West German utility, Ruhrgas, is the principal negotiator on behalf of the European companies who are seeking to purchase West Siberian pipeline gas. The major potential consumers of this gas include utilities from West Germany, France, Italy, Austria, Belgium and the Netherlands. Should this pipeline be completed, the USSR could eventually be able to increase gas deliveries by at least 4 billion cubic feet/day (bdf/d) over present deliveries of about 2.2 bcf/d. European dependence on Soviet gas would increase to about 20 percent of total gas use and about 5 percent of total energy use. Negotiations regarding gas deliveries, equipment contracts for foreign firms, and overall financing are still in progress.

Many Europeans consider Soviet gas as an important incremental energy supply that can serve to reduce dependence on Middle East oil and offset declines in indigenous gas production and Dutch gas exports. However, there are also concerns regarding potential dependence on Soviet supplies. In this regard, we have suggested to our European allies that they improve their emergency management capabilities to cope with any prospective gas supply interruption. Specifically, we have suggested that dual-fired capabilities be developed in the industrial sector in order to facilitate a switch to alternate petroleum fuels, should they become necessary. We have also suggested that the Europeans develop a strategic gas storage capacity and reserve gas production capabilities, where feasible, in order to compensate for any supply interruption.

It should be pointed out that these emergency management capabilities would not only be useful to hedge against Soviet gas supply interruptions but would also be greatly beneficial to Europe in dealing with potential gas interruptions from OPEC gas suppliers.

In 1980, the USSR earned about $14.5 billion from oil sales to the West. This sum accounted for about half of its hard currency receipts. By 1985–86, it is possible that this oil revenue will be eliminated due to the peaking and decline of Soviet oil production, increasing domestic and Soviet Bloc consumption requirements and the consequent phasing out of exports. The USSR is seeking to replace this oil income by increasing gas sales to the West.

The specific amount of hard currency that the USSR would earn from gas sales to the West depends on the capacity of the pipeline as well as the price of gas in the late 1980's. However, if the pipeline is completed, it is reasonable to assume that the USSR will at least be able to replace its lost hard currency earnings from oil sales to the West. Under this scenario, the USSR will remain in a strong financial position to continue making major purchases in Western markets.

Sincerely,

JAMES B. EDWARDS.

DEPARTMENT OF STATE,
Washington, D.C., May 12, 1981.

Hon. GILLIS W. LONG,
House of Representatives.

DEAR MR. LONG: Secretary Haig has asked me to reply to your letter of April 24 concerning the proposed Soviet-West European Gas Pipeline project.

To date, the project still remains very much in the planning stage. The Soviets have not yet decided upon the scope or other technical aspects of the proposed project; nor have the interested West European countries undertaken any firm contractual commitments.

As your letter recognizes, however, should the project proceed toward implementation, there are a number of important political, strategic and financial issues that arise—many of which you have noted. Please be assured that this Administration is deeply concerned about these questions and is undertaking a thorough study of all the implications of the pipeline project relative to East-West relations and, in particular, Western energy security.

Since the questions you proposed are comprehensive, I would ask you to accept this letter as an interim response. A detailed reply to each of the issues you have addressed will follow shortly.

Thank you for your inquiry.

Sincerely,

RICHARD FAIRBANKS,
Assistant Secretary for Congressional Relations.

DEPARTMENT OF STATE,
Washington, D.C., June 10, 1981.

Hon. GILLIS W. LONG,
House of Representatives,
Washington, D.C.

DEAR MR. LONG: Pursuant to my reply of May 12, I am writing to provide a more detailed response to your letter of April 24 regarding the proposed Soviet-Western European gas pipeline. I understand that you posed identical sets of questions to the Departments of Energy, Commerce and Treasury. The State Department has conferred with each of those agencies in preparing our response to your questions.

Let me note from the outset that the Administration is currently reviewing U.S. policy toward the proposed pipeline within the context of more general East-West economic and security issues. As the breadth and depth of your inquiries indicate, the pipeline is a particularly complicated issue. The Administration's strategy for dealing with the pipeline will bear upon a number of important policy areas including international energy policy, U.S.-European relations, U.S. trade policy, and U.S.-Soviet relations. The final determination of the Administration's position will require the accommodation of several policy objectives, and will certainly be decided by the most senior officials.

In recent months, we have conferred with our European allies regarding the pipeline and East-West energy-related trade. We have indicated our concerns regarding the pipeline, as originally conceived, and possible European dependence on Soviet gas attendant to an expansion of Soviet-Western European energy relationships.

Although many European leaders support the pipeline in principle, they too have expressed concern about their potential dependence on Soviet energy supplies and have noted the slow pace at which technical, commercial and financial details of the project are being developed. We have begun to explore with the Europeans alternative sources of natural gas which might replace or supplement the proposed Soviet sales, and have recommended that they improve their emergency management capabilities to cope with gas supply interruptions. We have also suggested that the Europeans develop strategic gas storage, production and distribution capabilities. These emergency management measures would limit the effects of supply interruptions of any imported gas, and would reduce the political leverage that might otherwise be associated with East-West energy trade. In addition, we have recommended that the Europeans limit use of Soviet gas to the industrial sector and that they establish industrial dual fire capability to facilitate use of alternate fuels in the event of interrupted gas supply.

Let me now address some of the more specific questions that you raised in your letter to Secretary Haig.

The Soviets will seek substantial hard currency financing to pay for the imports necessary to construct the pipeline. We estimate that the import bill for the project will run upwards of $10 billion. European and Soviet financial leaders have been meeting to negotiate loan terms, but the talks are stalled. While the Soviets seek generous concessions of financing, Western financiers seek to structure a financial package which reflects recent commercial interest rate increases. We have counseled our allies that it would be inappropriate to offer concessionary financial terms.

Interest and amortization payments would be covered by the pipeline's hard currency earnings. Although the project would initially increase total Soviet debt, it probably would not adversely affect, and could even bolster, the Soviet economy and credit-worthiness over the longer term. Although the price tag on this single project is high, it is unlikely to affect Western money markets or interest rates.

Ruhrgas, a West German utility, is the leading European negotiator on operating terms. The other principal prospective customers are utilities in France, Italy, Austria, Belgium and the Netherlands. If the pipeline is built and operated successfully, the USSR could increase gas deliveries to Western Europe by 2.3–6.5 billion cubic feet/day (bcf/d) over their present 2.2 bcf/d deliveries. If that full potential were realized, European dependence on Soviet gas might increase to 20 percent of total gas consumption and 5 percent of total energy consumption. Of course total European gas consumption and the amount purchased from the USSR would depend heavily on general energy developments and the relative price of Soviet gas compared to those of competing gas sources.

Our European allies would expect to provide much of the technology and equipment required for the pipeline. The dollar value of these sales, as previously cited, would exceed $10 billion. The Soviets are likely to purchase wide-diameter pipe, compressor station equipment, and construction equipment to lay the pipline and to develop their natural gas fields. In addition to the six aforementioned European countries, the United Kingdom and Japan have been approached by the Soviets and are exploring opportunities to sell equipment.

A Western threat to terminate orders for the pipeline cannot be viewed solely as a possible lever for influencing Soviet policy towards Europe. Both the Soviets and the Western Europeans have their own reasons for desiring the construction of the pipeline. The leverage of cancellation would cut both ways.

For the Soviets, the pipeline would earn hard currency and replace foreign-exchange earnings from current oil exports, which are expected to decline appreciably by the end of the decade. The hard currency gained from the pipeline could pay for Western imports.

As for the Western Europeans, the loss of prospective contracts would significantly affect European pipe and compressor station manufacturers. These industries already depend on exports, and key manufacturers are operating at reduced capacity. In addition, the Europeans would be forced to negotiate alternate energy sources in order to continue to reduce their dependence on OPEC suppliers. They tend to view some alternative suppliers as less reliable than the Soviet Union.

U.S. firms could also gain from construction of the pipeline. In the past, our companies have successfully exported a wide-range of oil/gas equipment to the Soviet Union, and are particularly competitive in offering earth-moving equipment, mobile cranes, pipelayers, pipe wrap, compressor stations, and gas field equipment. In contrast to their Western European competitors however, U.S. firms would not be able to depend on

government-backed export financing since under the provisions of the Trade Act of 1974, the Soviet Union is not eligible to receive Export-Import Bank financing.

Of course, significant U.S. exports for the pipeline project would require Government authorization. The Administration is currently reviewing our export licensing policy and is devoting special attention to the question of energy related exports.

The Soviets are not likely to meet their overall gas production goals without importing Western technology and equipment. Western technology played a crucial role in the development of Soviet oil/gas during the 1970's and could play an even more important role in the future as the Soviets begin to exploit more marginal and distant energy sources.

Furthermore, the Soviets are likely to depend on imports to make up shortfalls in their domestic production of oil/gas equipment.

I trust that this information provides you sufficient background on the proposed pipeline.

Sincerely,

RICHARD FAIRBANKS,
Assistant Secretary for Congressional Relations.

DEPARTMENT OF THE TREASURY,
Washington, D.C., May 28, 1981.

Hon. GILLIS W. LONG,
House of Representatives,
Washington, D.C.

DEAR MR. LONG: Your April 24, 1981 letter to Secretary Regan asking a number of questions about the proposed West Siberian pipeline has been referred to me for reply. I have been advised that you also raised the same questions with the Departments of Commerce, Energy and State. As those Departments have agreed to respond to the questions that directly relate to their areas of responsibility I shall confine my response to questions 1 and 6 which are directed towards the financial aspects of the proposed project.

The details of the project have not yet been decided and there is still considerable variation in the estimates of the ultimate project costs. The foreign currency costs of the pipeline will depend, in part, on whether the Soviets decide to build a single or a dual pipeline. Current estimates of the cost of building a dual pipeline range from $10-15 billion. A single pipeline would be about $2 billion less expensive. The six European countries that are expected to receive most of the gas (West Germany, France, Italy, the Netherlands, Belgium and Austria) along with Japan will probably provide the bulk of the financing for the project through official and officially backed credits. Agreements on the financing arrangements have not yet been reached.

Assuming that $15 billion is disbursed over a 4 or 5 year period the impact on both commercial bank loans and government credits would probably be to preempt some marginal foreign borrowers but there would be no significant effects on the credit market as a whole.

Foreign borrowing for the pipeline would increase the gross Soviet hard currency debt, from $17.2 billion at the end of 1979, to perhaps more than $30 billion. This increase in Soviet indebtedness should not affect its international credit standing because the project is self liquidating; the pipeline's hard currency earnings will more than cover the costs of the project within a very short period of time. The Soviet Union's external financial situation is quite strong. Its balance of payments surpluses on current account will probably continue—$3.9 billion in 1979 and about $2.0 billion annually from 1980 to 1982. It also has a large gold reserve estimated at 51 million troy ounces at the end of 1979, and annual production of about 10 million troy ounces.

In regard to your questions about international credit rate competition, the U.S. is still actively seeking to reach understandings with major exporting countries that interest rates on officially supported export credits will be substantially closer to market rates. These understandings will apply to transactions anywhere in the world including the Soviet Union. The Export-Import Bank of the United States supported this effort by selectively meeting the subsidized credit terms of those export credit agencies which have been unwilling to see major changes in the level of supported rates. However, the Bank cannot offer credit to the USSR, by virtue of Title IV of the Trade Expansion Act of 1974 prohibiting the extension of credits or credit guarantees to countries that take certain acts to restrict emigration.

I hope this answers the financial questions raised in your letter.

Sincerely,

W. DENNIS THOMAS,
Assistant Secretary, Legislative Affairs.

THE SECRETARY OF COMMERCE,
Washington, D.C., June 16, 1981.

Hon. GILLIS W. LONG,
House of Representatives,
Washington, D.C.

DEAR MR. LONG: Thank you for your letter concerning the proposed Western European-U.S.S.R. natural gas pipeline project. I regret the delay in responding to you; but I understand our staffs have been in contact.

The Department of Commerce is participating in an interagency review of the U.S. position on this project along with the Departments of State, Energy, Treasury and Defense. We are also working with other agencies in formulating U.S. policy on exports of oil and gas equipment and technology to the Soviet Union. These discussions have not yet been completed. In the meantime, I will respond to your questions in an enclosure to this letter.

Sincerely,

MALCOLM BALDRIGE,
Secretary of Commerce.

Enclosure.

ANSWERS TO QUESTIONS POSED BY REPRESENTATIVE GILLIS W. LONG ON PROPOSED WESTERN EUROPE-U.S.S.R. GAS PIPELINE PROJECT

1. The cost of possible Soviet imports from the West for the project is estimated at between $10-$15 billion. The Soviets would have to make a similar domestic investment as well. Soviet purchases in the West would be financed largely by Western banks with payback in revenues from subsequent Soviet gas deliveries. West Germany, France, Italy, the Netherlands, Belgium and Austria have discussed financing arrangements with the U.S.S.R. in support of sales of equipment by their firms. Discussions have been reported of the following amounts: About $5 billion by West German banks, $3 billion by French banks, $2 billion by Dutch banks, and $1 billion by Belgian banks. Negotiations on the project have been at a standstill for several months, due largely to differences over the terms for financing. West German banks had agreed in principle to extend the approximately $5 billion at 7¾ percent interest, with a three-year grace period and payback over 10 years, but they withdrew the offer when commercial interest rates soared.

Borrowing to finance purchases for the project would significantly increase Soviet net debt to Western banks in the years prior to initiation of gas deliveries through the pipeline. The net debt of the Soviets currently totals about $9.1 billion. They would use between $10 and $15 billion in credits to make purchases for the pipeline. The hard currency earning potential of the project could be expected to reflect very favorably on assessments of Soviet creditworthiness.

2. In the Export-Import Bank Amendments of 1974, the Congress placed certain restrictions which effectively preclude the extension of credit to the Soviet Union in connection with the development of energy resources. During that period, American companies were discussing two projects with the Soviet Union that would have involved export of equipment for development of Soviet natural gas resources and long-term delivery of liquefied natural gas to the United States. For a number of reasons the parties to the discussions were unable to arrange adequate financing or obtain U.S. Government approval for importation of the gas, and the projects never came to fruition.

West Germany, France, Italy, and Austria have been importing significant volumes of gas from the Soviet Union since 1975. The West Europeans are already highly dependent on foreign sources of energy, many of whom they consider less reliable suppliers than the Soviet Union. Even were the West Europeans to be offered reliable and attractively priced alternative energy sources and perhaps direct assistance in obtaining alternative supplies, they might still be inclined to view Soviet gas as a useful additional source.

The Western Europeans have been developing trade with the Soviet Union since the 1950's for what they view as political benefits as well as economic advantages. In seeking to enhance their security, they see no alternative to attempting to develop a degree of stability in Europe. Perhaps because of the close proximity of the Soviet Union, they believe this effort must include an attempt to develop a certain amount of cooperation with the Soviet Union. They believe trade is an important stabilizing factor in East-West relations.

Among the factors which may influence West European attitudes toward the project and East-West trade in general are any drastic actions the Soviets may take toward other countries. For example, concern about the Polish situation already appears to have played a role in slowing negotiations on the project.

3. The major potential customers for the gas include West Germany, France, Italy, Austria, Belgium, and the Netherlands. Should the pipeline be completed, the U.S.S.R. would eventually be able to increase gas deliveries by 2.3-4.6 billion cubic feet/day (bcf/d) over present deliveries of about 2.2 bcf/d. European reliance on Soviet gas would increase to about 20% of total gas use and about 5% of total energy use.

The U.S. has recommended to our European allies that they enhance their capability to cope with any prospective gas supply interruption. Specifically, we have suggested that no Soviet gas be used in the residential sector and that dual-fired capabilities be developed in the industrial sector in order

to facilitate a switch to alternate fuels should that become necessary. We have also suggested that the Europeans increase gas storage capacity and reserve gas production capabilities. This would reduce vulnerability to potential Soviet leverage and would also be useful in dealing with potential gas interruptions from OPEC suppliers.

4. The project could make a major contribution to maintaining Soviet capacity for earning hard currency. We expect Soviet exports of oil to the West, which now account for about one-half of Soviet hard currency earnings, to approach zero by the middle 1980's. With deliveries through the pipeline, Soviet gas exports to Western Europe could equal the current level of Soviet oil exports to the West in terms of energy content. Assuming that world gas prices continue rapidly to approach the price of oil, earnings from gas sales could substantially replace current Soviet hard currency earnings from oil exports.

5. Western sales of equipment for the project are expected to total between $10 and $15 billion. Thirty-five to fifty percent of these sales would consist of large diameter pipe, while compressor station equipment would account for perhaps another 30-35 percent. There would also be extensive sales of other pipeline apparatus, earthmoving equipment, pipelayers, and gas field equipment. If the Soviets are to meet their 1985 target for expansion of natural gas production, they will also have to make additional purchases of Western equipment for their domestic pipeline projects.

Each of the West European countries considering participation in the project expects that its firms will make sales for the pipeline, and each has discussed financing arrangements with the Soviet Union in support of these sales. In terms of financing, the Soviets will probably have considerable flexibility in determining the volume of orders they will place in each country, for they are attempting to arrange lines of credit which taken all together could exceed the total value of purchases anticipated for the project. The size of the proposed financing packages mentioned earlier indicates the scope of sales anticipated by various countries. In addition to the West European participants, firms from the U.K. and Japan expect to compete for considerable sales with support from government-backed financing programs.

In the event the project does not go forward, Western suppliers will miss out on $10 to $15 billion in business. This would be a significant loss, particularly for European pipe and compressor station manufacturers who have to some extent depended on Soviet contracts in recent years. Some of these lost orders could be replaced by Soviet purchases for domestic gas pipeline construction. In the absence of gas deliveries from the proposed pipeline, the West Europeans would have to increase their efforts to get more gas from other suppliers, thus putting more pressure on world gas prices.

6. In 1978 twenty-two OECD countries adopted the "International Arrangement on Officially Supported Export Credits," which specifies a single set of minimum interest rates and maximum repayment terms. U.S. efforts to reduce the degree of government export credit subsidies by linking interest rates more closely to market rates, which have risen dramatically in many countries, have been unsuccessful. The U.S. is continuing its efforts to dissuade the Japanese and other OECD members from offering interest rates or repayment terms more favorable than the Arrangement guidelines for a project such as the proposed Western European-U.S.S.R. gas pipeline. Since Eximbank currently is precluded from providing any financing, including guarantees and insurance to the U.S.S.R., the level of Eximbank's 1982 budget authorizations would not affect American banks' ability to offset foreign subsidized credit.

7. The project is still in the negotiating stage. Contracts for purchase of Soviet gas by six or more countries and financing arrangements in perhaps eight countries for sale of equipment all remain to be worked out. The Western European countries discussing the project, as well as the British and Japanese, clearly intend to compete aggressively for project-related sales. Their firms are probably capable of supplying all the equipment required for the project.

U.S. firms have sold a wide range of equipment for Soviet gas pipelines in the past, and they may have opportunities for some sales for this project. In contrast to their Western European and Japanese competitors, American companies would not be able to utilize government-backed credit programs in competing for sales. In some cases they should be able to offer superior equipment and earlier delivery dates. American firms would be particularly competitive in offering earthmoving equipment, mobile cranes, pipelayers, pipe wrap, compressor stations, and gas field equipment.

Under current regulations, most exports for the pipeline would require a validated license issued by the Commerce Department. The Administration is currently reviewing its overall position on the pipeline project as well as its policy on export of oil and gas equipment and technology to the Soviet Union. In November 1980 the Commerce Department issued a validated license to Caterpillar Tractor Company for export of 200 pipelayers valued at about $79 million to the Soviet Union to be used on the proposed pipeline project. Caterpillar has subsequently informed us that negotiations on the sale of pipelayers for this project have been suspended. Meanwhile, the company has signed a contract to deliver pipelayers for other projects and has applied for an amendment to their export license.

8. Western equipment and technology played an important role in the expansion of Soviet gas production in the 1970's, and it will probably be even more important in the 1980's. Without Western equipment for construction of pipelines, the Soviets will not be able to achieve their production goal for gas for 1985. A portion of this plan is in turn based on the desire to increase export of natural gas to Western Europe to earn hard currency. Incremental gas production will grow at an unprecedented rate in the 1980's. It will be concentrated in northwest Siberia, creating a need for special arctic equipment and a vast new pipeline network to get the gas to consuming areas. Since Soviet equipment suppliers have not kept pace with gas production, the Soviets will need even more Western equipment than in the past, particularly wide diameter pipe, valves, and compressor stations, to step up the pace of pipeline construction. In the short run the proposed Western Europe-U.S.S.R. project would be a drain on Soviet labor and equipment resources. In the long run it would enhance the ability of the Soviets to exploit their gas resources.●

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. SMITH of Alabama) to revise and extend their remarks and include extraneous material:)

Mr. ROGERS, for 10 minutes, today.

Mr. FRENZEL, for 20 minutes, today.

(The following Members (at the request of Mr. MCCURDY) to revise and extend their remarks and include extraneous material:)

Mr. DYMALLY, for 5 minutes, today.

Mr. GONZALEZ, for 15 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. MAZZOLI, for 5 minutes, today.

Mr. NELSON, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. LONG of Louisiana, and to include extraneous matter, notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $2,040.

(The following Members (at the request of Mr. SMITH of Alabama) and to include extraneous matter:)

Mr. CONTE.

Mr. HARTNETT.

Mr. SMITH of New Jersey.

Mr. WHITEHURST.

Mr. FORSYTHE.

Mr. BAILEY of Missouri.

Mr. GREEN.

Mr. DERWINSKI in two instances.

Mr. RHODES.

Mr. FIELDS.

Mr. PHILIP M. CRANE in two instances.

(The following Members (at the request of Mr. MCCURDY) and to include extraneous matter:)

Mr. ROE in two instances.

Ms. MIKULSKI.

Mr. MINETA.

Mr. STOKES.

Mr. ECKART.

Mr. MATSUI.

Mr. MAZZOLI.

Mr. FRANK in five instances.

Mr. HAMILTON in two instances.

Mr. RICHMOND.

Mr. BOLLING.

Mr. GUARINI in three instances.

Mr. PEASE.

Mrs. SCHROEDER in two instances.

Mr. MCDONALD in 10 instances.

Mr. BRODHEAD.

Mrs. CHISHOLM.

Mr. HUBBARD.

Mr. LEHMAN.

Mr. AUCOIN in two instances.

Mr. BONER of Tennessee.

Mr. MARKEY.

Mr. HARKIN.

Mr. WILLIAMS of Montana.

Mr. OTTINGER.
Mr. NOWAK.
Ms. OAKAR.
Mr. NELSON.
Mr. GRAY.
Mr. LUKEN.

ADJOURNMENT

Mr. McCURDY. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 52 minutes p.m.) the House adjourned until tomorrow, Wednesday, July 15, 1981, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1790. A letter from the Assistant Secretary of Defense (Comptroller), transmitting notice of the proposed obligation of certain funds in the Defense Stock Fund for war reserve stocks, pursuant to section 734 of Public Law 96-527; to the Committee on Appropriations.

1791. A letter from the Secretary of the Army, transmitting notice of the recent discovery and disposal of suspected lethal chemical nerve agent munitions at Dugway Proving Ground, Utah, pursuant to section 409(b)(4) of Public Law 91-121 and section 506(d) of Public Law 91-441; to the Committee on Armed Services.

1792. A letter from the Assistant Secretary of the Army (Installations, Logistics and Financial Management), transmitting notice of the proposed conversion to contractor performance of the guard services activity at Fort Bliss, Tex., pursuant to section 502(b) of Public Law 96-342; to the Committee on Armed Services.

1793. A letter from the Assistant Secretary of the Army (Installations, Logistics and Financial Management), transmitting notice of the proposed conversion to contractor performance of the combined maintenance/motor vehicle operations activity at the U.S. Military Academy, West Point, N.Y., pursuant to section 502(b) of Public Law 96-342; to the Committee on Armed Services.

1794. A letter from the Assistant Secretary of the Navy (Shipbuilding and Logistics), transmitting notice of the proposed conversion to contractor performance of the food service attendant function at Lemoore Naval Air Station, Calif., pursuant to section 502(b) of Public Law 96-342; to the Committee on Armed Services.

1795. A letter from the Assistant Secretary of the Air Force (Research, Development and Logistics), transmitting notice of the proposed conversion to contractor performance of the military family housing maintenance and repair function at Pease Air Force Base, N.H., pursuant to section 502(b) of Public Law 96-342; to the Committee on Armed Services.

1796. A letter from the Deputy Assistant Secretary of Defense (Administration), transmitting notice that the Army intends to waive the requirement for the examination of records by the Comptroller General from a contract, pursuant to 10 U.S.C. 2313(c); to the Committee on Armed Services.

1797. A letter from the Chairman, Council of the District of Columbia, transmitting D.C. Act 4-57, "To amend the School Transit Fare Act of 1955," pursuant to section 602(c) of Public Law 93-198; to the Committee on the District of Columbia.

1798. A letter from the Secretary of Transportation, transmitting the annual report on the Secretary's activities under the Emergency Rail Services Act of 1970, and an evaluation of the financial condition of railroads which have outstanding certificates guaranteed under the act, pursuant to section 10 of the act; to the Committee on Energy and Commerce.

1799. A letter from the Secretary of Transportation, transmitting the annual report for fiscal year 1980 on the financial condition and operations of the Railroad Rehabilitation and Improvement Fund and of the obligation guarantee fund, pursuant to section 515 of the Railroad Revitalization and Regulatory Reform Act of 1976; to the Committee on Energy and Commerce.

1800. A letter from the Secretary of Energy, transmitting the annual report on the State energy conservation program for calendar year 1980, pursuant to section 365(c) of the Energy Policy and Conservation Act; to the Committee on Energy and Commerce.

1801. A letter from the Assistant Secretary of State for Congressional Relations, transmitting notice of a delay in the submission of the President's report on strengthening the Interagency Group on Human Rights and Foreign Assistance, requested by section 710 of the International Security and Development Cooperation Act of 1980; to the Committee on Foreign Affairs.

1802. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on Foreign Affairs.

1803. A letter from the Deputy Administrator of General Services, transmitting the fiscal year 1980 report on records disposition activities of the Federal Government, pursuant to 44 U.S.C. 3303a(f); to the Committee on Government Operations.

1804. A letter from the Assistant Secretary of the Interior, transmitting a draft of proposed legislation to amend the act of October 19, 1973, relating to the use or distribution of certain judgment funds awarded by the Indian Claims Commission or the Court of Claims; to the Committee on Interior and Insular Affairs.

1805. A letter from the Acting Assistant Administrator, Office of Coastal Zone Management, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting a proposed final rule to clarify the meaning of the term "directly affecting the coastal zone" in section 307(c)(1) of the Coastal Zone Management Act of 1972, as amended, pursuant to section 12 of Public Law 96-464; to the Committee on Merchant Marine and Fisheries.

1806. A letter from the Assistant Secretary of the Army (Civil Works), transmitting a Corps of Engineers report on Mill Brook, Arlington, Mass., in response to a resolution of the House Committee on Public Works and Transportation adopted September 23, 1976; to the Committee on Public Works and Transportation.

1807. A letter from the Assistant Secretary of the Army (Civil Works), transmitting a Corps of Engineers report on the Delaware Bay Shore, N.J., in response to a resolution of the House Committee on Public Works adopted June 14, 1972; to the Committee on Public Works and Transportation.

1808. A letter from the Assistant Secretary of the Army (Civil Works), transmitting a draft of proposed legislation to amend the National Cemeteries Act of 1973, to rescind the requirement that the superintendent positions of national cemeteries under the jurisdiction of the Secretary of the Army be limited to disabled veterans, and for other purposes; to the Committee on Veterans' Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. FROST: Committee on Rules. House Resolution 178. Resolution waiving certain points of order against H.R. 4119 making appropriations for Agriculture, Rural Development, and Related Agencies programs for the fiscal year ending September 30, 1982, and for other purposes (Rept. No. 97-175). Referred to the House Calendar.

Mr. BEILENSON: Committee on Rules. House Resolution 179. Resolution waiving certain points of order against H.R. 4120 making appropriations for the legislative branch for the fiscal year ending September 30, 1982, and for other purposes (Rept. No. 97-176). Referred to the House Calendar.

Mr. BEVILL: Committee on Appropriations. H.R. 4144. A bill making appropriations for energy and water development for the fiscal year ending September 30, 1982, and for other purposes. (Rept. No. 97-177). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ERLENBORN (for himself, Mr. ATKINSON, Mr. BAILEY of Missouri, Mr. BUTLER, and Mr. LANTOS):

H.R. 4133. A bill to provide for improved financial management and audit of Federal assistance programs; to the Committee on Government Operations.

By Mr. FRENZEL:

H.R. 4134. A bill to amend the Tariff Act of 1930 to prohibit the transaction of customs business by nominal consignees, and for other purposes; to the Committee on Ways and Means.

By Mr. GUNDERSON:

H.R. 4135. A bill for the relief of certain towns, townships, villages, cities, and other entities in the State of Wisconsin and certain departments of the State of Wisconsin; to the Committee on the Judiciary.

By Mr. LELAND:

H.R. 4136. A bill to amend title 5, United States Code, to revise the pay structure for Federal employees whose duties primarily relate to firefighting; to the Committee on Post Office and Civil Service.

By Mr. MOAKLEY:

H.R. 4137. A bill to amend the Railroad Retirement Act of 1974 to eliminate the re-

duction of railroad retirement annuities by amounts payable as social security benefits in cases of persons who had at least 10 years of service, and had attained the age of 65 as of the effective date of such act; to the Committee on Energy and Commerce.

By Mr. NAPIER:

H.R. 4138. A bill to require the Secretary of State to offer a reward for information leading to the discovery of the location of Sgt. Steve Randall Grisham, U.S. Army; to the Committee on Foreign Affairs.

By Mr. RUSSO:

H.R. 4139. A bill to amend the Congressional Budget Act of 1974 to require a two-thirds vote in both the House and the Senate for the adoption of a budget resolution which includes or would result in a Federal deficit of more than 2 percent, to require that any such resolution contain language either expressly affirming the necessity of such deficit or attributing an equal amount of deficit (in the form of unspecified budget outlays) to one or more future fiscal years, to impose similar requirements upon the passage of any bill that would add to such deficit, and for other purposes; to the Committee on Rules

By Mr. SHANNON:

H.R. 4140. A bill to amend title II of the Social Security Act to provide for a minimum primary insurance amount and minimum survivor's benefit for vow-of-poverty members of religious orders and individuals who have attained the age of 80; to the Committee on Ways and Means.

By Mr. WALKER:

H.R. 4141. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to provide death benefits with respect to members of rescue squads; to the Committee on the Judiciary.

By Mr. BEVILL:

H.R. 4144. A bill making appropriations for energy and water development for the fiscal year ending September 30, 1982, and for other purposes.

By Mr. GUARINI:

H. Con. Res. 156. Concurrent resolution expressing the sense of the Congress that minimum monthly insurance benefits under the Social Security Act should be continued at current levels; to the Committee on Ways and Means.

By Mr. BEDELL:

H. Res. 180. Resolution restricting use of appropriated funds for calendars for Members of the House of Representatives; to the Committee on House Administration.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

156. By the SPEAKER: Memorial of the Legislature of the State of California, relative to the use of natural gas as a boiler fuel in existing electric power plants; to the Committee on Energy and Commerce.

157. Also, memorial of the Assembly of the State of New York, relative to Americans missing in Southeast Asia; to the Committee on Foreign Affairs.

158. Also, memorial of the Senate of the First Olbiil Era Kelulau, Republic of Palau, Trust Territory of the Pacific Islands, relative to the recent visit of the Acting High Commissioner to Palau; to the Committee on Interior and Insular Affairs.

159. Also, memorial of the Legislature of the State of Oregon, ratifying the proposed amendment to the Constitution of the United States to provide voting representation for the District of Columbia in the Congress; to the Committee on the Judiciary.

160. Also, memorial of the House of Representatives Commonwealth of Massachusetts, relative to social security benefits; to the Committee on Ways and Means.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. DANIELSON:

H.R. 4142. A bill for the relief of six employees of the Pearl Harbor Naval Shipyard, Department of the Navy, Pearl Harbor, Hawaii; to the Committee on the Judiciary.

By Mr. YOUNG of Florida:

H.R. 4143. A bill for the relief of Olja Rojas-Pujolar; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 27: Ms. FIEDLER.

H.R. 39: Mr. LANTOS.

H.R. 84: Mr. HOWARD and Ms. MIKULSKI.

H.R. 168: Mr. LANTOS.

H.R. 170: Mr. LANTOS.

H.R. 172: Mr. LANTOS.

H.R. 459: Mr. DAUB.

H.R. 601: Mr. MCDONALD.

H.R. 835: Mr. BAILEY of Pennsylvania.

H.R. 907: Mr. MARKEY.

H.R. 1005: Mr. FROST, Mr. SAWYER, and Mr. FIELDS.

H.R. 1400: Mr. FRANK.

H.R. 1805: Mr. RANGEL.

H.R. 1918: Mr. GOODLING, Mr. JONES of Tennessee, Mr. HYDE, Mr. HUGHES, and Mr. JAMES K. COYNE.

H.R. 2032: Mr. ROBERT W. DANIEL, JR. and Mr. WEBER of Minnesota.

H.R. 2203: Mr. GUNDERSON, Mr. AUCOIN, and Mr. FRENZEL.

H.R. 2319: Mr. ROEMER, Mr. STOKES, and Mr. ERDAHL.

H.R. 2605: Mrs. BOGGS, Mr. MOTTL, and Mr. AKAKA.

H.R. 2826: Mr. RAHALL.

H.R. 2990: Mr. SAM B. HALL, JR. and Mr. WATKINS.

H.R. 3021: Mr. HANSEN of Utah.

H.R. 3550: Mr. LOWERY of California and Mr. GRAY.

H.R. 3575: Mr. OBERSTAR, Mr. STRATTON, and Mr. TAUZIN.

H.R. 3582: Mr. LOWERY of California and Mr. GRAY.

H.R. 3596: Mr. BRODHEAD, Mr. WON PAT, Mr. PEPPER, Mr. EVANS of Indiana, Mr. RINALDO, Mr. ERTEL, Mr. DUNCAN, Mr. PANETTA, Mr. RAHALL, Mr. RUSSO, Mr. WHITEHURST, Mr. BEVILL, Mr. VENTO, Mr. MITCHELL of New York, Mr. FORD of Michigan, Mr. WILSON, Mr. RICHMOND, Mr. MINETA, Mr. FISH, Ms. FERRARO, Mr. MCCLOSKEY, Mr. SNYDER, Mr. FLORIO, Mr. FITHIAN, and Ms. MIKULSKI.

H.R. 3619: Mr. STATON of West Virginia.

H.R. 3632: Mr. BAILEY of Pennsylvania.

H.R. 3704: Mr. CHAPPELL, Mr. HYDE, Mr. LANTOS, Mr. LEATH of Texas, Mr. MILLER of Ohio, Mr. ROE, Mr. SANTINI, Mr. SHAW, Mr. WILSON, and Mr. ZEFERETTI.

H.R. 3870: Mr. MCKINNEY and Mr. LANTOS.

H.R. 3884: Mrs. COLLINS of Illinois, Mrs. CHISHOLM, Mr. STOKES, and Mr. FAUNTROY.

H.R. 3934: Mr. TRIBLE and Mr. BAFALIS.

H.R. 3995: Mr. NAPIER.

H.R. 4004: Mr. YATRON, Mr. WEAVER, Mr. DYMALLY, Mr. BEDELL, Mr. DORGAN of North Dakota, Mr. GARCIA, Mr. LANTOS, Mr. TAUKE, and Mr. KILDEE.

H.R. 4014: Mr. LOTT, Mr. KAZEN, and Mr. HANCE.

H.R. 4043: Mr. HAWKINS.

H.R. 4057: Mr. DYMALLY, Mr. FAZIO, and Mr. MARKEY.

H.R. 4108: Mr. LAGOMARSINO, Mr. MORRISON, Mr. SHUMWAY, Mr. COLEMAN, Mr. PANETTA, Mr. WAMPLER, Mr. BURGENER, Mr. MADIGAN, Mr. CHAPPELL, Ms. FIEDLER, Mr. GUNDERSON, and Mr. EVANS of Iowa.

H.J. Res. 81: Mr. PATTERSON, Mr. EMERY, Mr. D'AMOURS, Mr. RATCHFORD, Mr. GRAY, and Mr. DELLUMS.

H.J. Res. 253: Mr. GRAY and Mr. ROEMER.

H.J. Res. 283: Mr. HANSEN of Idaho, Mr. GREEN, Mr. EMERY, Mr. RINALDO, Mr. DERWINSKI, Mr. ROE, Mr. REGULA, Mr. COLLINS of Texas, Mr. KINDNESS, Mrs. HOLT, Mr. LUNGREN, Mr. LANTOS, Mr. SMITH of Alabama, Mr. WHITEHURST, and Mr. CORCORAN.

H. Con. Res. 130: Mr. GRAY.

H. Con. Res. 132: Mr. GRAY.

H. Res. 100: Mr. LEACH of Iowa.

H. Res. 124: Mr. FRENZEL.

H. Res. 158: Mr. GUARINI, Mr. LANTOS, Mr. DENARDIS, and Mr. GAYDOS.

H. Res. 173: Mr. MCCURDY, Mrs. MARTIN of Illinois, Mr. RINALDO, Mr. PEPPER, Mr. FOGLIETTA, Mr. FORSYTHE, Mr. MOTTL, Mr. BINGHAM, Mr. DERWINSKI, Mr. RITTER, Mr. ANDERSON, Mr. FAUNTROY, Mr. PRICE, Mr. LANTOS, and Mr. FITHIAN.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

133. By the SPEAKER: Petition of David Richardson, District Heights, Md., relative to redress of grievances; to the Committee on Post Office and Civil Service.

134. Also, petition of the 61st Grand Promenade, Grand Voiture du Iowa, La Societe des 40 Hommes et 8 Chevaux, Little Amana, Iowa, relative to veterans benefits; to the Committee on Veterans' Affairs.

135. Also, petition of the 61st Grand Promenade, Grand Voiture du Iowa, La Societe des 40 Hommes et 8 Chevaux, Little Amana, Iowa, relative to the social security death benefit; to the Committee on Ways and Means.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 3519

By Mr. GLICKMAN:

—On page 52, strike lines 4 through 12 and insert in lieu thereof the following:

"(3) Before any contract described in paragraph (1) that contains a clause setting forth a cancellation ceiling in excess of $25,000,000 may be awarded, the head of the agency involved shall give written notification of the proposed contract to the Committee on Armed Services and on Appropriations of the Senate and House of Representatives, and such contract may not then be awarded until the end of the 60-day period beginning on the date of such notification. No such contract may be entered into if during that 60-day period both the House of

Representatives and the Senate adopt resolutions disapproving such multiyear contract.".

By Mr. VOLKMER:

—On page 59, strike lines 20 through 24 and on page 60, strike lines 1 through 17.

H.R. 4034

By Mr. MITCHELL of New York:

—Page 18, line 22, strike out "$83,369,000" and insert in lieu thereof "$88,878,000".

Page 19, line 4, strike out "$54,084,000" and insert in lieu thereof "$167,484,000".

Page 19, line 24, strike out "$29,010,000" and insert in lieu thereof "$80,917,000".

By Mr. SKELTON:

—Page 19, line 4, strike out "$54,084,000" and insert in lieu thereof "$138,789,000".

Page 19, line 24, strike out "$29,010,000" and insert in lieu thereof "$69,963,000".

H.R. 4035

By Mr. KILDEE:

—On page 43, line 11, after the comma, insert the following: "if such care can be extended without impairing the ability of the Indian Health Service to fulfill its responsibility to provide health care to Indians served by such facilities and".

On page 43, line 12, strike out "prescribe:" and insert in lieu thereof the following: "prescribe, the proceeds of which shall be deposited in the fund established by sections 401 and 402 of the Indian Health Care Improvement Act:".

By Mr. MARRIOTT:

—On Page 2, after line 15, insert the following new paragraph:

"PAYMENTS IN LIEU OF TAXES

"For expenses necessary to carry out the provisions of Public Law 94-565, including administrative expenses, $100,000,000, to remain available until expended.".

—Page 17, line 14, strike out "$66,033,000" and insert in lieu thereof "$72,233,000".

Page 17, line 16, insert immediately before the period the following: "*Provided*, That $6,200,000 of such amount shall be available to carry out the provisions of title III of the Surface Mining Control and Reclamation Act of 1977 (91 Stat. 445)".

—Page 36, line 20, strike out "$463,750,000" and insert in lieu thereof "$457,550,000".

By Mr. OTTINGER:

—Page 37, line 8, strike out "$272,890,000" and insert in lieu thereof "$295,890,000".

(AMENDMENT TO THE WEBER AMENDMENT)

—Strike "$137,890,000" and insert in lieu thereof "$160,890,000".

By Mr. WEBER of Minnesota:

—Page 37, line 8, strike out "$272,890,000 and $99,608,000" and insert in lieu thereof "$137,890,000 and $234,608,000".

By Mr. WILLIAMS of Montana:

—On page 42, line 16, strike "$46,739,000", and insert in lieu thereof "$62,239,000".

EXTENSIONS OF REMARKS

WHICH DIRECTION—THE DEMOCRATIC PARTY?—I

HON. LARRY McDONALD
OF GEORGIA
IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 14, 1981

● Mr. McDONALD. Mr. Speaker, over the past several months, there have been many instances when individuals in the Democratic Party have been wondering which direction are we heading. I think my colleagues should take a look, a long look, for the answer to that problem from some observations made by an earlier Democrat in our history.

It was in January of 1936, that the man who rose from the poverty of the streets of New York to become Governor of that State, addressed the Liberty League dinner here in Washington, D.C. In the first part of that speech, Alfred E. Smith, American, painted the honest appraisal of where this country was heading. Also, in that first part, which I share with you today, Al Smith begins to examine the then planks of the Democratic Party. Let us today, seriously examine what Al Smith said yesterday. Then and only then will we as Democrats reply to that soul searching question, are we as Americans first in one of the Nation's darkest hours, going to follow the path of patriotism or partisanship? This is the question that Al Smith asked in yesteryear and we should ask today.

Part I follows:

PATRIOTISM OR PARTISANSHIP—REMARKS OF HON. ALFRED E. SMITH AT THE LIBERTY LEAGUE DINNER IN WASHINGTON, D.C., JANUARY 1936

Mr. Chairman, members and guests of the American Liberty League, and my friends listening in, as I have been told by the newspapers, from all parts of the United States.

At the outset of my remarks let me make one thing perfectly clear. I am not a candidate for any nomination by any party, at any time. What is more. I do not intend even to lift my right hand to secure any nomination from any party at any time.

Further than that, I have no axe to grind. There is nothing personal in this whole performance in so far as I am concerned. I have no feeling against any man, woman or child in the United States. I am in possession of supreme happiness and comfort. I represent no group, no man, and I speak for no man or no group, but I do speak for what I believe to be the best interests of the great rank and file of the American people in which class I belong.

Now, I am here tonight also because I have a great love for the United States of America. I love it for what I know it has meant to mankind since the day of its institution. I love it because I feel that it has grown to be a great stabilizing force in world civilization. I love it, above everything else, for the opportunity that if offers to every man and every woman that desires to take advantage of it.

No man that I know of or that I probably ever read of has any more reason to love it than I have. They keep that gateway open for me. It is a matter of common knowledge throughout the country, and I do not state it boastfully, because it is well known, that, deprived by poverty in my early years of an education, that gateway showed me how it was possible to go from a newsboy on the sidewalks of New York to the Governorship of the greatest State in the Union.

Now listen. I have five children and I have ten grandchildren, and you take it from me I want that gate left open, not alone for mine—I am not selfish about it—not for mine, but for every boy and girl in the country. And in that respect I am no different from every father and mother in the United States.

Now, think it over for a minute, figure it out for yourself. It is possible for your children's success to be your success.

I remember distinctly my first inauguration as Governor of New York, and I am not sure that the young folks understood it throughly, but there were three people at that inauguration that did understand it: One was my mother, and the other was my sister, and the third was my wife, because they were with me in all of the early struggles.

I am here for another reason. I am here because I am a Democrat. I was born in the Democratic party and I expect to die in it. I was attached to it in my youth, because I was led to believe that no man owned it. Furthermore, that no group of men owned it, but, on the other hand, it belonged to all the plain people of the United States.

Now, I must make a confession. It is not easy for me to stand up here tonight and talk to the American people against a Democratic administration. It is not easy; it hurts me. But I can call upon innumerable witnesses to testify to the fact that during my whole public life I put patriotism above partisanship.

And when I see danger, I say danger, that is, then stop, look and listen to the fundamental principles upon which this government of ours was organized. And it is difficult for me to refrain from speaking up. What are these dangers that I see? The first is the arraignment of class against class. It has been freely predicted that if we were ever to have civil strife again in this country it would come from the appeal to the passions and prejudices that come from the demagogues who would incite one class of our people against the other.

Of course in my time I met some good and bad industrialists, I met some good and bad financiers, but I also met some good and bad laborers. This I know—that permanent prosperity is dependent upon both capital and labor alike. I also know that there can be no permanent prosperity in this country until industry is able to employ labor, and there certainly can be no permanent recovery upon any governmental theory of soak the rich or soak the poor. You can't soak capital without soaking labor at the same time.

The next thing that I view as being dangerous to our national liberty is government by bureaucracy instead of what we have been taught to look to: government by law. Just let me quote something from the President's message to Congress:

"In thirty-four months we have set up new instruments of public power in the hands of the people's government, which power is wholesome and appropriate, but in the hands of political puppets, of an economic autocracy, such power would provide shackles for the liberties of our people."

Now, I interpret that to mean that, if you are going to have an autocrat, take me.

But be very careful about the other fellow.

There is a complete answer to that, and it rises in the minds of the great rank and file, and that answer is just this—we will never, in this country, tolerate any law that provides shackles for our people.

We don't want any autocrats, either in or out of office. We wouldn't even take a good one.

The next thing that is apparent to me is the vast building up of new bureaus of government draining the resources of our people, to pool and redistribute them, not by any process of law but by the whim of the bureaucratic autocracy.

Well, now, what am I here for? I am here not to find fault. Anybody can do that. I am here to make a suggestion. Now, what would I have my party do? I would have them reestablish and redeclare the principles that they put forth in that 1932 platform.

Even our Republican friends, and I know many of them—they talk to me freely, we have our little confidences among ourselves—they have all agreed that it is the most compact, the most direct and the most intelligent political platform that was ever put forth by any political party in this country.

The Republican platform was ten times as long as it. It was stuffy, it was unreadable, and in many points not understandable.

No administration in the history of the country came into power with a more simple, a more clear, or a more inescapable mandate than the party that was inaugurated on the 4th of March in 1933, and, listen, no candidate in the history of the country ever pledged himself more unequivocally to his party platform than did the President who was inaugurated on that day.

Well, here we are. Millions and millions of Democrats just like myself, all over the country, still believe in that platform. What we want to know is, why wasn't it carried out?

And listen, there is only one man in the United States of America that can answer that question.

It won't do to pass it down to an Under-Secretary. I won't even recognize him when I hear his name. I won't know where he came from. I will be sure that he never lived down in my district.

Now, let us wander for a little while and let us take a look at that platform and let us see what happened to it. Here is the way it started out.

"We believe that a party platform is a covenant with the people to be faithfully kept

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

by the party when entrusted with power and that the people are entitled to know in plain words the terms of the contract to which they are asked to subscribe."

"The Democratic party solemnly promises by appropriate action to put into effect the principles, policies and reforms herein advocated and to eradicate the political methods and practices herein condemned."

My friends, these were what we called "fighting words." At the time that that platform went through the air and over the wire, the people of the United States were in the lowest possible depths of despair, and the Democratic platform looked to them like a star of hope, it looked like the rising sun in the East to the mariner on the bridge of a ship after a terrible night, but what happened to it?

First plank: "We advocate an immediate drastic reduction of governmental expenditures by abolishing useless commissions and offices, consolidating departments and bureaus, and eliminating extravagance, to accomplish a saving of not less than twenty-five per cent in the cost of the Federal Government."

Well, now, what is the fact?

No bureaus were eliminated, but on the other hand the alphabet was exhausted in the creation of new departments and—this is sad news for the taxpayer—the cost, the ordinary cost, what we refer to as "housekeeping costs" over and above all emergencies, that ordinary housekeeping cost of government is greater today than it has ever been in any time in the history of the Republic.

Another plank: "We favor maintenance of the national credit by a Federal budget annually balanced on the basis of accurate executive estimates within revenue."

Why, how can you balance a budget if you insist upon spending more money than you take in? Even the increased revenue won't go to balance the budget, because it is "hocked" before you receive it.

It is much worse than that. We borrow. We owe something. We have borrowed so that we have reached a new high peak of Federal indebtedness for all time. Well, that wouldn't annoy me so very much ordinarily.

When I was Governor of New York, they said I borrowed a lot of money. That wouldn't worry me. If it solved our problems and we were out of trouble, I would say, "All right, let it go." But the sin of it is that we have the indebtedness, and at the end of three years we are just where we started.

Unemployment and the farm problem we still have with us. Now, here is something that I want to say to the rank and file: There are three classes of people in this country, there is the poor and the rich, and in between the two is what has often been referred to as the great backbone of America, that is the plain fellow, that is the fellow that makes from $100 a month up to the man that draws down five or six thousand dollars a year.

Now, there is that great big army. Forget the rich; they can't pay this debt; if you took everything they got away from them you could not pay it. There are not enough of them.

Furthermore, they ain't got enough. Now, there's no use of talking about the poor. They will never pay it, because they got nothing. This debt is going to be paid by that great big middle-class that we refer to as the backbone and the rank and file, and the sin of it is, they ain't going to know that they're paying it.

It is going to come to them in the form of indirect taxation. It will come in the cost of living, in the cost of clothing, in the cost of every activity they enter into, and because it isn't a direct tax, they won't think they are paying it, but take it from me, they are going to pay it.

Another point: "We advocate the extension of Federal credit to the States to provide for unemployment relief when the diminishing resources of the State render it impossible to provide for them."

That is pretty plain.

That was a recognition in the national convention of the rights of the States. But what happened? The Federal Government took over most of the relief problems, some of them useful and most of them useless. They started out to prime the pump for industry in order to absorb the ranks of the unemployed, and at the end of three years their affirmative policy is absolutely nothing but the negative policy of the administration that preceded it.

"We favor unemployment and old age insurance under State laws." Now, let me make myself perfectly clear so that no demagogue or no crack pot in the next week or so will be able to say anything about my attitude on this kind of legislation. I am in favor of it, and I take my hat off to no man in the United States on the question of legislation beneficial to the poor, the weak, the sick or the afflicted, men, women and children.

Because when I started out a quarter of a century ago, when I had very few followers in my State, during that period I advocated, fought for and introduced, as a legislator, and finally as Governor, for eight long years, and signed more progressive legislation in the interest of men, women and children than any man in the State of New York. And the sin of this whole thing, and the part of it that worries me and gives me concern is, that this haphazard legislation is never going to accomplish the purpose for which it was designed. And bear this in mind—follow the platform—"under State law."

Here is another one: "We promise the enactment of every constitutional measure that will aid the farmers to receive for their basic farm commodities prices in excess of cost."

Well, what is the use of talking about that? "We promise every constitutional measure." The Supreme Court disposed of that within the last couple of weeks. And, according to the papers the other day, some brilliant individual has conceived the idea of how to get around the Constitution. We are going to have forty-eight AAA's, one for each State.

The day that the United States Supreme Court decided the case I left my office to attend a board of trustees meeting. I got in a taxicab to go downtown. The driver was reading the extra, "Supreme Court Declares AAA Unconstitutional."

We rode along for a few minutes and then we got caught at a red light. The taxi fellow turned around and said: "Governor, ain't there any lawyers in Congress any more?"

Just then the light changed. I was afraid to answer him for fear I might disconcert him, but I was all ready to say: "Yes, son, but they don't function."

We got another plank! "We advocate strengthening and impartial enforcement of the anti-trust laws." What happened? The NRA just put a gas bag on the anti-trust laws and put them fast asleep.

And nobody said anything about it. I don't know whether they are bad, but I know that they didn't work.●

DEFENSE DEPARTMENT RESPONDS TO BIAGGI INQUIRY ABOUT THE TRAINING OF BRITISH TROOPS IN THE UNITED STATES

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 14, 1981

● Mr. BIAGGI. Mr. Speaker, as chairman of the bipartisan—121-member Ad Hoc Congressional Committee for Irish Affairs, I wish to share with my colleagues a recent exchange of letters between myself and the Department of Defense on the issue of British troops training at U.S. military facilities. My inquiry was sparked by consistent reports which I have received from the Irish American community and some published press reports which allege that these troops eventually do serve in Northern Ireland.

I am pleased that the Department responded as quickly as they did to my request although I do consider their response to be interim at best. What needs to be examined in greater detail is the relationship between NATO and Northern Ireland. More specifically, are the troops being trained under a United States-United Kingdom-NATO agreement being eventually dispatched for duty in Northern Ireland? If so, that would be a matter of profound concern to me and to many in the Irish American community.

I have maintained throughout the almost 4 years that the ad hoc committee has been in existence that it does have a role to play in Northern Ireland. That role is as a neutral broker—a role which would have the United States offer to bring all of the parties together for a peace summit—a role that might include eventual foreign economic assistance. We should not be aiding the British Government in maintaining its direct rule over Northern Ireland. I assure my colleagues that I will continue to investigate this information until I have received all necessary data to establish that our Nation is not using taxpayer funds to train British troops for service in Northern Ireland.

The letters follow:

JUNE 23, 1981.

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

DEAR MR. SECRETARY: As Chairman of the 121-Member, bi-partisan Ad Hoc Congressional Committee for Irish Affairs, I am writing to obtain information on persistent reports I receive that British troops are being trained at U.S. military facilities for later stationing in Northern Ireland.

One report indicated that training procedures were being conducted at Hubbert Air Force Base in Florida. Other reports have mentioned facilities in Maryland. Formerly,

Camp LaJeune had been used for such purposes.

I would appreciate the following information:

1. If British troops are using our facilities for training, under what law or treaty is such training permitted?

2. Are any of these troops assigned to subsequent duty in Northern Ireland?

3. What types of training are involved?

4. Have any protests been registered?

Your attention to this matter would be very much appreciated.

MARIO BIAGGI,
Chairman, Ad Hoc Congressional Committee for Irish Affairs.

THE UNDER SECRETARY OF DEFENSE,
Washington, D.C., July 2, 1981.

Hon. MARIO BIAGGI,
House of Representatives,
Rayburn House Office Building,
Washington, D.C.

DEAR CONGRESSMAN BIAGGI: Thank you for your June 23rd letter to Secretary Weinberger regarding the training of British military personnel in this country.

Training of British military personnel is authorized under the Arms Export Control Act and is an integral part of our mutual obligations under the North Atlantic Treaty. Training increases the expertise of the individuals and units involved, develops an appreciation for the tactics of allied forces, provides experience under varying conditions of terrain and climate, and results in meaningful contact between the host and guest armed forces.

Our cooperation with the United Kingdom is solely for the purposes of our NATO missions. Examples of the types of training include: management training, staff colleges, radio operator training, some aircrew training, maintenance training, Red Flag exercises in Nevada, and search and rescue training. None of the UK troops are trained in order to fight in Northern Ireland, and none receive internal police training here.

Concerning your last question, we have had no reason to protest. All training is for NATO missions—not for internal police functions.

I hope this information will be helpful to you in responding to your constituents. If I can be of further assistance, please let me know.

Sincerely,

Fred C. Ikle.●

THE GRANDGREEN BUSINESS/COMMUNITY ASSOCIATION

HON. WILLIAM M. BRODHEAD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 14, 1981

● Mr. BRODHEAD. Mr. Speaker, I would like to take a moment to familiarize my colleagues with the work of the Grandgreen Business/Community Association in Detroit. This association is actively working to revitalize neighborhood businesses in the Grandgreen area of the city, and I believe that its innovative approach is worthy of attention.

There is no question about the need to help businesses in urban areas survive. Far too many of these businesses fold each year. The Grandgreen Association has studied the situation in depth, and is convinced that the problem is not that Detroit residents have no need for the goods and services offered by neighborhood businesses, but rather that many urban residents are not aware of the strong connection between thriving neighborhood businesses and the cohesiveness of the entire community. Thus, Grandgreen is undertaking two important and related missions: To let community residents know the importance of patronizing local businesses whenever possible and to let existing and potential entrepreneurs know of the business opportunities that exist within the Grandgreen area. I am pleased that the association's efforts are enjoying broad and increasing support from the community.

At a time when many of America's cities are experiencing severe difficulties, and the administration has proposed large cutbacks in Federal aid to our cities, I know that my colleagues will be very interested in the positive way in which Grandgreen Association in Detroit has responded to this adversity. I hope that they will join me in wishing the association and its president, Morris Goodman, every success.●

THE PROBLEMS OF THE NUCLEAR POWER INDUSTRY—II

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 14, 1981

● Mr. HAMILTON. Mr. Speaker, in the April 12 edition of the New York Times magazine Mr. Anthony Parisi describes the difficult situation of the nuclear power industry in the United States. Entitled "Hard Times For Nuclear Power," Mr. Parisi's piece is quite detailed and comprehensive. It raises questions of clear relevance for those of us who wish to understand the nuclear power industry's condition and prospects. I hope that my colleagues will give the article the close attention it deserves.

Drawing heavily on the information and opinion contained in "Hard Times For Nuclear Power," I addressed a series of questions to Mr. James Edwards, the Secretary of Energy. The response was signed by Mr. Thomas Dillon, Deputy Assistant Secretary for Nuclear Reactor Programs, Office of Nuclear Energy. In my view, Mr. Dillon is to be commended for a response that is both careful and complete. My letter, Mr. Dillon's covering letter, and the first half of his enclosure 1 are reprinted here for the benefit and use of my colleagues. The second half of enclosure 1, enclosure 2, and enclosure 3 will be reprinted in subsequent editions of the CONGRESSIONAL RECORD.

HOUSE OF REPRESENTATIVES,
Washington, D.C., May 28, 1981.

Hon. JAMES EDWARDS,
Secretary, Department of Energy, Forrestal Building, Washington, D.C.

DEAR MR. SECRETARY: I recently read an article entitled "Hard Times for Nuclear Power" in The New York Times Magazine of April 12, 1981. The author of the article, Mr. Anthony Parisi, is not known to me, but if his observations are accurate then he is raising several important points which must be addressed.

After studying the article quite closely and giving it a good deal of thought, it occurred to me that I ought to get your ideas on a number of matters. Your answers to the following questions would be greatly appreciated:

1. Mr. Parisi states that "nuclear power is shrinking in this country * * * under its own economic weight." He attributes the industry's financial plight to a slackening in demand for electricity in the face of higher prices for fuel. In your opinion, what does the slack demand (high price) referred to by Mr. Parisi mean for the industry in the short run? In the long run?

2. Mr. Parisi claims that existing nuclear facilities save consumers money that they would otherwise have spent to buy coal or oil. He adds, however, that nuclear facilities ordered today would not achieve such savings. Do you agree or disagree? What are your reasons for your view?

3. Because of "slipping economic growth" and "the consumer's decision to shun high-priced energy * * * most utilities today have far more generating capacity on hand than they need," according to Mr. Parisi. Is this an accurate assessment of the situation nationwide? What is the situation in the Midwest? In Indiana?

4. According to Mr. Parisi, analysts on Wall Street are beginning to take a dim view of nuclear facilities, calling them "an unattractive financial proposition" and "too expensive to build * * * to compensate investors adequately." How widespread are such views among analysts and investors? Does your experience lead you to believe that analysts and investors should be skeptical about nuclear power? What does such skepticism mean for the future of the industry?

5. On another question of finance, Mr. Parisi notes that "more than one power company now finds itself in a critical financial squeeze because of nuclear projects that have proved much more expensive than anyone had expected." Is this so? If it is, what are the prospects for these companies?

6. Mr. Parisi acknowledges that federal regulations have hit the industry hard. He then cites a study which concludes that there will be more, not less, regulation in the years ahead. To your way of thinking, how much of the industry's problem is due to unwarranted regulation? Is it your feeling that the conclusion of the above-mentioned study is correct?

7. According to Mr. Parisi, the "number of new safety problems being detected each year isn't falling, it's climbing—steeply." Is it your impression that he is correct? If so, how would you account for the trend? How would it be perceived by the public?

8. According to Mr. Parisi, groups of citizens who oppose nuclear power have caused utilities to incur only minimal additional expense. Do you agree or disagree?

9. In commenting on the relationship between regulation and economic health in the industry, Mr. Parisi suggests that "even the ministrations of a sympathetic White

House are unlikely to cure nuclear's malaise." He then makes the striking claim that "nothing short of a wholesale dismissal of the nuclear community's own safety policies would make a fundamental difference in the economics of nuclear power." What do you think of this point of view?

10. Mr. Parisi reports that among utilities there may now be more interest in coal-fired plants than in nuclear facilities. As concerns cost, he says that "virtually all the analyses show an unmistakable trend toward coal." Do you sense a growing interest in coal among utilities? Is coal in fact overtaking, or has it already overtaken, uranium as a less costly source of electricity?

I understand that I have put a very large number of complex questions to you, but I do want to get a better grasp on the issue of nuclear power and I am certain that you are a person whom I should consult. Please feel free to make whatever additional comments on Mr. Parisi's article you deem to be appropriate. I look forward to hearing from you at the earliest possible date.

With best wishes, I am

Sincerely yours,

LEE H. HAMILTON,
Member of Congress.

DEPARTMENT OF ENERGY,
Washington, D.C., June 29, 1981.

HON. LEE H. HAMILTON,
House of Representatives,
Washington, D.C.

DEAR MR. HAMILTON: This letter is in response to your inquiry to Secretary Edwards of May 28, 1981, regarding nuclear power issues. You have raised interesting and important questions that address many of the key issues facing nuclear power today. We appreciate the opportunity to present our views on these key questions.

The answers to the specific questions you raised are contained in Enclosure 1. In response to your questions concerning generating capacity reserve (question 3), my staff has prepared additional analyses of the current situation. These are included as Enclosures 2 and 3.

We hope our reply meets your needs, and if we can be of further help, please let us know.

Sincerely,

THOMAS A. DILLON,
Deputy Assistant Secretary
for Nuclear Reactor Programs,
Office of Nuclear Energy.

Three enclosures.
Enclosure 1.

ANSWERS TO QUESTIONS RAISED BY HON. LEE H. HAMILTON

Question 1. Mr. Parisi states that "nuclear power is shrinking in this country * * * under its own economic weight." He attributes the industry's financial plight to a slackening in demand for electricity in the face of higher prices for fuel. In your opinion, what does the slack demand (high price) referred to by Mr. Parisi mean for the industry in the short run? In the long run?

Answer. Electric utilities have faced increasingly difficult times since the Arab Oil embargo in 1973-1974. Lower demand growth, quadrupling fossil fuel prices, lengthening project schedules for new construction as a result of substantially increased regulatory requirements, all-time high financing costs as the result of general inflation, and failure of State utility commissions to set rates that permit utilities to earn a fair return on investment, have eroded the strength of most of the Nation's utilities. While these conditions affect all types of powerplants, higher financing costs have significantly impacted both nuclear and coal-fired plants due to the initially larger capital investment required. However, this higher capital cost is offset by significantly lower fuel costs over the operating life of the plant, and, as compared to oil or gas-fired alternatives, nuclear and coal plants produce electricity with overall lower total power costs.

In the short run, utilities have adjusted to these changed conditions by canceling and deferring some previously ordered plants. In 1980, for example, 12 nuclear plants were canceled, continuing a pattern of the last several years. Many utilities have stressed the importance of conservation in an attempt to preclude the requirement for further capital investment.

In the long run, it is important to note that while the rate of change of electricity demand is down from previous levels, the total demand is still growing at a significant rate. Even during periods of stagnant domestic economic growth, the consumption of electricity and the fraction that electricity represented of total energy grew. In recent testimony before the House Science and Technology Committee's oversight and investigations subcommittee, Martin Greenberger, an energy forecasting expert from Johns Hopkins University, said that while energy to gross national product ratios have tended to decline since the 1950's, even during periods of level or declining prices, this has not been true for electricity. Electricity demand has tended to increase faster than gross national product, so that ratio is probably 1.3 to 1.5. Hence, economic growth of 3 to 4 percent would require electric energy demand growth of 4 to 6 percent. Recent studies by the Edison Electric Institute and the Electric Power Research Institute have reached similar conclusions. Fueled by a revitalization of our economy, we believe this trend to increased electrification will accelerate.

Question 2. Mr. Parisi claims that existing nuclear facilities save consumers money that they would otherwise have spent to buy coal or oil. He adds, however, that nuclear facilities ordered today would not achieve such savings. Do you agree or disagree? What are your reasons for your view?

Answer. We disagree with Mr. Parisi's assertion that future nuclear powerplants will not be more economic than coal or oil-fired plants. Existing nuclear powerplants produce power at a lower average cost than coal and oil-fired powerplants; in fact, the cost of fuel for oil-fired plants is more than twice the total average cost of producing power in nuclear plants. Further, we believe that future nuclear powerplants will continue to provide electric power at lower or competitive costs as compared to coal-fired plants. As Mr. Parisi notes, there are large differences in the cost of power from individual plants due to regional and site-related differences, such as design requirements, the cost of construction labor, and the type of coal burned. On a regional basis, existing coal and nuclear plants exhibit a wide range of estimated costs—up to 30 percent. In some regions, nuclear power costs are lower and in some regions coal-fired power is lower, but on the average for the United States, nuclear power is most economic.

It is difficult to predict the future cost of power from any system because of the regional differences, fuel costs, changing regulatory requirements, and time-related uncertainties. Studies of future power costs tend to vary widely, but most, based on realistic assumptions, project a continued cost advantage for nuclear power. There are several reasons for this. Although nuclear powerplant capital costs continue to rise, coal-fired plants are subject to many of the same capital cost escalation factors, such as for labor, materials, equipment, and engineering. Also, both types of plants have similar requirements for turbine plant equipment, electric plant equipment, heat rejection systems, land, and some structures. These items are more than half of total plant costs.

A large capital cost uncertainty affecting both plants is the time required for construction. Factors that lengthen construction periods result in increased costs due to escalation and interest on funds borrowed during construction. High capital costs and longer construction periods make it more difficult to raise funds for construction in a tight capital market. Even though a nuclear plant will produce power at a lower cost over its operating life, a utility may opt for a coal-fired plant to lessen the short-term problems of financing construction. There is no doubt that the time to construct plants and the economics of nuclear plants would be improved if regulatory requirements were stabilized so that plants would not have to be redesigned and backfitted during construction.

The other major uncertainty is the cost of fuel. Nuclear power has always had a fuel cost advantage and there are factors that could make this more pronounced in the future. In 1979, 18 percent of nuclear plant power costs were for the fuel cycle, as opposed to 56 percent for fuel in large coal-fired plants. Therefore, coal-fired plants are more sensitive to fuel-related costs. In the future, coal costs may be even more susceptible to price escalation, since uranium has no significant alternative uses whereas coal does. Most long-term energy analyses project a greatly expanded demand for coal used by industry and utilities, and for synfuels and exports. Hence, if coal supply becomes restricted in the future, coal prices could rise rapidly.

Question 3. Because of "slipping economic growth" and "the consumer's decision to shun high-priced energy * * * most utilities today have far more generating capacity on hand than they need," according to Mr. Parisi. Is this an accurate assessment of the situation nationwide? What is the situation in the Midwest? In Indiana?

Answer. Because of the long lead times required for new generating capacity, utilities began construction of plants in the early to mid-1970's based on the higher trends in electric power demand growth at that time. As a result, some utilities have more than adequate capacity at this time, but this is not true for all utilities.

A large reserve margin does not, however, ensure security of electric energy supply nor low cost power because in some utilities and regions the reserve margin is mostly oil-fired generating capacity. In 1980, about 26 percent of the generating capacity in the United States was oil fired and another 11 percent was gas fired. This compares with an actual reserve margin of 31 percent. In some regions such as New England, Texas, New York, Florida, and the Southwest, this is even more acute, with oil and/or gas comprising 45 to 77 percent of total generating capacity. In some regions such as Southern California, reserve margins are dangerously low, and there is no option but to burn oil and gas for base load power.

Most regions of the United States have the potential to maintain an adequate supply of electric energy throughout the 1980's if new coal and nuclear plants are completed on schedule. However, licensing delays for nuclear and coal plants, environmental concerns with coal, and utility capital shortages will likely delay the schedule of many of these plants. Therefore, reserve margins are likely to be lower than currently projected and will be even lower when electric power demand and economic growth occurs as a result of the Administration's economic revitalization program. We recently prepared analyses of electric supply adequacy for the United States, the Midwest, and Indiana. These analyses are included as Enclosures 2 and 3.

Question 4. According to Mr. Parisi, analysts on Wall Street are beginning to take a dim view of nuclear facilities, calling them "an unattractive financial proposition" and "too expensive to build . . . to compensate investors adequately." How widespread are such views among analysts and investors? Does your experience lead you to believe that analysts and investors should be skeptical about nuclear power? What does such skepticism mean for the future of the industry?

Answer. The view that nuclear powerplants are no longer sound financial investments is widespread among many analysts and investors. The same is true, to only a slightly lesser extent, for coal-fired plants. There have been approximately 50 nuclear and 50 coal-fired plants canceled by utilities in the past 5 years. Although costs for both coal and nuclear plants have increased well above the inflation rate, they both can still provide power at costs substantially below those of oil or gas.

At the present time, any large capital expenditure by utilities is not in their best financial interest due to their current low return on investment. Utility rates being set by State commissions are resulting in an average earned return on investment of only 11 percent, well below that which an investor could obtain elsewhere. Therefore, many utilities have adopted a very conservative investment strategy and are canceling or delaying both coal and nuclear plants, not because it is necessarily in the long-term interest of their customers, but because they are obligated to protect the shorter term financial interests of their investors.

In summary:

Nuclear and coal plant costs have increased substantially due in large part to an unduly long, complicated licensing and regulatory process;

Inflation has driven up the cost of borrowed money and basic plant costs; and

State commission rate decisions have not fully compensated for the effects of increased costs and inflation, but have allowed pass-through fuel adjustment costs. In many cases, these adjustments are automatic without extensive public review.

Unless inflation is brought under control, the nuclear licensing and regulatory process streamlined, and utility rates based on providing utilities with a return on investment consistent with other investment opportunities, then more nuclear (and coal) plants will be canceled, and the current defacto moratorium on new nuclear plant orders will continue.

Question 5. On another question of finance, Mr. Parisi notes that "more than one power company now finds itself in a critical financial squeeze because of nuclear projects that have proved much more expensive than anyone had expected." Is this so? If it is, what are the prospects for these companies?

Answer. Without exception, over the past decade, utilities have found that the costs of nuclear (and coal) plants are higher than originally anticipated. This is primarily the result of the rapid increase in general inflation and a nuclear licensing and regulatory process that has become unduly long and complicated. At this same time, as noted in the answer to the previous question, the rate of return earned by utilities, as set by the State commissions, has not kept pace with general inflation. For many years, utilities were able to compensate for these factors by "feeding" off of their good financial health. They did this by borrowing more money and issuing more stock. However, their financial condition has deteriorated to the point where they can no longer use this approach. Instead, utilities are in the process of improving their financial prospects by the only means they have under their direct control, namely: (1) they are canceling plants that have little construction completed (<20 percent); (2) delaying those that have some construction completed (20-80 percent); and (3) attempting to expedite those that are nearly completed (>80 percent).●

LUTHER BURBANK SENIOR HIGH SCHOOL

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 14, 1981

● Mr. MATSUI. Mr. Speaker, it was my pleasure recently to learn of the great strides being made at one of the schools in my district, Luther Burbank Senior High School.

A proud faculty member, Frances Graves, the school librarian, has noted for me the great number of students honored for a range of academic and extracurricular activities. The list is too long to reprint here, but I want to formally extend my congratulations to the entire faculty, staff, and student body for their many achievements.

I would urge continuing and new students of Luther Burbank to keep striving for the standards of excellence that have been set by previous classes.

I think it is important for those of us in public life to take official note of the activities and achievements of our young people.●

CONGRESSIONAL SALUTE TO HON. EUGENE ZOPPO, OF NEW JERSEY, EXEMPLARY CITIZEN, DISTINGUISHED LABOR CONSULTANT, AND OUTSTANDING COMMUNITY LEADER

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 14, 1981

● Mr. ROE. Mr. Speaker, on Thursday, July 16, the residents of my congressional district and State of New Jersey will join with the officers and members of the New Jersey Federation of Senior Citizens in testimony to one of our most distinguished citizens, founder and immediate past president of the New Jersey Federation of Senior Citizens, Hon. Eugene Zoppo, an outstanding community leader and good friend whose standards of excellence throughout his lifetime have truly enriched our community, State, and Nation. I know that you and our colleagues here in the Congress will want to join with me in extending our warmest greetings and felicitations to Gene Zoppo in deep appreciation of all of his good works and share great pride in the success of his accomplishments with his wife, Riva; daughter Dorothea of Dallas, Tex.; daughter Judith Zoppo Filyaw and husband George of Oakland, N.J.; son Eugene, Junior, and wife Barbara of Tucker, Ga.; and grandchildren Laura Filyaw, Jason Filyaw, and Damion Zoppo as they celebrate this milestone of achievements in their family endeavors.

Mr. Speaker, Eugene Zoppo was born in San Leucio, Province of Naples, Italy, on May 30, 1909. He attended Gian Battista Della Porta School, Naples, Italy; Gian Battista Della Porta High School, Naples, Italy; and St. Mary's Elementary School, Paterson, N.J. During the period 1946 to 1974 he attended in-service summer college for UAW union representatives. In 1973 he was awarded a certificate for completion of a course on occupational health and safety—OSHA—at Rutgers University, New Brunswick, N.J.

We are proud to boast that he adopted America as his home and is a resident of the city of Paterson, N.J.

Gene will long be remembered for his outstanding service to the working man and woman as a consultant in labor relations. Beginning January 1928 to January 1946 Mr. Zoppo was employed by the Curtiss-Wright Corp. as aircraft parts inspector. During this period he also served as labor representative helping to negotiate the first collective bargaining agreement, dated October 21, 1943, between UAW Local 669 and Curtiss-Wright.

In 1946 he was employed by the International United Auto, Agricultural, Aerospace Workers of America (UAW) as an international representative where he served with distinction until he severed his duties in June 1974 in compliance with a UAW constitutional provision requiring retirement of persons reaching the age of 65. He negotiated first contracts following union organization and subsequent renewal contracts. He presented approximately 500 cases in arbitration before "ad hoc" and permanent "umpire" system. He was responsible

for presenting worker's grievances at various steps of grievance procedure and prearbitration hearings and for writing prehearing and posthearing briefs. For his professional expertise and capabilities he received the UAW Solidarity Award for outstanding service in December 1972.

Gene addressed college and high school groups on "Labor's Role in our Economy," and achieved renown as a speaker on various subjects concerning labor-management relations. He conducted grievance procedure classes at UAW Summer College and at union halls throughout our Nation. He instructed union leaders in collective bargaining, and is well known for his conduct of classes on contract interpretation and job evaluation—(NMTA). Among his publications on labor relations, he authored the book entitled, "Umpire Decisions"—Bendix Corp. and the UAW, 1946-63.

Mr. Speaker, Gene Zoppo has served on numerous municipal committees and has made an outstanding contribution to the development and enhancement of our community—particularly in providing quality leadership to our senior citizens—all in the cause of good will, friendship, and the ever lasting dignity of his fellowman. He was a founder of the New Jersey Federation of Senior Citizens and with your permission I would like to insert a profile on the organization of this most prestigious organization for our senior citizens which has brought enrichment of the spirit and recreation to all of our people through the many programs fostered by the organization for the enjoyment and richness of the leisure hours of our seniors and retirees, as follows:

THE NEW JERSEY FEDERATION OF SENIOR CITIZENS

New Jersey Federation of Senior Citizens emerged as a result of a "Rally against inflation" held in January 1975 by the Paterson Council of Seniors and the Passaic County of Seniors. This on-target assault on one of the most pressing concerns of seniors is typical of the sharp focus which the Federation has brought to all areas where they have championed the cause of the elderly.

The New Jersey Federation was founded as a non-profit, non-partisan action coalition and has expanded to become the most effective senior organization in the State. It serves as a vehicle which provides input into the decision making processes affecting the lives of our State seniors and their communities. At present, the Federation has over 500 Senior clubs and represents over 300,000 retirees from almost every cultural, ethnic, religious and geographic community in the garden state.

Perhaps the key to the success enjoyed by the New Jersey Federation of Senior Citizens lies in the fact that it is truly a nonpartisan organization and also that it deals with those issues to which seniors can address themselves with unity. Because the Federation embraces, without exception, any senior who wishes to see positive changes for the elderly this viable organization can plan its method more efficiently. With unity of purpose the New Jersey Federation of Senior Citizens is able to do more than just speak out on the issues. It is able to actively work on them each and every day.

Mr. Speaker, it is important to note that Gene Zoppo served as my congressional senior intern in May 1979 and 1980, a program in which I was privileged to be a sponsor with some of my colleagues providing an opportunity for our senior citizens to learn firsthand what the Federal Government is doing in policy areas of special interest to the elderly. I was proud of his representation of my office at the series of briefings with experts from Government agencies and private organizations and his outstanding contribution to the comprehensive overview of issues of concern to our older Americans.

Mr. Speaker, Gene Zoppo was an active member of many civic and charitable organizations. He was secretary, Paterson City Council on Aging; chairman, Passaic County Advisory Board, Office on Aging; legislative director, United County Seniors; founder and immediate past president, New Jersey Federation of Senior Citizens; executive board member, Citizens Labor Energy Committee—CLEC; trustee, Paterson Association for the Blind—PAB; member, Community Development Advisory Committee; and chairman, Title XX Coalition, Passaic County.

All of us have been deeply touched by Gene's exemplary wisdom, dedication, and sincerity of purpose in achieving excellence in the quality of life and its fulfillment. I am pleased to call your attention to his lifetime of good works and seek this national recognition of Gene Zoppo who meets each day's challenge with a zeal and purpose that we can well take heed of and admire. I share the great pride of his family in his accomplishments and am privileged to be numbered amongst his many, many friends.

Mr. Speaker, it is indeed appropriate that we reflect on the deeds and achievements of our people who have contributed to the quality of life and way of life here in America. We do indeed salute a distinguished citizen, community leader, and good friend—Hon. Eugene Zoppo.●

TWICE A YEAR COLA FOR FEDERAL RETIREES

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 14, 1981

● Mr. SMITH of New Jersey. Mr. Speaker, when we in this House passed the "Omnibus Budget Reconciliation Act of 1981," a provision of this legislation altered the cost-of-living adjustments for Federal civil service retirees from the current twice a year to once a year.

This proposal was considered under a rule which provided for a straight up or down vote on a large package of budget provisions. While I did not support every section of the bill, I felt that on balance it provided a reasonable approach to controlling the growth of Federal spending. Additionally, the bipartisan measure actually provided a higher level of funding for several important educational and social programs than the Budget Committee's alternate proposal.

Immediately following the vote on the bipartisan proposal, there was a motion to recommit the bill to the Budget Committee with instructions to restore the twice a year COLA for Federal retirees. House parliamentary rules require that Members first vote to end debate in order to vote on a motion to recommit. I voted to discontinue debate and move to the consideration of the twice a year COLA. A majority of the House concurred in this action by a vote of 215 to 212.

Soon after the motion to recommit was adopted, Rules Committee Chairman RICHARD BOLLING, who was presiding in the Speaker's chair at the time, called for a vote on the twice a year COLA. I called out "aye," as did many of my colleagues. To the surprise of a great number of Members, myself included, Chairman BOLLING ruled that the "nays" had carried the vote.

As a result of parliamentary maneuvering by the leadership of the House of Representatives, we were denied the opportunity for a recorded vote on this important issue. I am sure that had the Members of the House been presented with a recorded vote, there would have been a very good chance of maintaining the twice a year COLA for Federal retirees.

Mr. Speaker, it is my sincere hope that the House Post Office and Civil Service Committee move expeditiously to restore and reinstate the twice a year COLA for Federal retirees.●

JERRY FALWELL VERSUS LIONEL STANDER OF "HART TO HART"

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 14, 1981

● Mr. McDONALD. Mr. Speaker, in these days of historical significance, when it appears that America is returning to moral and legal responsibilities, there still exists those who would attempt to smear through gross hypocrisy, those who fight for such a return. One example of such hypocrisy was contained in the May 16-22 issue of TV Guide.

The article was titled, "Lionel Stands Up for Things." He sure does. For my colleagues and the rest of America, the record of Lionel Stander, sometime chauffeur, sometime butler, sometime dog supervisor, should be spelled out. Of course, in the article written very soliticiously by Robert Ward, the first attack is on Jerry Falwell and his moral majority. And that is where the hypocrisy comes in. Stander makes much of the fact that Falwell is an alarmist. After all, Stander, speaking of some 50 years ago states: "Back then, there was as much or more adultery, homosexuality, and all the things Falwell hates."

There is no doubt that the statement of Stander is a truism—for himself. For not a few paragraphs later, Stander would state: "It was always the same. I always went for a girl from the ages of 18 to 24. I always fell madly in love with her, lived with her for anywhere from 4 months to 4 years, then got married because she wanted to. I never wanted to. Then we had a child, and when the child was 2 or 3, I'd leave." And a few sentences later: "You have to do what your heart tells you to do, no matter what." And to the average American thus far, I would query: Which side, America, Jerry Falwell or Lionel Stander?

Then there is Stander calling for Jerry Falwell to take the money in contributions, from which Stander calls suckers and have his TV presentations compete in the free marketplace. Now that is ironic, for you see, Lionel Stander, identified in sworn testimony, has been a Communist Party member since at least 1938. And as most of us know, Communists do not believe in the free marketplace. It is further ironic, for at the time Stander was active—and who knows, still is—in the Communist Party, David Selznick had offered $1 million to the Hollywood Anti-Nazi League—which was directly under the control of Communists—if they would change their name to the Hollywood Anti-Nazi and Anti-Communist League. Of course, the Communists being the hypocritical socialists they were and are, would not accept. And again we ask America: Which side, Jerry Falwell or Lionel Stander?

Then there is the observation of Lionel Stander that, "and my own friends—the half-assed liberals—they ignored me completely." We wonder if he could have been talking about Edward G. Robinson, who on April 30, 1952, testified as follows of men like Lionel Stander:

I have always been a liberal Democrat. The revelations that persons whom I thought were sincere liberals were, in fact, Communists, has shocked me more than I can tell you. That they persuaded me by lies and concealment of their real purposes to allow them to use my name for what I believed to be a worthy cause is now obvious. I was sincere. They were not. Not one of the Communists who sought my help or requested permission to use my name ever told me that he or she was a member of the Communist Party.

For the benefit of my colleagues I submit the sworn testimony of four individuals concerning Communist activity of Lionel Stander. Note in one instance that individual whom Stander introduced to the Communist Party, Marc Lawrence, that he, Lawrence, "* * * will make out more with the dames," if he becomes a knowledgeable Communist. And once more, America, which side, Jerry Falwell or Lionel Stander? Testimony from the House Committee on Un-American Activities follows:

COMMUNIST INFILTRATION OF HOLLYWOOD MOTION PICTURE INDUSTRY

TESTIMONY OF MARC LAWRENCE, ACCOMPANIED BY HIS COUNSEL, MURDAUGH S. MADDEN

Mr. TAVENNER. You are Mr. Marc Lawrence?

Mr. LAWRENCE. Yes, sir, I am Marc Lawrence, and I am a motion picture actor. I have been an actor for 19 years in the motion picture business. I came to California in 1932, and in 1932 I worked around Hollywood.

About 1938 I attended a number of "cause parties." This was not because I was interested at the time, but that is what happened: There was a girl who played the piano very well, and she introduced me to these parties. I went to these parties with her, and then I met an actor named Lionel Stander, who said to me, "You want to get to know how to talk to these people. The thing for you to do is to go to classes."

Mr. TAVENNER. Now, that was Lionel Stander?

Mr. LAWRENCE. Lionel Stander.

Mr. TAVENNER. S-t-a-n-d-e-r?

Mr. LAWRENCE. S-t-a-n-d-e-r, that is correct, sir. So I went to a number of classes with these guys.

Mr. TAVENNER. When was this? Did you state the date?

Mr. LAWRENCE. About 1938, sir. I went to a number of these parties where they used to read from the books and read the lectures, and intellectuals would tell stories, and it was very confusing.

Mr. TAVENNER. The stories of what?

Mr. LAWRENCE. They would read. Guys come in and they would read books. They would tell us, "This is what happened, and this is the reason for the war in Spain. This is what happened here, and that is what happened there." I got a lot of headaches listening to these guys.

I want to say this: That after I attended about 12 of these meetings what happened was this. They came to me with a card and they said, "Sign this card, because you are a member of the party, but don't sign your own name for security reasons." I did not know what this meant. I was at the time interested in paying, you know, for the expenses of this thing, so I signed a name. Not my name. I picked it out of a newspaper, and that is what I signed. I don't know what name I signed.

Mr. TAVENNER. You stated that Lionel Stander was the one who introduced you into the Communist Party?

Mr. LAWRENCE. He was the guy that said to me, "Get to know this stuff and you will make out more with the dames." This is the guy. This is the introduction.

Mr. VELDE. What was that he said to you?

Mr. LAWRENCE. You get to know the dames more, with the line. I got confused a great deal. Now, this stuff really confused me. I thought at first it was a good idea. I went to the thing because I thought that you could learn something. I never learned anything.

Mr. TAVENNER. Well, was he one of the persons who was in this cell with you, Lionel Stander?

Mr. LAWRENCE. He was; yes. Yes, of course he was.

TESTIMONY OF HAROLD J. ASHE

Mr. TAVENNER. You are Mr. Harold J. Ashe?

Mr. ASHE. That's right.

Mr. TAVENNER. When and where were you born, Mr. Ashe?

Mr. ASHE. Irvington, Pa., February 18, 1901.

Mr. TAVENNER. What is your profession or calling?

Mr. ASHE. I am a free-lance magazine writer.

Mr. TAVENNER. Now, while you were a member of the downtown group of the Communist Party, were you assigned the task of organizing units or sections of the Communist Party or cells of the Communist Party?

Mr. ASHE. At one time I was. I held possibly 20 positions at one time or another in the Communist Party.

Mr. TAVENNER. Well, I think this would be a good time for you to state just what positions you have held in the Communist Party.

Mr. ASHE. Well, I was State chairman of the State central committee of the party in 1936. I was downtown-section organizer for about a year, year and a half; Western Worker correspondent for approximately a year.

Mr. TAVENNER. Now, right there for just a moment. What publication was that?

Mr. ASHE. Western Worker, official publication of the Communist Party at that time.

Mr. TAVENNER. Was it succeeded by another publication?

Mr. ASHE. Yes. I was succeeded by the People's Daily World.

Mr. TAVENNER. Proceed.

Mr. ASHE. I believe I was county chairman at one time of the Relief Workers' Protective Union, which was composed of unemployed workers and which was a very fine source for recruiting party members at that time. I was chairman of various united-front groups. I was official speaker for the Communist Party for a considerable period of time. I toured the State. I believe I edited a paper called the Hunger Fighter, official organ of the Relief Workers' Protective Union, and probably held a good many other jobs. I taught briefly in the Los Angeles Workers' School, taught what was known as labor journalism. Actually, it was teaching them basic English.

I can't think of any more offhand. Oh, yes, I served for a while on the Los Angeles County disciplinary committee and I was a member of the executive committee of the Communist Party here in Los Angeles county.

Mr. TAVENNER. Will you give us the name of others, please?

Mr. ASHE. Lucy Stander, who was at the time the wife of J. Stander, also known as Lionel Stander. He was a character actor, I believe, in Hollywood. He, however, was not in the unit for any great length of time. I recall distinctly that he was brought in and a very short time later was transferred out. I don't know the reason for the transfer. I think it was arranged directly between

Stander and the county office of the party. However, his wife remained in one of these professional units.

Mr. TAVENNER. You are definite in your statement, however, that Lionel Stander was a member of this group?

Mr. ASHE. Lionel Stander was definitely a member of this group. He was transferred in, and I handled the transfer. Of that I am positive.

Mr. TAVENNER. Do you recall from what place he was transferred?

Mr. ASHE. I believe New York City.

TESTIMONY OF MILDRED ASHE

Mr. TAVENNER. You are Mrs. Mildred Ashe?

Mrs. ASHE. That is correct.

Mr. TAVENNER. You were formerly the wife of Mr. Harold Ashe?

Mrs. ASHE. Yes.

Mr. TAVENNER. Well, now, tell us more about your duties as a collector.

Mrs. ASHE. Well, my duties were—I had a list of people who contributed each month, and I contacted them at a place that they designated, picked up the money, gave them a receipt always made out to a name that would be comparable to a party name. I mean, their own name never went on a receipt, but they received a receipt that had the party seal on it, and I brought the money into the office.

Mr. TAVENNER. When was this?

Mrs. ASHE. In 1934.

Mr. TAVENNER. What territory or area did you perform those services in?

Mrs. ASHE. Well, Los Angeles, Hollywood, a time or two I even went down to Malibu Beach. It was southern California—I mean, it was the Los Angeles area.

Mr. TAVENNER. Did you seek contributions from persons engaged in the moving-picture industry?

Mrs. ASHE. There were a few; yes.

Mr. TAVENNER. In receiving those donations, did the donor understand the purpose for which the money was being given?

Mrs. ASHE. Yes; they understood it perfectly.

Mr. TAVENNER. They understood that it was for the Communist Party?

Mrs. ASHE. Yes; they understood that.

Mr. TAVENNER. And you gave them receipts in fictitious names?

Mrs. ASHE. That's correct.

Mr. TAVENNER. Can you give us the names at this time of persons in the industry—moving-picture industry?

Mrs. ASHE. Well, I can only give you a few, because my memory isn't good on it. J. Sanders was on my list. That is Lionel Stander, as he is known professionally.

Mr. TAVENNER. How frequently did he make contributions?

Mrs. ASHE. Once a month. I know he used to complain because he said he was a fatted cow for the party, and that was all.

Mr. TAVENNER. He was what?

Mrs. ASHE. A fatted cow. He was making a lot of money.

Mr. TAVENNER. Well, were these special contributions or were they dues?

Mrs. ASHE. No; they were not dues. They were voluntary contributions to the Communist Party for use in party work.

Mr. TAVENNER. Did you receive donations from persons who were not members of the party?

Mrs. ASHE. Well, at the time I was collecting from Mr. Stander we didn't know he was a party member.

Mr. TAVENNER. How is that?

Mrs. ASHE. We didn't know he was a party member at that time.

Mr. TAVENNER. Yes.

Mrs. ASHE. This was before Z-100 and Z-150 were organized.

Mr. TAVENNER. It was after that that he became a member of the Communist Party Cell Z-100?

Mrs. ASHE. Yes, that's correct.

TESTIMONY OF MARTIN BERKELEY, ACCOMPANIED BY HIS COUNSEL, EDWARD BENNETT WILLIAMS

Mr. TAVENNER. What is your profession?

Mr. BERKELEY. I am a screen writer.

Mr. TAVENNER. Now, before we come to a discussion of that, can you give us the names of persons known to you at the time, persons who later were known to you, to be members of the Communist Party who attended this first meeting at the home of Frank Tuttle which was being addressed by V. J. Jerome?

Mr. BERKELEY. There were approximately 50 people at the meeting. Looking back on the meeting I would say that approximately 20 of these people were later revealed to me in fractions or in party groups as members of the Communist Party.

One of the most active there was John Bright, a screen writer whose wife, Josephine Bright, was an organizer in the Mexican section of this community.

Mr. TAVENNER. Will you spell his last name, please.

Mr. BERKELEY. B-r-i-g-h-t. John Bright. His wife's name was Josephine Bright. I also met for the first time Lionel Stander, who later became chairman of the actors' fraction. With him was his wife—his then wife, Alice Twitchell. It is interesting to know that sometime later during the strike at the Hollywood Citizen News, for which I gave a benefit at my home for the striking newspapermen, at which we raised approximately a thousand dollars. I believe, to help the newspaper Guild, and I am very proud that we did, Stander was at this meeting and called me over into a corner and introduced me to Comrade Harry Bridges.

Mr. TAVENNER. You refer to Stander as the chairman of the actors' fraction, if I understood you correctly.

Mr. BERKELEY. Yes, sir.

Mr. TAVENNER. By fraction, what do you mean?

Mr. BERKELEY. Well, a fraction is a group of party members—now, there were two kinds of fractions. There is an open fraction and there is a closed fraction. When I use the word "fraction" from now on, I mean a closed fraction at which only party members are admitted. The fraction is composed of Communists who have a common interest either in a mass organization in which they are functioning or a trade-union, a political party or such like. There were fractions of actors, fractions of writers, I presume fractions of the directors, though I have no knowledge of that; fractions in the Hollywood Anti-Nazi League and other front organizations.

Mr. TAVENNER. But in short, it meant membership in the Communist Party?

Mr. BERKELEY. Yes, sir.

Mr. TAVENNER. You mention the name of Lionel Stander.

Mr. BERKELEY. Yes, sir.

Mr. TAVENNER. Did you ever attend a Communist Party meeting in his home?

Mr. BERKELEY. I did, sir.

And a postscript. We mentioned a doubt as to whether Lionel Stander still is a Communist. Only he knows, and when queried by House committee investigators, he simply hid behind the fifth amendment. Ironic, it is, for one to hide behind the fifth amendment of our Constitution when loyalty to communism was then loyalty to the U.S.S.R. which entertains no tolerance to dissent in the Soviet Union. So much for Lionel Stander, sometime chauffeur, sometime butler, sometime dog supervisor—on the TV program—"Hart to Hart."●

FINANCIAL REPORT OF THE CONGRESSIONAL STEEL CAUCUS

HON. BARBARA A. MIKULSKI

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 14, 1981

● Ms. MIKULSKI. Mr. Speaker, in accordance with Executive Committee order No. 1, I am respectfully submitting herewith the quarterly financial report of the Congressional Steel Caucus for insertion in the RECORD. The report is as follows:

Quarterly Report, cumulative statement of expenses, U.S. House Of Representatives, Congressional Steel Caucus

Salaries	$10,585.86
Postage	38.45
Stationery (donations—Mr. Bevill)	108.25
Telephone	137.55
Publications	89.60
Equipment	528.60
Printing	169.50
Miscellaneous	236.27
Total expenses for the 1st quarter 1981	11,894.08

Quarterly Report, fund balance statement, U.S. House of Representatives, Congressional Steel Caucus

Balance forward (as of Jan. 1, 1981)	−$230.11
Total revenues (clerk hire, dues and donations)	28,244.11
Balance	28,014.00
Expenses:	
January 1981	−3,260.48
February 1981	−4,617.98
March 1981	−4,015.62
Remainder	16,119.92
Interest deposit	+7.33
Balance (as of Mar. 31, 1981)	16,127.25

Congressional Steel Caucus dues paid as of June 27, 1981:

Joseph Addabbo, Douglas Applegate, Eugene Atkinson, Don Bailey, Adam Benjamin, Tom Bevill, William Brodhead, Clarence Brown, George Brown, and Don Clausen.

William Clinger, Cardiss Collins, John Conyers, Lawrence Coughlin, William J. Coyne, Dan Daniel, Robert Davis, Edward Derwinski, John Dingell, and Dennis E. Eckart.

Allen Ertel, David Evans, John G. Fary, Vic Fazio, William Ford, Joseph Gaydos, Sam Gejdenson, Benjamin Gilman, Sam B. Hall, Jr., and James V. Hansen.

John Hiler, Elwood Hillis, Ken Holland, Thomas Kindness, Ray Kogovsek, Tom Lantos, John LeBoutillier, Raymond Lederer, Gary Lee, and Jerry Lewis.

Clarence Long, Thomas Luken, Stanley Lundine, Robert McClory, Joseph McDade,

Bob McEwen, Marc Marks, Dan Marriott, and James Martin.

Robert Michel, Clarence Miller, George Miller, Barbara Mikulski, Donald Mitchell, Robert Mollohan, Ronald Mottl, Austin Murphy, John Murtha, and John Napier.

James Nelligan, Bill Nichols, Henry Nowak, Mary Rose Oakar, James Oberstar, George O'Brien, Thomas P. O'Neill, Donald Pease, Carl Perkins, and Melvin Price.

Carl Pursell, Nick Joe Rahall, Ralph Regula, Don Ritter, Robert Roe, Marty Russo, Gus Savage, James Scheuer, Richard Schulze, and John Seiberling.

Richard Shelby, Bud Shuster, Paul Simon, Albert Lee Smith, J. William Stanton, David M. Staton, Louis Stokes, Gene Taylor, Bruce Vento, and Doug Walgren.

Robert Walker, Richard White, Lyle Williams, Charles Wilson, Gus Yatron, Clement Zablocki, and Leo Zeferetti.●

AGAIN—THE MISGUIDED SWORD OF ECONOMY THREATENS TO HURT THE ELDERLY POOR

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 14, 1981

● Mr. BIAGGI. Mr. Speaker, As an original member of the House Select Committee on Aging—and equally as important—as a fervent opponent of the House-passed budget reconciliation bill, I wish to bring to the attention of my colleagues an editorial from this morning's Washington Post entitled "The Unkindest Cut of All."

This editorial deals with a provision contained in both the Senate- and House-passed reconciliation bills—namely the elimination of the so-called minimum benefit paid to some 3 million social security recipients. Let us examine precisely what the minimum benefit is. It provides these 3 million elderly—many of whom are among the poorest in our Nation with a minimum payment of $122 a month. As the Post editorial points out—

> Some may have worked for many years as domestics, farm workers, or in low wage self employment not always covered by Social Security.

Of the 3 million affected, it is estimated that perhaps 1 million may be able to be carried into the SSI program. However for the remaining elderly, the future is nowhere near as clear. The reasoning employed for approving this cut is clearly rejected by the Post editorial—

> Federal retirees are cited as the main target of the cut—although they make up only 6 percent of the group and the better off Federal pensioners who get more than the minimum will not be affected.

The article concludes with the sobering thought—

> If, it turns out that many of the people at risk are both old and far from well-off—these are savings the society should reject.

I agree with the Post's assessment of this issue. I hope that in the upcoming House-Senate conference we can develop an alternative position which might forestall the elimination of the minimum benefit. It behooves us to try.

At this point in the RECORD I would like to insert the Washington Post editorial entitled: "The Unkindest Cut of All."

THE UNKINDEST CUT OF ALL

Take a woman in her 80s who has very little money. One day soon she will open an official-looking envelope containing a machine-typed letter that informs her that the Social Security check she's been receiving for over 15 years will henceforth be reduced by about $100 a month, more than a fourth of her poverty-level income. There's some fine print she can't make out. It says that, if she'll dispose of her modest savings, she might be able to go on welfare to make up some of her loss.

Tear-jerker? Of course—but it's also a live possibility for many recipients of the Social Security minimum benefit who, under the provisions of the two budget bills now headed for conference, will share an income loss of about $1 billion starting next year. We don't know how many such cases there are among the total, but neither does Congress or David Stockman. Perhaps this is why they found it easy to make this cut while shying away from others affecting more vocal segments of the Social Security population.

The Social Security Administration estimates that there are about 3 million people receiving benefits close to the minimum, 2 million of whom will be likely to face a significant income loss. These are people who, as a result of low wages or relatively few years of employment covered by Social Security, would qualify at retirement for benefits smaller than $122 a month. Some may have worked for many years as domestics, farm workers or in low-wage self-employment not covered by Social Security at the time. Others may have entered the labor force late in life after the death of a supporting relative or desertion by a spouse.

On the other hand, some with substantial property income or a working spouse may be relatively well off. A small percent are retired federal workers, some with ample pensions, who earned a Social Security benefit in a few years of private sector employment. The only estimates people have on how many fall into what category of need come from a 1977 survey, but since it only covered people then entering the rolls it didn't give a good picture of minimum beneficiaries, most of whom are known to be quite old—over half a million are said to be in the 80s—and almost all of whom are women. A third of the group might recoup some or all of their loss from welfare, if they're willing to apply. Welfare grants, however, are typically less than a poverty level income and are offset by income from savings or pensions while Social Security is not.

Federal retirees are cited as the main target of the cut, although they make up only six percent of the group and the better-off federal pensioners who get more than the minimum won't be affected. If others in the group are similarly well-situated, as the administration claims, then surely nothing can be lost by adding a little safety net. How about exempting from the cut anyone with an income of less than, say, $5,000 a year? If no one is that poor, it won't cost anything. If, on the other hand, it turns out that many of the people at risk are both old and far from well-off, these are savings the society should reject.●

THE COMMITTEE RATIO RACKET: A REFORM FOR ALL SEASONS

HON. WENDELL BAILEY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 14, 1981

● Mr. BAILEY of Missouri. Mr. Speaker, for the past several days, I have discussed the serious issue of House committee malapportionment. The system as it now stands invokes invidious discrimination among the Members of this House and, for our constituents, represents a regrettable debasement of their vote and will.

For nearly 20 years, such overt discrimination has been judicially banned for the House as a whole. The 1962 case of Baker against Carr mandated that legislative representation must be fairly apportioned on a population basis. But the House has not seen fit to extend the principle of "one person—one vote" to its own internal operations.

Don Radler, a longtime observer of the congressional scene, noted in his 1976 book "How Congress Works" that House committees are, in essence, "little legislatures." Radler said that "Congress is really a Congress of committees rather than individuals" and that "90 percent of all legislative work is done in committee rather than on the floor." As "little legislatures," committees should be apportioned as equitably as the larger legislature—the House—is as a whole.

Reforms by the minority have been attempted over the years, but as partisanship rather than proportionality was the rule of the day, such reforms have predictably failed. For the sake of our democracy, it is time we try again.

EQUITABLE COMMITTEE APPORTIONMENT: IT IS UP TO US

Mr. Speaker, constitutionally, the rules which govern the proceedings of the House are left to the determination of each Congress. Thus, the manner in which we conduct ourselves and the business of this House is left up to us and reflects on all of us.

With the exception of a few notable Congresses, the practice of apportioning committee slots to insure overrepresentation by the majority reflects badly on the dedication of this body to democratic principles. Since the 94th Congress, cynical partisanship has become the norm. The Republicans evinced the same qualities when last in majority in the 83d Congress. Neither party can be proud of its role in the evolution of House committee apportionments.

The issue of committee apportionment has become an unfortunate game of "one-upmanship" justified by such euphemistic rationalizations as

"the mandate of the people" and "firm working majorities." In reality, committee apportionment has merely become a device to thwart the will of the voters and insure excessive control by the majority party in this House.

Reforms have been discussed many times in the past only to be paralyzed in the grip of partisanship. Only when the Members of this body place the search for right above might will the American voter be truly served.

THREE APPROACHES TO FAIR COMMITTEE APPORTIONMENT

There are basically three paths of reform available to us in the House. First, we can return to the postwar practice, abandoned in 1971, of establishing committee ratios by informal negotiation between the majority and minority leadership. Such a system worked without a great deal of complaint for a quarter of a century although chronic undercounting occurred. The problem with such an approach, however, is that it still does not guarantee equitable committee ratios. Rather it just allows the minority a say before the ax falls. Additionally, this approach smacks of closed door deals and provides no assurances to the American voter that his or her vote will be represented equally. I also believe the committee apportionment system has become so sullied that sole reliance on the good will and fair play of the majority is no longer sufficient.

The second approach to reform is based on the assumption that the House is by nature politically divisive and will never be able to reform itself. Such an approach calls for the imposition of an outside party—that is a Federal court—to mandate reform that the House itself cannot reach by internal consensus. Ignoring for a moment whether House committee ratios are a justiciable issue, the interference of a Federal court to force what the House should do itself would be a most unfortunate precedent. Our system of Government is based on a tripartite division of power. Respect for the constitutionally delineated domain of each of our three branches of Government is the cornerstone of our system of "checks and balances." To allow a Federal court to violate the essential domain of the House could set a precedent in which every decision of the House could become subject to judicial scrutiny. Thus, judicial test of the legitimacy of a House procedure could undermine the entire legislative decisionmaking process.

Whether present committee ratios would even qualify as a justiciable issue is yet another question and one which would only be resolved by a court test. The court could decide that committee ratios are essentially "political questions" prohibited from judicial scrutiny as a prudent limitation on court intrusion into legislative or executive domain. As one lawyer noted: "In short, a court will have to decide not whether it can, but whether it should decide this case."

By the same token, in the case of *United States* v. *Ballin* (144 U.S. 1—1892), the U.S. Supreme Court held that while the "Constitution empowers each house to determine its rules of proceedings * * * it may not by its rules ignore constitutional restraints or violate fundamental rights," thus leaving the door open to judicial scrutiny of House proceedings which unlawfully abridge fundamental rights of citizens. The Court would have to decide whether present committee ratios violate any fundamental rights, including the "one person—one vote" rule, thereby rendering the issue justiciable.

Bringing suit against the majority, while it remains an option, is obviously not a desired means of reform. Such a suit, as noted, would set a regrettable precedent. It is and should remain solely a last resort. If, in the future, the majority should impose even greater committee disparities, a suit might be the only resolve. But for all concerned, it should be avoided if at all possible.

House committee apportionment is an issue whose solution should emanate from the Members of this body. The redress of committee inequities must become a concern for all, regardless of party, and be resolved once and for all by incorporation of an equitable formula in the House rules. Preservation of tradition is not a virtue if that tradition violates the very democratic substance of this House. The Democrats have a stake in equitable committee ratios as one day, they, too, may be in the minority. If my Democratic colleagues feel they can wait until that time to challenge the Republicans on equitable committee ratios, I am afraid their pleas will lack credibility. The Republicans have traditionally supported equitable committee apportionment, but our proposals have faced rejection time and again. It might be too much to expect that we would immediately show magnanimity to our Democratic colleagues after so many years of ill treatment.

Now is the time to achieve reform. The Democrats have held the majority in this House since 1955. They currently hold a 51-seat majority and should not fear allowing that majority to express its will through the equality of "one person—one vote" on our committees. If the Democrats concern is that they cannot hold their majority on committee votes, then that is a concern to be resolved by the party caucus and leadership and not by discriminatory action against the minority.

A number of sound amendments to House rule X, clause 6(a) have been offered. A full discussion of one such proposal is found on pages 496-498 and 519-522 of the 1980 final report of the Select Committee on Committees, House Report No. 96-866. Our distinguished Republican whip (Mr. LOTT) has also introduced House Resolution 100, the Committee Improvement Amendments of 1981, which deserves the support of this House. Over 100 Members of the House have already cosponsored these committee reform amendments.

I hope my colleagues will study the issue of committee apportionment and then search their consciences. The voters of this Nation have no practical opportunity to exert their weight to correct this discrimination on committees, and court resolve would be a most unfortunate precedent for this House. That leaves the issue squarely in our hands. I hope we will ultimately merit that public trust with responsiveness and responsibility.●

THE AGE OF INFLATION

HON. G. WILLIAM WHITEHURST

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 14, 1981

● Mr. WHITEHURST. Mr. Speaker, the following excerpt from "The Age of Inflation," by Dr. Hans F. Sennholz, was sent to me recently, and I found it to be such an excellent statement of principle that I am pleased to share it with my colleagues at this point in the RECORD.

AGE OF INFLATION

(By Hans F. Sennholz)

Dr. Sennholz is one of the clearest voices of economics today. In more than four hundred publications, he has discussed all aspects of the American financial and economic dilemma. In more than one hundred public lectures and speeches per year, he reaches college youth and professional organizations.

Since 1956 Hans Sennholz has been professor of economics and Chairman of the Economics Department at Grove City College.

Dr. Sennholz is a consulting economist for Investment Rarities Inc.

No wealth in the world and no political distribution of this wealth can purchase the peace and harmony so essential to human existence. Peace and harmony can be found only in moral elevation that reaches into every aspect of human life. A free society is the offspring of morality that guides the actions and policies of its members. To effect a rebirth of such a society is to revive the moral principles that gave it birth in the beginning. It is individual rebirth and rededication to the eternal principles of morality that are the power and the might. The example of great individuals is useful to lead us on the way, for nothing is more conducive to morality than the power of a great example.

To spearhead a rebirth of our free society, let us rededicate ourselves to a new covenant of redemption, which is a simple restatement of public morality. In the setting

of our age of economic redistribution and social conflict it may be stated as follows:

"No matter how the transfer state may victimize me, I shall seek no transfer payments, nor accept any.

"I shall seek no government grants, loans, or other redistributive favors, nor accept any.

"I shall seek no government orders on behalf of redistribution, nor accept any.

"I shall seek no employment in the government apparatus of redistribution, nor accept any.

"I shall seek no favors from the regulatory agencies of government, nor accept any.

"I shall seek no protection from tariff barriers or any other institutional restrictions on trade and commerce.

"I shall seek no services from, nor lend support to, institutions that are creatures of redistribution.

"I shall seek no support from, nor give support to, associations that advocate or practice coercion and restraint."

We do not know whether our great republic will survive this century. If it can be saved, great men of conviction must lead the way—men who with religious fervor and unbounded courage resist all transfer temptations. The heroes of liberty are no less remarkable for what they suffer than for what they achieve.

To reverse the trend and reduce the role of government in our lives, and thus alleviate the government deficit and inflation pressures, is a giant educational task. The social and economic ideas that gave birth to the transfer system must be discredited and replaced with the old values of individual independence and self-reliance. The social philosophy of individual freedom and unhampered private property must again be our guiding light.●

OHIO STATE LEGAL SERVICES: A JOB WELL DONE

HON. DENNIS E. ECKART

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 14, 1981

● Mr. ECKART. Mr. Speaker, recently there has been much discussion about the activities of the Legal Services Corporation. As a Member who supports the Legal Services Corporation, I wish to draw all Members' attention to the fine work of Ohio State Legal Services as pointed out in a letter from Ohio State Representative Mary O. Boyle to Jonathan Marshall, director of Ohio State Legal Services:

OHIO HOUSE OF REPRESENTATIVES,
Columbus, June 5, 1981.

JONATHAN MARSHALL,
Director, Ohio State Legal Services Association, Columbus, Ohio.

DEAR MR. MARSHALL: It has come to my attention that Congress is planning to substantially reduce federal funding for legal services. I would like to take this opportunity to express my concern over any such action, and to publicly commend the Ohio State Legal Services Association (OSLSA) for the many services it has provided me in my state legislative capacity.

OSLSA has provided invaluable guidance and information during my three years as a House Judiciary Committee member. Janice White has been indispensable working with me on issues including reform of paternity laws, domestic violence and housing discrimination legislation, and investigation of the Home Energy Assistance Program; she has provided me with contacts concerning the adult parole authority and fire safety legislation.

Bob Mapes assisted me extensively in the committee work on my House Bill 695, permanency planning for children in custody, which was enacted last year, and has provided invaluable expertise on many other bills before the House Judiciary Committee. Obviously, I have worked with and used OSLSA, and am familiar with the organization and the expert assistance it consistently provides to the Ohio General Assembly.

Without OSLSA, underprivileged and underrepresented persons in Ohio will be largely ignored and bypassed by Ohio's public and private leaders. The people OSLSA serves are those who are least able to provide effective political pressure for themselves, but whom many of our laws affect the most.

I deeply appreciated the accomplishments of OSLSA in Ohio, and I urge you to feel free to contact me if there is any action I may take to maintain funding for legal services.

Sincerely,

MARY O. BOYLE,
State Representative,
14th House District.●

AMERICAN AID PROGRAM IN EGYPT, PART I

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 14, 1981

● Mr. HAMILTON. Mr. Speaker, on May 18, 19, and 22, 1981, the Jack Anderson columns published three articles which were highly critical of the American economic aid program in Egypt.

I asked the Agency for International Development to comment on the remarks made in the Anderson columns and I would like to bring the articles and AID's rebuttal to them to my colleague's attention.

Appearing here are my correspondence with AID, the article of May 18 and AID comments on it. The other articles and AID comments on them will appear in a subsequent issue of the CONGRESSIONAL RECORD.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON FOREIGN AFFAIRS,
Washington, D.C., May 20, 1981.

HON. M. PETER MCPHERSON,
Administrator, Agency for International Development, Washington, D.C.

DEAR MR. ADMINISTRATOR: I would like the Agency for International Development to comment on the recent Jack Anderson columns of May 18 and 19 on the economic aid program in Egypt.

In particular, I would like AID to answer the specific charges made regarding several loans to Egyptian individuals, including some evidence that equipment sold to individual Egyptians under AID loans are then resold at profit on the Egyptian market, and the broad assertion that the AID program in Egypt "is floundering in a morass of waste, corruption and bureaucratic incompetence."

I appreciate your early consideration of these disturbing articles about an important AID program.

With best regards.

Sincerely yours,

LEE H. HAMILTON,
Chairman, Subcommittee on Europe and the Middle East.

AGENCY FOR
INTERNATIONAL DEVELOPMENT,
Washington, D.C., July 10, 1981.

HON. LEE H. HAMILTON,
Chairman, Subcommittee on Europe and the Middle East, Committee on Foreign Affairs, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: Thank you for your letter of May 20, 1981 requesting our comments on the Jack Anderson columns of May 18 and 19. I am attaching three papers which specifically address the material in those articles as well as the one which subsequently appeared on May 21 in the Washington Post. I believe you will find these responsive to all your questions.

With regard to Mr. Anderson's broad allegations that the A.I.D. program in Egypt is "floundering in a morass of waste, corruption and bureaucratic incompetence," I feel that this characterization is inaccurate and misleading. Both A.I.D.'s internal investigation staff and its audit group have a large presence in Egypt and maintain an active aggressive oversight of the program. In addition, the GAO has undertaken frequent reviews of the program. None of these groups identified problems of a magnitude which support Mr. Anderson's sweeping indictment of the A.I.D. program in Egypt.

This is not to suggest that the program is trouble-free. The portfolio is not being implemented as rapidly as I would like and several of our projects are experiencing difficulties which require special attention. In addition the Egyptian government has been slow to move on a range of economic management issues necessary to improve the effectiveness and efficiency of their economic development effort. Many of these present serious policy issues which properly should be approached with prudence and caution. Nevertheless the pace of Egyptian action does have the effect of limiting the pace at which the aid we provide can be effectively used.

The Egyptian officials I meet have clearly indicated their awareness of the problems and are sensitive to the need to move more vigorously to remove the bottlenecks which are slowing implementation of the A.I.D. program. I expect to see this sensitivity translated into meaningful actions.

If you have any further questions, please feel free to contact me.

Sincerely,

M. PETER MCPHERSON.

Enclosures: As stated.

[From the Washington Post, Monday, May 18, 1981]

SINAI PEACE COSTING U.S. BILLIONS EXTRA

(By Jack Anderson)

American taxpayers have been sending Egypt billions of dollars in foreign aid to pay for the Israeli-Egyptian peace process. Peace in the Sinai may be well worth the price, but the taxpayers have been misled about the cost.

Much of the money has had about the same effect as pouring pitchers of water on

the desert sand. The funds have been misspent with an extravagance that should be called to public attention.

In 1975, then-secretary of state Henry Kissinger promised U.S. aid in return for the Sinai Accords. I reported at the time that the cost would amount to $15 billion over the next five years. The story evoked horrified denials.

Well, I was wrong. The actual total of U.S. military and economic assistance to Egypt and Israel during the five-year period was a staggering $20.6 billion.

Then, in 1978, Jimmy Carter negotiated the Camp David agreement. He assured Americans it would cost them no more than about $1 billion a year in additional aid for the next five years. I reported that the Egyptians and Israelis were actually expecting an additional $19 billion over the five-year period.

Since the Camp David agreement, the American taxpayers have been subsidizing Egypt and Israel to the tune of $5.5 billion a year, which is about $3 billion more each year than Carter claimed it would cost. My $19 billion prediction, therefore, should be close to the mark in another 2½ years.

In other words, our political leaders have consistently understated the price tag on the Middle East peace accords. There were also whispers that millions were disappearing down the drain. So I sent my roving foreign correspondent, Peter Grant, to Egypt.

What he found was an Agency for International Development staff of 120 taking up three floors of one of Cairo's biggest and newest skyscrapers. He also found bales of reports and studies by highly paid consultants, identifying the critical problems of Egypt's floundering economy.

What he didn't find were any tangible results from the accumulation of paper. Most of the ambitious projects aren't even off the drawing board.

Of the billions we have sent Egypt in economic aid, most has been spent on short-term patchwork programs like food and foreign exchange. In fact, about 75 percent of the money allocated for long-range development projects like roads, sewers, communications and industry—some $1.5 billion—is still waiting to be spent.

Scarcely any construction projects have been completed. Not one agricultural program has advanced beyond the pilot stage. Meanwhile, Egypt's economy continues to deteriorate while its population continues to grow at more than a million a year, aggravating the problem severely. Egypt still imports more than one-third of its food while potentially rich farmland along the Nile lies fallow.

Much of the problem is bureaucratic, and the falt lies on both sides. Defending AID's operation, the agency's Egypt-Israel desk officer, Gerald Camens, acknowledged that there were start-up problems because "we were dealing with a country we didn't know that much about."

Another problem at the Washington end seems to be a battle over "turf" between the State Department and AID. As a congressional observer told my reporter John Dillon, "AID and the [U.S.] embassy don't always see eye to eye."

The diplomats want to see more tangible results of the aid program. For example, embassy officials were reportedly upset when AID funds were used to replace engines and equipment in old tugboats working the Nile, instead of replacing the boats outright to provide visible evidence of U.S. assistance.

But by far the hairiest bureaucratic problem, Grant reports from Cairo, is in the government, which is riddled with incompetence, duplication and corruption. Egypt's bloated bureaucracy has been described by AID officials with experience in developing nations as the worst in the world.

SINAI PEACE COSTING U.S. BILLIONS EXTRA

1. "The actual total of U.S. military and economic assistance to Egypt and Israel during the five year period was a staggering $20.6 billion."

Comment: Mr. Anderson does not specify the five year period to which he was referring. For the seven year period FY 75-81 the total is $24.5 billion ($15.7 billion to Israel and $8.8 billion to Egypt).

TOTAL U.S. AID TO ISRAEL AND EGYPT

[Fiscal year 1975-81—(Billions of dollars)]

	Israel	Egypt
Military	$10.4	$6.6
Econ.	5.3	2.2
Total	15.7	8.8

2. "I reported that the Egyptians and Israelis were actually expecting an additional $19 billion over the five year period."

Comment: The supplemental Peace Dividend appropriated by the Congress was for a three year period FY 79-81. Mr. Anderson's use of the word "additional" is misleading. The "additional" Peace supplemental assistance is included in the totals in the tables above. Thus by referring both to a $20.6 billion and a $19 billion figure, Mr. Anderson is to a certain extent double counting. The actual total of the Peace Dividend was $4.8 billion—$3 billion FMS for Israel and, for Egypt, $1.5 billion FMS and $300 million ESF. All other amounts are related to "regular" programs.

3. "Egypt's floundering economy" and "Egypt's economy continues to deteriorate."

Comments: The Egyptian economy has been one of the most vigorous in the world over the past 5-6 years. GDP has grown at an annual rate of 8-9 percent and foreign exchange earnings have increased annually by $1 billion or more on the average over this time period. Available data indicate that all segments of the population are benefiting from this growth though not necessarily in equal proportions.

4. "Of the billions we have sent Egypt in economic A.I.D. most has been spent on short term patchwork programs like food and foreign exchange."

Comment: The Egypt assistance program responds to both short term and long term development needs. The provision of $1.4 billion in PL 480 food assistance has been directed at one of these critical needs, meeting Egypt's wheat requirements. The Commodity Import Program has provided raw materials for Egypt's industrial enterprises, feed for its livestock and machinery to repair public infrastructure and services. While these short term needs are being met, the long term requirement for power, sewerage, water, cement, village development and agricultural productivity improvement are also being addressed through longer term development efforts.

As the short term problems have become less intense, the program focus has shifted to longer range efforts. It is not true that the Egyptian Government simply has been provided free foreign exchange. The bulk of all A.I.D. assistance has been for the financing of U.S. goods and services.

5. "He didn't find any tangible results" (of the A.I.D. presence). "Most of the ambitious projects aren't even off the drawing board."

Comments: Many A.I.D.-supported projects are large and complex. They require thorough planning, detailed final designs, and competitive procurement actions before physical progress can begin. The process has generally taken longer than we or the Egyptians expected.

Nevertheless, the statement that there are not yet any tangible results is erroneous. Two gas turbine electricity generating complexes at Talka and Helwan have been completed and are producing 300 megawatts of electricity. The Ismailia power plant construction is well advanced. The physical construction of the Suez Cement plant is largely completed though equipment installation will take some months yet. The same is true of the grain silos at Alexandria and Shoubra. Major improvements to the port of Alexandria and at the Mehalla textile plant are nearly completed and very visible. Physical evidence of our assistance is also available throughout Egypt in the form of buses, ambulances, tractors, garbage trucks, etc.

235 subprojects benefiting 356 villages in three rural governorates have been undertaken under the Basic Village Services project. These small infrastructure projects include water works, feeder roads, small scale drainage improvements, canal cleaning and repair and pilot alternate energy projects.

6. "Not one agricultural project has advanced beyond the pilot stage."

Comments: The reference to "pilot stage" is unclear. The bulk of our agricultural assistance is research oriented to assist the Egyptians to achieve higher yields. These research programs—on rice, major cereals, aquaculture, water management and so forth, are all operational. They will take time to identify technologies which can be extended.

7. "Egypt still imports more than one-third of its food while potentially rich farmland along the Nile lies fallow."

Comments: Egypt's presently arable farmland is limited to about six million acres along the Nile and in the Nile Delta. This land is intensively farmed, resulting in 1.9 crops per year. Virtually none lies fallow, though water logging and salinity problems since construction of the high dam at Aswan have reduced the productivity of some farm land. Programs are underway to address these technical problems.

While the government intends to develop new lands, there are questions about how much can be developed economically.

8. "The government . . . is riddled with incompetence, duplication and corruption."

Comment: The Egyptian bureaucracy is very large and suffers from red tape, problems of coordination, and the like, as do most large organizations. The Egyptian bureaucracy contains thousands of highly trained, highly dedicated, hard working individuals.●

A TRIBUTE TO ANTHONY R. "TONY" TURTURICI

HON. NORMAN Y. MINETA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 14, 1981

● Mr. MINETA. Mr. Speaker, it gives me great pleasure to rise today to honor an outstanding public servant, Anthony R. "Tony" Turturici, who retired this month after 30 years of dedicated service to the city of San Jose.

Tony's strongest characteristic is his headfirst approach to challenges. He has shown this relentless determination from the time he began working with the city, as an engineering aide in December 1950, up to the day he retired as director of public works and assistant city manager. Tony played an important role in city administration as San Jose grew from a small town of 94,000 in 1950 to the 17th largest city in the Nation with a population of 650,000.

Born in San Jose and educated in local schools, Tony was a 1951 graduate of the University of Santa Clara where he earned a bachelor's degree in civil engineering. In recognition of his good managerial skills and able engineering ability, Tony was named a division chief in the department of public works in 1957. He was promoted to assistant director of public works in 1964 and became director of the department 1 year later.

Tony has not only served well in city government but has also made great contributions to the community. He has been a member and officer of several State and National professional groups. In 1974, the American Public Works Association named Tony one of the "Top 10 Public Works Men of the Year." Two years ago, he received the Distinguished Service Award from the California Council of Civil Engineers and Land Surveyors.

The governmental expertise Tony gained over the years allowed him to serve effectively on two State boards—the Regional Water Quality Control Board and the FAU-Topics Advisory Committee—to which he was named by the then Gov. Ronald Reagan.

He has served as an executive board member of the Board of Fellows of the University of Santa Clara and on several committees for charitable groups in the San Jose area.

Mr. Speaker, I ask you and all our colleagues in the House of Representatives to join me in commending Anthony R. "Tony" Turturici for the outstanding contributions he has made to the city of San Jose, the State of California, and to our beloved country.

NO MORE COMBAT LEADERS AT THE NAVAL ACADEMY

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 14, 1981

● Mr. McDONALD. Mr. Speaker, it appears that the conscience of the Congress should be finally awakened to what the defense of this Nation is coming to. Is it the role of the service academies to train combat leaders for the future? If that is so, then my colleagues in the House had better seriously consider cosponsoring H.R. 976, to exclude women from the academies.

The latest example of how bad that legislation is needed, is contained in an article from Human Events of July 11, 1981. The article is titled "Rough Seas at Naval Academy," and written by Phyllis Schlafly of Eagle Forum. It seems that Mrs. Schlafly believes in the adage that the eagle is our symbol and not the chicken. Mrs. Schlafly, it seems, further believes that the pen is mightier than the sword—if you use it. After reading her article, I think that my colleagues will be mad—fighting mad. Then maybe the eagle will soar and the pen will become mightier as the cosponsors gather to support H.R. 976.

I usually am not prone to share such disgusting matters with my colleagues, but the spectacle of degeneracy contained in Mrs. Schlafly's article should be shared with my colleagues and all the American people.

The article follows:

ROUGH SEAS AT NAVAL ACADEMY

(By Phyllis Schlafly)

If prizes were given for investigative reporting on unpopular subjects, Carlton Sherwood would be in the running for his series of articles on sex discrimination at the U.S. Naval Academy at Annapolis. He asked some questions nobody else had asked, and he got some sensational answers.

Over the past several years, the national media have carried numerous stories conveying the impression that the decision to admit women has been a big success. Sherwood's series of articles for the Gannett News Service reveals that major moral, morale, disciplinary and legal problems have been concealed by whitewash, cover-ups, and sex discrimination against men and in favor of sexual misconduct.

Sherwood found that, since women were first admitted to the Academy in 1976, one of its most frequently violated conduct regulations has been the one prohibiting on-base sexual activity.

He discovered that 29 midshipmen have been prosecuted for sexual misconduct since 1977, and the routine result was harsh punishment for male offenders but none for the female offender. Midshipmen and academy officials say that another 100 cases have been handled informally, and that those cases are only a fraction of the sexual activity in the dormitory that houses 4,000 men and 400 women. Only one case made nationwide news, the "sexathon" on Nov. 22, 1980, in which five males were charged with having sex with one female cadet who was allowing the acts to be filmed. Two of the men, months away from graduation, were expelled and ordered to spend three years as enlisted men at the lowest rank. The other three were given demerits and placed on probation.

The woman, then in her third year, was permitted to resign and given a medical discharge relieving her of further duty. She gave a statement saying that she had "encouraged" the midshipman to have sex with her, and that two of them were so drunk that they couldn't start their own stereo.

This female cadet admitted to the reporter, "What I did was wrong. I was like a lot of women. I went to the Academy because it was free. . . . One of the first things the Naval Academy did for me was to set up an examination and fit me for a diaphragm."

During her final three months there, she said she engaged in sexual encounters "with about 20 midshipmen. . . . Not really a lot for some women in the dormitory. . . . One woman kept count of the guys she slept with—57 in one year. She got caught several times, but nothing much happened, some demerits."

The reporter discovered other Academy sex scandals that never made the general news. One involved a female cadet whose sexual escapades with enlisted men caused her to be "invited to leave" a Navy ship in San Diego, but she was then allowed to graduate and be commissioned an officer. Another involved a lesbian ring of a woman staff officer and 15 female midshipmen.

The obvious reason for the discrimination in favor of female sex offenders and against male sex offenders is that the career officers believe that their own career success is tied to making the sex integration of the military academies look like a success. So superintendent Vice Adm. William Laurence, toadying the Carter Administration party line, said, "There are no discernible differences between men's and women's performance in any area of the Academy's program."

He didn't mention that the Academy's traditionally rigorous physical and psychological training has been watered down to the level women can tolerate or that women are promoted on a quota basis to give the illusion of equal ability. One woman cadet admitted to the reporter, "What bothers me and most other guys is the cowardice and hypocrisy of the brass. They know it isn't working. So what do they do? Kick a couple of good men out, make us patrol the dormitory halls at night and promote a couple of women. It looks good in press releases."

The most outspoken critic of admitting women to the military academies has been James Webb, a 1968 Academy graduate, Vietnam war hero, and author of "Fields of Fire." His article in the November 1977 Washingtonian entitled "Women Can't Fight" (reprinted in Human Events, Feb. 16, 1980), concluded that "there is a place for women in our military," but not in "institutions dedicated to the preparation of men for combat command." "Webb Was Right" became a popular slogan scrawled on walls, textbooks, and T-shirts at Annapolis by the men who agreed.

Last year a visiting admiral lectured at the Academy. During the question period, a female cadet criticized the laws that exempt women from combat, which laws of course the admiral defended. The female, in exasperation, blurted out, "Maybe women shouldn't be here at all!" The male cadets burst into sustained applause.●

H.R. 3112—THE VOTING RIGHTS ACT

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 14, 1981

● Mr. STOKES. Mr. Speaker, I would like to take this opportunity to express my strong support for H.R. 3112, a bill that would extend the Voting Rights Act for another 10 years.

The Voting Rights Act is one of the most important and effective civil rights laws ever enacted by Congress. As a result of the act, hundreds of black and Hispanic Americans have been able to exercise the most precious of constitutional rights—the right to vote. The act also has removed barriers that previously barred the election of minorities to public office. These two changes have greatly strengthened the legitimacy of representative government in the United States and moved us closer to being a truly Democratic society.

However, unless Congress takes action to preserve the Voting Rights Act, its key provisions—especially section 5 which is the cornerstone of this law—will expire after August 6, 1982. Not only do we need to extend these provisions, we also need to strengthen the act to combat new forms of denials and to correct a misinterpretation of the act resulting from a recent Supreme Court decision in the City of Mobile against Bolden. Therefore, I have cosponsored H.R. 3112. This piece of legislation would:

First, provide for a 10-year extension of section 5 which requires that certain State and local governments demonstrate to the U.S. Department of Justice, prior to their implementation, that new changes in voting or election procedures will not discriminate against blacks and other racial minorities.

Second, continue the requirement that certain State and local jurisdictions provide assistance in other languages to voters who are not literate or fluent in English.

Third, amend section 2 of the act to clarify the confusion caused by the Bolden decision concerning standards of evidence for proof of voting discrimination.

The Voting Rights Act represents the culmination of a long and hard struggle by minorities to participate in Federal, State, and local elections, a struggle that goes all the way back to the period of reconstruction. It has been a struggle against poll taxes, grandfather clauses, white primaries, and the forces of intimidation. Most importantly, it has been a struggle to gain access to the foundation of our democracy—the ballot box.

There were many who thought with enactment of the 15th amendment came the unabridged right, of all citizens, to vote. However, it was 95 years after the enactment of the 15th amendment that the Voting Rights Act finally implemented the amendment's guarantee that the right to vote shall not be denied or abridged by reason of race, color, or condition of servitude.

The hard-won Civil Rights Acts of 1957, 1960, and 1964 held out the hope that the right of minorities to vote would be fully realized. These acts had been designed, in part, to enforce the 15th amendment guarantee by facilitating court challenges against voting discrimination, but case-by-case litigation under these acts has proven insufficient in the face of what former Attorney General Katzenbach called evasion, obstruction, delay, and disrespect. Under the case-by-case approach, Mr. Speaker, State legislatures enacted new obstructive laws as soon as old ones were held unconstitutional. Consequently, blacks were denied their right to vote for the duration of each round of litigation. In short, Mr. Speaker, the Voting Rights Act has succeeded where other measures have failed.

When President Johnson signed the Voting Rights Act into law he correctly pointed out:

> This Act flows from a clear and simple wrong. Its only purpose is to right that wrong. Millions of Americans are denied the right to vote because of color. This law will ensure them the right to vote. The wrong is one which no American, true to our principles can deny.

I submit, Mr. Speaker, that while the act has resulted in increased black and Hispanic voter participation, that the wrong President Johnson spoke of 16 years ago has still not been made right. In fact, black and Hispanic people are still being denied the right to vote in jurisdictions covered by the Voting Rights Act.

We see this denial in discriminatory annexation schemes and racial gerrymandering of district lines.

We see this denial when a jurisdiction shifts from district or ward elections to at-large elections.

We can see this denial in northern Sunflower County, Miss., where residents have to drive 50 miles to the county seat in Indianola to register, on weekdays between the hours of 9 a.m. and 5 p.m., for State and county elections.

However, while some jurisdictions use inconvenient registration times and places and others such as Edgefield County, home county of Senator STROM THURMOND, fail to submit for preclearance, changes in their election laws; the section 5 preclearance provision of the act is an effective mechanism for preventing various schemes that would deny blacks and Hispanics the right to vote. For example, in 1976 when San Antonio, Tex., attempted to annex a number of predominantly white areas, the Justice Department concluded that the annexation would discriminate against minorities because of the city's system of at-large city council elections. As a result of the Justice Department's objection, the city adopted a council election system with members elected from single-member districts.

Richmond, Va., is another example. In 1970 when the city developed a majority black population, whites then in power decided the way to retain power was through annexing the white suburbs. The Justice Department ruled that the annexation could go through only if the city adopted a single member district plan instead of the at-large system that would make it impossible for blacks to be elected. The result was a majority black city council and a black mayor in a majority black city.

When we realize, Mr. Speaker, that during the last 5 years 400 changes submitted under the preclearance procedure were found to be objectionable, we begin to understand the importance of and the need for the preclearance provision. The significance of the preclearance provision is further heightened when we take into account that a number of reapportionment and redistricting changes will be taking place in compliance with the 1980 census. With the preclearance provision in place, at this critical time, it will be possible to prevent discriminatory reapportionment and the gerrymandering of districts which result in weakening the impact of the minority vote.

Unquestionably, Mr. Speaker, the Voting Rights Act has resulted in increased participation of minorities in the political process. However, discrimination still continues. The gains can be easily eroded. We must reaffirm our commitment to a society guided by democratic principles. I urge all my colleagues to support H.R. 3112.●

A UNIQUE FOURTH OF JULY TRIBUTE TO OUR MANY EARLY AMERICAN PATRIOTS FROM FOREIGN LANDS

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 14, 1981

● Mr. BIAGGI. Mr. Speaker, I am proud to insert into the RECORD a most informative article written by Mr. Anthony Cama, feature writer for the Daily Evening Item of Lynn, Mass. His extensively researched article focuses long-overdue attention on the contributions which men from foreign lands made to our Nation's early history, including its fight for freedom.

Ethnic patriots hail from a variety of lands—including but not limited to—Italy, Poland, France, and Ireland. Mr. Cama remembers such leaders and heroes as William Paca, General Kosciusko, Lafayette, and Haym Solomon. To appreciate the full significance of our pluralist Nation today, it is important that we review history. Anthony Cama's piece is a helpful guide.

As the son of immigrant parents, I know that America has been and continues to be the land of opportunity for all its citizens. Yet I also know that America grew strong as a nation because of the hard work and patriotism of its citizens. The pages of American history are replete with contributions of Americans from various ethnic groups—contributions which span the entire 205-year history of this Nation—from the Declaration of Independence to the present day. The freedom we cherish in this Nation did not come without the supreme sacrifice of many Americans who died to make us free in 1776 and to keep us free in World Wars I and II. July 4 is acknowledged as Independence Day and on that day we bask in the wonderful freedom we enjoy as a nation and people.

I urge my colleagues to review Mr. Cama's article and appreciate the important information it imparts:

INDEPENDENCE DAY, JULY 4

The torrid month of July encompasses its 1981 historical year now bearing at the helm of our nation the leadership of Ronald Reagan and the Republican administration. Americans everywhere, and most especially in the sacred halls of Boston and this Commonwealth, are observing the national holiday!

It is also a time to salute the heroes and patriots who came from foreign soil and to fight and die in the American Revolution; William Paca, Italian refugee whose family settled in Maryland; he became the first governor and was a vital signer of the Declaration of Independence; Philip Mazzei, "Forgotten Hero of the American Revolution," patriot, diplomat, distinguished political philosopher, intimate friend of Jefferson and Franklin and Washington; the two Polish Generals, Kosciusko and Pulaski; Gen. Pulaski died on Oct. 11, 1779 from wounds received in the siege of Savannah; a beautiful monument to Gen. Pulaski stands in Washington, D.C.; the Kosciusko Monument is found at the Boston Public Gardens on Boylston Street. From the shores of France came Lafayette, Rochambeau, Admiral DeGrasse, D'Estaing and thousands of French soldiers and sailors with war ships, supplies and money; the negro, Crispus Attucks, died defying the redcoats; Haym Solomon, the unique hero of the Revolutionary War, a Polish-Jew, he was master of 10 languages and belonged to the Sons of Liberty; he was instrumental in pouring more than $600,000.00 into the Revolution; Aaron Lopez, the Jewish merchant-ship owner, who put his vessels into the hands of the patriots; Salvador Francis of South Carolina, a heroic Jew, who earned the nickname of "The Southern Paul Revere"; he died fighting the Indians; David Emanuel, one of the fearless spirits of Rebel Town, later elected governor of Georgia; Col. Franks, trusted aide of Gen. Lincoln and Gen. Arnold; Lt. Col. Solomon Bush of the Pennsylvania Supreme Council; he was fatally wounded at the Battle of Brandywine; Dr. Philip Moses Russel served the army at Valley Forge during the tragic winter of 1777-1778. Baron De Kalb, the German soldier-leader, friend of Lafayette; he died of wounds received in the Battle of Camden, 1780. Baron Von Steuben, hero of Valley Forge, took part in the Battle of Monmouth and the Siege of New York. He remained in America.

The Irish immigrants filled a glorious history in the Revolution: Daniel Morgan's Irishmen wore upon their breast motto, "Liberty or Death"; In "The Line of Ireland" from Pennsylvania, four commanding officers were natives of Ireland; Timothy Murphy, hero of Saratoga; Capt. John Brady, revolutionary scout and frontiersman; Major John Kelly, who destroyed the bridge at Stoney Brook; Lt. James Gibbbons, who stormed Stoney Point; Capt. William O'Neil, hero of Brandywine; Comdr. John Barry, hero of many seabattles who became the father of the American navy; Comdr. John Paul Jones, heroic son of Scotland, victor of many seabattles against the British. Numerous Irishmen commanded brigades and regiments; Generals James Hogan, John Greaton, Richard Butler, Richard Montgomery, William Irvine, Edward Hand, William Thompson, William Maxwell and Andrew Lewis. Proctor's artillery was 40 percent Irish. Next Gen. Knox, Col. Proctor was the most distinguished artillery officer of the Revolution. In 1790 he became a member of the Hibernian Society of Phil.

Among the heroes of the Signers of the Declaration of Independence, who were from Massachusetts Bay emerged Samuel Adams, the 5th signer, born in Boston, called the "Firebrand of the Revolution"; he became governor and is buried in the Old Granary Burying Ground. John Adams, the 6th Signer, born in Braintree, was one of the outstanding patriots; he became the 2nd President of the United States. Both he and Jefferson died on the same day, July 4th, 1826. His burial place is in Quincy, Mass. Robert Treat Paine, traced his ancestry to the Mayflower. He was a Harvard graduate and studied for the ministry. He became the first attorney general of Mass. He helped to found the American Academy of Arts and Science; Elbridge Gerry born in Marblehead, Mass., was a graduate of Harvard. In 1810, he was elected governor of Mass. The term "gerrymander" came from Gerry's political work. In 1812 he was elected vice president on the ticket with Madison, but died two years later as he walked to the Senate. He wrote: "It is the duty of every citizen, though he have but one day to live, to devote that day to the service of his country."

The pages of American history have shown that the war of Independence was actually an insurrection; a furious rebellion of English subjects of the King who revolted against the tyranny of England. The patriots were brave and valiant, and the colonials had excellent leaders, but there is no doubt that, without the military help of the French and many able military strategists of foreign countries, the British could have emerged victorious and destroyed the Revolution!●

TRANSPORTATION

HON. AUSTIN J. MURPHY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 14, 1981

● Mr. MURPHY. Mr. Speaker, I feel distressed at the outcome of the recent votes on reconciliation of the budget. It is a difficult time for us all. It is true that the American public wants, and rightfully, deserves, the Federal Government to balance its budget and reduce taxes. However, the American people do not wish to suffer the pains of economic policies which aid the wealthy and take away from those who have the least to give.

The cuts imposed by Gramm-Latta II are more severe than the administration's original proposal. I have long favored trimming the budget and lowering taxes. As we are the most representative body of the Government, it is our responsibility to represent the people by cutting the budget; however, not in the reckless manner such as that put forth by the administration.

Along with the cuts which will effect every American, but particularly the lower and middle classes, the administration proposes to do away with many categorical grants and to fund by means of block grants. The administration claims that block grants will allow State and local governments to utilize Federal funds more productively when, in fact, block grants will detract from program credibility and continuity. Only the Federal Government currently has the oversight capabilities and methods of implementation necessary to effectively administer most programs.

Cutting program budgets in areas such as transportation will incur hardships on the lower and middle classes. Interstate construction funding maintained at present levels, and funding eligibility narrowed toward final completion of the Interstate System by 1986 are steps in the right direction. However, the elimination of lower priority highway programs designed to address State and local problems concerns me a great deal. It is suggested that the States and localities have a greater interest in highway systems below the interstate level, and some merit can be found in this argument. The phaseout of Federal responsibility is to take 2 years with State and localities assuming full funding in fiscal year 1984. This transition time is proposed to be sufficient to allow States to make budget adjustments to meet full funding responsibilities. Yet, there are parts of this country that are so densely covered by State highways that to meet full funding will be extremely burdensome. For instance, the State of Pennsylvania has over 45,000 miles of State and Federal highways.

My district alone, which encompasses only 3 counties of the 67 in Pennsylvania, has 3,000 miles of highway, approximately 65 percent of which are State highways.

In reality, what the Gramm-Latta II budget does is shift the burden from the Federal Government to the State governments. Thus, the taxpayer will see a reduction in Federal taxes, and concurrently, a rise in State taxes. What appears to be a tax reduction has become a tax deferment, and a move toward a more decentralized Federal Government.

It is for the very reasons which I have elaborated, that many aspects of the Gramm-Latta II budget are unacceptable to me. More of a burden will be placed upon taxpayers than less, as responsibilities are shifted from Federal to State governments.

Again, I do not oppose trimming the Federal budget, but I am very much opposed to the reckless and callous methods used by the administration.

ADMINISTRATION MAKES MISTAKE BY SUPPORTING AWACS TO SAUDIA ARABIA

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 14, 1981

● Mr. FRANK. Mr. Speaker, while the administration waits for an opportune moment to notify Congress of its intent to sell five AWACS to Saudi Arabia, the arguments against the sale become increasingly cogent. No matter how many administration officials try to allay the fears of a concerned public, the questions of Israeli security, the stability of the Saudi regime, and the dangers of transferring sophisticated technology to the Saudis remain unanswered.

Leonard Fein, editor of the distinguished Moment magazine, has written one of the most elucidative analyses of the politics of the AWACS decision and the contradictions between the administration's rhetorical support for Israel on the one hand, and its actions—symbolized by the proposed AWACS sale—on the other.

I believe Members will find Mr. Fein's article to be both interesting and insightful reading. Excerpts of the article follow:

WASHINGTON SLIPS ON THE AWACS

If Jimmy Carter had been reelected, and had gone forward—as now we know he intended to—with the proposal to sell to Saudi Arabia an "enhancement package" for its F-15s and the AWACS surveillance system, he would have been savaged by Israel's friends in this country.

But Ronald Reagan is not Jimmy Carter. According to Senate Majority Leader Howard Baker, "Israel never had a better friend perhaps in the White House than it has with President Reagan." Perhaps. This is certainly a proposition Israel's friends outside of the White House would like to believe. Indeed, their desire to believe it led many of them to set aside their deepest convictions regarding American domestic policy and to support Ronald Reagan in his quest for the presidency. As one prominent Jewish liberal who energetically supported Reagan said last month, "I voted for him on one issue and one issue alone—and that issue was Israel, of course."

And then he added ruefully, "I thought we'd get at least one good year out of him. But I was wrong."

For it is now clear: the soothing words of friendship are just that and no more. The voice promises safety for Israel, but the hands are busy ringing up the sales of weapons to Israel's sworn enemies in the service of no defensible American purpose.

That is the unfortunate and unambiguous lesson of the F-15/AWACS proposal.

First, the details: The current proposal, not yet formally submitted to Congress, which has the authority to reject it, is to sell to the Saudis 62 sets of auxiliary fuel tanks that will substantially extend the range of their F-15s; 1000 to 1800 Sidewinder air-to-air missiles; 5 AWACS; 7 KC-135 tankers for air refueling of both the F-15s and the AWACS. The total value of the package is $2.5 billion.

The AWACS were not part of the original proposal, nor did the original proposal elicit much opposition either from Israel or from the American Jewish community. The Israelis, fearing a dispute with the Reagan administration in its first days, chose to accept American assurances that Israel would be "compensated" for the Saudi sale. Among the elements that might be included in the compensation package were additional military aid, easier credit terms for the repayment of Israel's debt to the United States, increased American purchases from Israeli manufacturers of military equipment, agreement to permit Israel to sell military equipment requiring American licensing to certain other countries and increased use of Israeli maintenance and repair facilities by American forces. Israel's Foreign Minister Shamir made it clear during his March visit to Washington that Israel would not put up a major fight on the F-15 matter.

The American Jewish community, taking its cue from Israel, and also sensitive to the problem of pressing an opposition that might well prove futile, chose relative silence on the matter. The word was passed that only if the AWACS were added to the proposal, as it was rumored they might be, would serious opposition be mounted.

In due course, the AWACS were added, at the urging of Secretary of Defense Weinberger and, as of April 1, with the approval of the National Security Council.

In the meantime, several Democratic senators—Biden, Kennedy, Cranston and others—had begun a fight on the Senate floor. The principal point they made was that no political quid pro quo had been demanded from the Saudis in return for these weapons, and this just after Saudi Arabia had called for a jihad—a holy war—against "the Zionist entity."

Some Republicans in Congress shared this view, and expressed it. Others were distressed that leadership on the issue had been taken by liberal Democrats, just at a time when the Republicans had begun to make serious inroads into the traditional Jewish-Democratic alliance. Opposition mounted.

Still, the Jewish community was silent.

As it had been up until the last minute when the original authorization was given the sale of 60 "unenhanced" F-15s to the Saudis back in 1978. The Carter administration had pressed hard then, and the Israelis were uncertain, and a major drive in opposition to the sale was mounted only at the last minute—and proved ineffective.

In order to win acceptance of the 1978 sale, then Secretary of Defense Harold Brown assured the Senate, in writing, that "the planes will not have conformal fuel tanks. . . . (nor) has Saudi Arabia requested that the plane be outfitted with Ejection Racks (MER 200) which would allow the plane to carry a substantial bomb load. . . . the U.S. will not furnish such MERs. . . ."

It is this assurance that the Reagan administration now proposed to violate. And it is this violation to which the Israelis, for all practical purposes, acceded, and that the American Jewish community grudgingly accepted.

Until the AWACS were added on.

Now the administration, recognizing the vigor of the opposition to the proposal, has decided to defer its formal transmission to Congress until the late summer or early fall, so as not to divert attention from its domestic economic priorities. In addition, there are persistent rumors in Washington that the proposal will be amended, or side-deals developed, in an effort to overcome the current opposition.

The postponement of the proposal's submission not only gives the administration the chance to modify it; it also gives those who are alarmed by it a chance to enhance their understanding of the stakes here involved.

Israel's capacity to maintain a military edge sufficient to deter Arab aggression—or, if necessary, to repel it—depends on three key elements: first, Israel must retain its technological superiority; second, it must retain its qualitative superiority; third, it must retain its capacity for surprise. Given the size of the forces, actual and potential, that might be deployed against Israel, significant deterioration in any of these three elements represents a damaging blow to Israel's security. The current proposal of the Reagan administration would cause such deterioration not to just one of these elements but to all three.

The F-15 enhancement package vastly increases the lethal capability of that aircraft, not only by extending its range and increasing its weaponry, but also by lowering—dramatically—the demands it makes on both pilots and ground crews. The most startling example of this is the effect of adding the Sidewinder AIM-9L/M. This air-to-air missile has omnidirectional capability; a Saudi pilot would not need to position himself behind an Israeli aircraft in order to score a direct hit. Further, the F-15 would become, as Hirsh Goodman, military editor of the Jerusalem Post has argued, "idiot proof"—capable of being serviced on the ground in a very short time even by relatively inexpert mechanics.

As to the AWACS, the Pentagon itself has claimed that the addition of the AWACS to NATO's armory is the equivalent of doubling NATO's entire force of interceptor aircraft. According to U.S. Air Force General John Vogt, "The AWACS determines a threat that may be appearing . . . picks them up several hundred miles out, takes the closest targets [and] can vector the F-15 into the general vicinity." At which point the F-15's own long-range radar can take over.

That is by no means all the AWACS can do. Just now, in an effort to calm the opposition, there is an effort underway to make only modest claims for the AWACS.

Boeing's own puffery—it manufactures the AWACS—has been replaced by uncharacteristic modesty, and the layperson may justifiably feel confused. Can the AWACS really fly for 72 hours without refueling? (It cannot; it can fly 11 hours without and up to 72 hours with refueling.) Can it "see," as has been claimed, any object "moving at more than 80 miles an hour within a 250 mile radius"? (It cannot "see" objects on the ground; that is what enables it to "see" low-flying aircraft.) What about the "black box," without which the AWACS is allegedly harmless? (That depends on which "black box"; the AWACS can be custom-designed to give more or less information.)

But here we have the 1977 testimony of then-CIA Director Stansfield Turner: If the Soviets were to gain access to AWACS, they could leapfrog five to seven years forward in certain technologies. For the fact is that the AWACS, whatever its precise technical specifications, is the most advanced—and the most expensive—air control and command resource in the world. Saudi Arabia, with five AWACS, would be in a position to collect—and disseminate—complete information on the movements of all Israeli aircraft, day or night, good weather or bad.

Israel has no counter-system at the present time. Nor would providing Israel with its own AWACS—which it cannot afford—diminish the usefulness of the Saudi AWACS; the one does not offset the other.

So: In one critical respect, Israel's technological edge is severly blunted, the effectiveness of its air force substantially degraded; Israel's qualitative superiority which has enabled it to withstand attacks by vastly larger forces, is radically diminished; Israel's capacity to surprise the enemy, and thereby to carry the battle outside its own territory, is destroyed.

That, starkly, is the proposal of the "best friend" Israel has ever had in the White House.

But surely Ronald Reagan and his advisors wish Israel no ill. On the contrary: Israel is the key element in Secretary Haig's persistent effort to fashion an anti-Soviet "strategic alliance" in the Middle East. Why, then, such a pernicious proposal?

Here theories abound, and the truth is almost certainly a combination of elements from each.

First: This administration is deeply committed to keeping the Soviets out of the Persian Gulf area. In choosing between blunting the Soviets and any other foreign policy goal, the former takes priority. The Saudis are an important element in the anti-Soviet strategy, and they must therefore be assured of American friendship, support and trust.

Second: The Saudis claim that they are helping keep oil prices down, and imply that this policy of responsibility depends on American reciprocity.

Third: The ability to sell two billion dollars worth of AWACS not only helps the American economy; specifically, it dramatically reduces the per-plane cost to the Pentagon. Foreign purchasers pay not only for the equipment they get, but also for their "share" of its original development cost. The United States has an important economic interest in maintaining the Middle East arms balance at a high level. A low-level balance might be somewhat more stable, but it would be considerably less profitable.

Fourth: In general, the United States has experienced interesting benefits from conflict in the Middle East. Especially in 1967 and 1973, the Pentagon acquired important information regarding the performance of some of its more sophisticated hardware in actual battle. So, for that matter, did the Russians. (The Spanish Civil War provided both Germany and the Soviet Union a test of their equipment, at no cost in either German or Russian lives, and set a precedent for testing new systems with surrogate—and expendable forces.) While such a cynical doctrine may not serve as a motive for the sale of arms, it does help the cost-benefit analysts to justify it.

There is no dearth of arguments with which to oppose the administration proposal. The most telling argument is provided by the precedent of Iran, to which the Carter administration had promised 14 AWACS—happily not delivered before the Iranian upheaval. Can we be certain that Saudi Arabia's medieval monarchy will not collapse one day soon, its weapons taken over the a Saudi-style Qadhafi? That is the argument most of the congresspeople and editorial writers have used, and it is good as far as it goes. But it does not go nearly far enough, for it leaves the F-15 enhancement package very much in place, and on this issue, it is worth fighting, and fighting hard, even if the likelihood is that we will lose. It is worth fighting because it will cause the next Saudi request to be handled rather more cautiously. It is worth fighting because the issue is so important. And it is worth fighting because we may win.

It was only when the AWACS were added to the administration proposal that the American Jewish community announced its readiness to fight the entire package, AWACS and F-15s alike. For that reason, the administration, if it is disposed to compromise—there is no sign of that as yet—may well choose to drop the AWACS, at least for the time being, and press for the F-15s. Unfortunately, the administration has reason to believe that only token opposition would be mounted against the F-15s alone.

Therein lies a cautionary tale.

Every time a new president enters the White House, there is some back and forth before the organized Jewish community develops a working relationship with the new administration. In the first days of the Reagan administration, the particular problem was a modest rivalry between a group of prominent Jewish Republicans who had been actively involved in the Reagan election effort, and who believed themselves to be in the best position to represent Jewish interests to the administration—and who also, presumably, enjoyed the sense of power such relationships provide—and the Conference of Presidents of Major American Jewish Organizations, the "official" spokes organization for Jewish interests. That problem has by now, according to all reports, been resolved.

But while the two groups were still figuring out how to work together—back on March 9, specifically—32 prominent Jewish Republicans met with the President and his chief aides. The meeting had not been scheduled specifically to deal with the F-15 proposal, which by then was public. At that point, Israel was still quite reserved in its opposition, and there seemed no reason for American Jews to take a more vigorous stand in opposition than the Israelis had. But it was obvious that the issue would come up at the meeting, and in a pre-White House caucus, the group very carefully drafted the language of a statement on the matter that would be read to the President by Max Fisher.

Fisher, a long-time Republican fundraiser, is arguably the most powerfull Jewish leader in America. He has been Chairman of the Board of Governors of the Jewish Agency for Israel for many years, and has held at least a dozen other senior leadership positions in national Jewish organizations. Fisher was a belated supporter of Reagan, and there are those who have speculated that his performance in the White House on March 9 was prompted by his desire to ingratiate himself with a president he had earlier opposed.

Whatever his reasons, when the time came for Fisher to read the group statement, he changed its wording. The original included the following language: "We are . . . deeply disturbed by, and opposed to, the proposed sale . . ." But Wolfe Blitzer, the distinguished Washington correspondent of the Jerusalem Post, reported that Fisher—normally a commanding presence—in fact read, in a barely audible voice, a statement in which "deeply" became "a little bit" and "opposed to" was dropped completely.

And later, at a remarkable White House briefing for reporters, Fisher said, "I sure feel a great deal more relieved after hearing the comments of President Reagan and some of his staff on the matter." Pressed quite vigorously by the reporters present, who expressed some measure of disbelief on hearing Fisher's sanguine assessment, Fisher explained: "When a man like President Reagan, in whom we have great faith and great confidence, states categorically his position—and I want to repeat this to you—that the balance of power in the Middle East will not be disturbed, that is a very convincing statement, at least as far as I am concerned."

The reporters were blunt: "The question that is bothering all of us . . . is whether any of you gentlemen see any conflict . . . between the President saying that he is committed to the security of Israel and . . . his decision to provide these weapons to . . . Saudi Arabia?"

That was—and remains—the question. At the White House briefing, it was answered by Gordon Zachs, an active participant in national Jewish organizations and, during the early part of the campaign, an energetic supporter of then presidential candidate George Bush. ". . . If we had our druthers we would prefer that there not be a sale. But in view of the fact that there is going to be a sale . . . we were reassured and comfortable that the strategic balance will be maintained . . . and that Israel from a qualitative, military security point of view will emerge stronger than she is going in without these enhancements."

Fisher and Zachs, in the wake of the AWACS addition to the F-15 enhancement package, have both joined the Conference of Presidents in vocal opposition to the entire proposal. Perhaps, in the future, we will remember that there is a reason we have a Conference of Presidents, and the reason is to insure that Jewish interests will be represented honestly and forthrightly by people who are mandated to represent those interests and who have no personal agenda with the President that might confuse their mission.

In any case, the reporter's question remains. There is a conflict between this administration's professed concern for Israel's

security and its proposed sale of military equipment to Saudi Arabia. There is no way around that conflict. There is no sop the administration can toss Israel that will resolve it, no acceptable compromise it can propose that will remove it. We need not think the President dissembles when he avows his concern for Israel; let us grant that his concern is genuine. We need merely think that he and his advisors are mistaken in supposing that they can go forward with the Saudi sale and not be accused of subverting that concern and Israel's safety with it. It is a mistake that is likely to cost both Israel and the United States dearly, unless we move to correct it.●

COMMEMORATING THE 50TH ANNIVERSARY OF STANLEY HOME PRODUCTS OF WESTFIELD, MASS.

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 14, 1981

● Mr. CONTE. Mr. Speaker, it has been said by some that the economic climate of New England is not conducive to industry, and that in order to compete in the business world today, companies must relocate to areas which promise low-wage labor, tax concessions, and other inducements. New England has been and continues to be fertile ground for industry. It produces strongly rooted organizations which grow, develop, prosper, and, I am proud to say, remain loyal to their home ties, thereby encouraging other industries to do the same.

I have in mind a particular company, located in the First Congressional District of Massachusetts, which I serve. Stanley Home Products, Inc., of Westfield, is now celebrating its 50th year in business. It was founded on August 15, 1931, in the depths of the Great Depression, by Frank Stanley Beveridge, who often used a quotation from Longfellow to express his philosophy:

There is an honor in business that is the fine gold of it; that reckons with every man justly; that loves light; that regards kindness and fairness more highly than goods or prices or profits.

Mr. Beveridge believed that the success of his company would be related directly to quality and to service; that is, the best possible products offered in the manner most convenient to the customer. Together with Miss Catherine L. O'Brien, the company's cofounder, and five other associates, he started to produce a line of basic household chemicals, cleaning implements, and brushes. From this humble beginning has grown an enterprise that today, through the parent company and its subsidiaries, offers home care and good grooming products throughout the free world.

As the company expanded, it spread to various locations in Westfield, and came to recognize that it must consolidate in order to efficiently meet the demand for its products. Some advisers felt this would be a strategic time to move to another part of the country, but management, loyal to the company's New England heritage, was reluctant to uproot the sturdily growing organization. Instead, it relocated the warehousing and production facilities in nearby Easthampton, Mass., where, in 1946, it purchased a former textile mill with nearly 700,000 square feet of manufacturing space. I have had the pleasure of visiting this plant myself and have seen its modern equipment and the excellent working conditions it offers, and noted, too, the friendly and cooperative attitudes of the Stanley associates employed there.

Stanley products were originally sold door to door, but by the late 1930's, a new sales concept, that of the Stanley hostess party, was being developed. Through the plan, the salesman would, in effect, make several calls at one time by demonstrating his wares to a group of women who could shop in comfort in a friend's home. This friend, the hostess, would receive a thank you gift for making her home available.

This method of doing business positively and profoundly influenced the growth of Stanley Home Products, the more so because it attracted women to the sales field. As independent Stanley dealers, they were in business for themselves, setting their own hours and goals, selling merchandise with which they were familiar and which they could demonstrate with authority. Indeed, this company has been a pioneer in offering business careers to women and in destroying the artificial barriers which sought to deny women an equal position in the work force. One example of this is the fact that the company's cofounder, former president and chairman of the board was a woman, Miss Catherine L. O'Brien.

Today, independent Stanley dealers number approximately 90,000 worldwide and enjoy profitable and interesting careers with wide opportunities for development and advancement. In Stanley, individuals have demonstrated dramatically, time and time again, the success of the work ethic. They have proven that drive and ambition lead to advancement and success, regardless of race, sex, color, national origin, or religion. This opportunity for meaningful activity, for personal development, and for career progress in Stanley has its basis in a direct promise by Mr. Beveridge. He said, "We will build here an institution the likes of which has never been seen; one that will be a benefit and a blessing to those associated with it."

The Stanley opportunity has been extended to other countries, and this still-developing organization now operates in 18 international markets, with 15 distribution facilities and 6 manufacturing plants outside the United States. The company's contributions to the increase of U.S. trade abroad were recognized this year at a ceremony which I had the privilege of attending, and during which Stanley Home Products was presented with the U.S. Government's "E" Award. This award acknowledged the substantial increase in Stanley's volume of export and its creative marketing efforts.

Stanley Home Products also has diversified into other fields. Its wholly owned subsidiary, Canford Manufacturing Corp., produces custom molded plastics. Its industrial division serves the building maintenance and institutional trades and the fast-food industry.

Stanley's chairman of the board, Homer G. Perkins, worked closely with Frank Stanley Beveridge and has directed his efforts toward carrying on the spirit and force of the company's founder. Stanley's president, H. L. Tower, has avowed his dedication to Mr. Beveridge's ideas and ideals. As Stanley celebrates its golden anniversary, it pays tribute to its heritage and looks forward to even greater progress. There is indeed "an honor in business that is the fine gold of it."●

OSM REORGANIZATION BACKFIRES

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 14, 1981

● Mrs. SCHROEDER. Mr. Speaker, the untold story of the Secretary of the Interior's proposed reorganization of the Office of Surface Mining is how it will affect coal companies. The Secretary routinely dismisses criticism of his actions as the work of diehard environmentalists.

In fact, his actions have been equally criticized by State and local officials and by the private enterprises he claims he is helping. Colorado Business, a pro-Reagan administration publication, explained coal company reactions to the OSM reorganization in an article, "Plan Shafts Firms," in its July 6-12, 1981, edition.

PLAN SHAFTS FIRMS—BUREAUCRATIC BATTLE MAY BACKFIRE

(By Doug Vaughan)

Angry over their bosses' plan to reorganize the Office of Surface Mining, some Denver employees of OSM contend that Interior Secretary James Watt's proposal is a deliberate and illegal plot to scrap the agency that will cost coal companies "plenty." (See accompanying story, page 2)

A spokesman for the employees charges that Watt's proposal already has caused attrition of key personnel, stalling projects and delaying the already protracted process

of review for new mines by up to six months.

While hesitant to criticize the man many of them regard as their champion, some coal producers reluctantly agree that Watt's proposal may be an expensive—if well-intentioned—mistake. They fear that, as a result of the flap over OSM, Watt's plan to accelerate leasing and production of coal on federal lands may backfire, giving environmental groups an opening to attack the new federal policies for development of natural resources on public lands.

According to Keith Kirk, elected recently to head the OSM Region V Employees Association, Watt's reorganization scheme already has caused "a big backlog" at the agency.

Kirk, a geophysicist in the division of technical services, is responsible for coordinating reviews of mine plans submitted by companies for approval under the Surface Mining Act.

"Region V is the only region still active in mine plan reviews," Kirk told Colorado Business. That process already has "slowed up considerably" due to attrition of personnel, demoralization of those who haven't left and uncertainty over Watt's plan. Kirk said a survey of employees in the Denver office indicated 70 percent of the technical staff of 50 would leave OSM if transferred to Casper, as Watt has ordered.

"Last Friday, we held a going away party for five people." Kirk said. "These were all experienced technical people. A lot of people have already jumped ship. At least a dozen have left and everybody else is looking for other jobs. We still have no idea how many will be transferred and how many will be laid off. But it's bound to slow everything up even more."

For example, Kirk said Watt transferred James Hardaway, chief of technical services for the region, to a temporary assignment back in Washington. "Hardaway was responsible for trying to keep the review of mine plans on time," Kirk said. "This is a guy who has received many commendations, who works 60 hours a week. The transfer doesn't make sense if you're serious about efficiency."

By way of contrast, the technical services staff also has lost three of five secretaries. "That may not sound important," Kirk said, "but just trying to get something typed is almost impossible. You've got technical personnel doing their own typing to get reports out on time. Now when you've got a GS-12 biologist typing out reports, that's not a very efficient use of taxpayers' dollars, not to mention the delay on other work."

"The most critical example" of inefficiency and delay caused by the announcement of the planed reorganization, Kirk said, involves review of companies' plans for mines in Utah, which still relies heavily on the regional office "because they don't have the staff at the state level."

For the last several weeks, Kirk said, his staff has been reviewing "four to five plans a week" from companies, including 19 on federal lands, "and they're stacking up."

Lining up behind these companies are plans for at least two dozen mines in Colorado. Under the agreement between OSM and the Colorado Mined Land Reclamation Board, companies who wanted to continue mining in the state on federal land had to reapply for state permits by Feb. 17, 1981.

"We've already crunched through the joint review with MLRB to clear companies for apparent deficiencies in their mine plans," Kirk said. The schedule allows the companies to respond to a list of alleged deficiencies found by OSM and the state board.

"A hell of a lot" of the responses from the companies to these alleged inadequacies "will be coming in in the next few weeks," Kirk said, raising the prospect that OSM, already thrown into chaos by Watt's reorganization, will be inundated with the Colorado plans before the Utah plans can be cleared from the schedule.

"There's not much incentive for people who are going to get laid off in a month or two to bust their butts for Watt under those conditions," remarked another OSM employee, who asked that her name not be used.

Delays of six months to a year are "increasingly likely," Kirk said. "If true," one company lawyer familiar with the process said, "and it sounds possible, that will cost some companies a lot of money in lost contracts, carrying costs of borrowed capital, construction delays and, possibly, more litigation." The amount at stake is "hard to quantify," another spokesman said, "but it could be real expensive for some of us."

"There's no question that many of these plans won't meet the legislatively mandated schedule for review," Kirk said. "As a result, some companies will be operating without a permit."

Some states allow existing mines to operate without a permit under provisions of approved state programs that grant extensions of time in cases of administrative delay for which the company is not at fault. Other states, including Colorado, don't allow such extensions, Kirk said, although MLRB officials reportedly are preparing an administrative mechanism that will assist companies affected by the delays at the federal level.

"The states might try to look the other way," Kirk said, but lawsuits filed by environmental groups against companies operating without permits "could shut down mines right and left."

The OSM regional office also has responsibility for reviewing a petition filed last December by a coalition of ranchers and environmentalists to have the secretary declare certain sections of the coal-rich Powder River Basin of Montana unsuitable for strip-mining. According to the law, that review must be completed within one year of filing of the petition. If OSM does not finish the review on time, Kirk warned, "the petitioners could seek injunctions to prevent the companies from mining. That case is in particular jeopardy because of the resignation of a hydrologist who was assigned to the review.

The dimensions of the problem are indicated in a draft report by the government's Office of Technology Assessment. Some 7.7 million tons of federal coal were mined in Utah, New Mexico and Colorado in 1979. The report, dated May 14, 1981, lists 108 federal leases issued since then, with mine plans projecting up to 70 million tons of additional production by the early 1990s. In addition to those leases for which mine plans have been submitted to OSM, another 139 leases have been awarded for which no plans have been offered—yet.

OSM employees said they expect considerable trouble completing environmental impact statements for several large operations. Review of larger mines, generally, will be extenuated, they said. While reluctant to specify which operations stood to lose the most, one OSM employee said the Antelope mine, operated by Portland-based NERCO, Inc., "was not in good shape at all" due to the resignation of the OSM person responsible for coordinating the EIS.

A NERCO spokesman told Colorado Business, "This is the first we've heard about it, but if it's true, we're going to have some trouble." He refused to identify the nature of the "trouble."

Officials at several companies contacted asked that their names and their companies not be identified. The consensus was, as one put it, "it doesn't pay to get caught in the middle of a bureaucratic fight. If I say something against Watt, whom I happen to like in spite of all this, I break ranks with other people in the industry. If I say something against OSM and they win, they may take it out on us later."

One executive accused the OSM employees of "bureaucratic blackmail: If we openly side with Watt, they'll sit on our permit."

But several agreed with the assessment of one lawyer who represents two of the state's largest coal producers: "I've worked with the people at OSM extensively and the reorganization could have the impact they say it will. In the interim it's a headless monster.

"When things were running normally over there, and the staff was generally trying to be cooperative and we were practically the only ones going through the process, it was cumbersome enough."

The delays "could have a very deleterious effect, especially on the smaller, hungrier outfits opening up new mines. If this had happened to us when we first applied to OSM, and we hadn't been able to expand into new federal coal, we would have been in serious danger of defaulting on supply contracts we had already signed."

Most of those contacted acknowledged that, in the words of one engineer familiar with OSM, "the reorganization will result in losing some excellent people, and that will hurt. But it will also result in losing some people who have been a thorn in the side of the companies seeking permits, and that will help."

The companies hope that, whatever the outcome of the squabble between Watt and the Denver OSM, the federal government will withdraw from regulation of mining in favor of the states.

"But if the delays are as bad as some say they will," one reclamation specialist cautioned, "Jim Watt will have some trouble from the folks like us who put him there."

[From Colorado Business, July 6-12, 1981]

EMPLOYEES FILE SUIT AGAINST JAMES WATT

(By Doug Vaughn)

Disgruntled employees in the Office of Surface Mining filed suit in federal district court in Denver July 1 to stop Interior Secretary James Watt's proposed reorganization of OSM.

The suit is the latest in a series of maneuvers by the staff of the OSM Region V office to thwart a plan they say would effectively scuttle the agency, which is responsible for compliance by coal companies and state agencies in the West with the Surface Mining Act of 1977. The law forces companies planning to mine coal on federal land to submit "mine plans" to OSM in order to receive permits for strip-mining or for surface facilities supporting underground mines. The Act also authorizes OSM to supervise state agencies and review permits granted under state implementation programs approved by the federal agency.

Earlier this year, Watt announced his intention to reduce personnel of OSM from

1001 employees authorized in the federal budget for fiscal year 1981 to 628—part of the Reagan administration's goal of moving toward a balanced budget. He also said he would close all five regional offices of the agency, replacing them with state and field offices—a move justified on grounds of efficiency, cost-cutting and devolution of authority to the states to run their own programs.

Most of the functions of the regional office in Denver would be moved to a technical services center in Casper, Wyo.

Responsibility for monitoring states for compliance with the federal law would be split among offices in Denver, Casper, Albuquerque and Salt Lake City, while scrutiny over rehabilitation of mined land would take place mainly out of Albuquerque.

OSM employees, not exactly thrilled with the prospect of leaving Denver, have denounced the reorganization plan as a scheme by which Watt, a lawyer who formerly headed the Mountain States Legal Foundation, can dismantle the agency he battled on behalf of coal companies prior to assuming his current position as chief steward of the public lands.

At hearings conducted by Rep. Patricia Schroeder, D-Colo., in Denver last month, OSM staff presented an analysis of Watt's plan that contradicted their new boss' claim that the reorganization would enhance efficiency, reduce costs to the government and the coal companies and lift the burden of regulation.

According to testimony by OSM personnel, the purported savings claimed by Watt were grossly exaggerated. For example, savings on personnel costs were based on the authorized level in the 1981 budget. But the office in Denver, with 114 career employees, had never been staffed to the authorized level, so some of the claimed savings were "fictitious," according to the employees.

The OSM employees also said Watt failed to calculate the indirect costs of the relocation to the government and private firms, such as increased travel expenses for firms who have established headquarters in Denver because it is a regional center for federal agencies.

Perhaps most important, the OSM staff charged, the splitting and transfer of functions to separate offices would actually increase the regulatory load Watt pledged to lift.

After the hearings in Denver, Watt refused to budge, ordering that the reorganization take place by Sept. 15, despite a vote by a House subcommittee to remove funds from the fiscal 1982 budget designated for the purpose. On June 25 the House Appropriations Committee voted to deny funds from the current budget Watt hoped to use instead.

The suit filed by the OSM employees seeks to enjoin Watt from implementing his reorganization on the grounds that he is violating the federal "anti-deficiency" laws, which prohibit an agency from using funds for a purpose other than that for which they were appropriated, and the National Environmental Policy Act, which has been interpreted in some court cases to require that an agency file an environmental impact statement for any proposed changes in operations or structure that might adversely affect the environment.●

NO ADDITIONAL PRIVATE SECTOR SUPPORT TO NONPROFIT ORGANIZATIONS: A PAINFUL REALITY

HON. FREDERICK W. RICHMOND

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 14, 1981

● Mr. RICHMOND. Mr. Speaker, the administration has stated on several recent occasions that the private sector will increase its contributions to nonprofit organizations, thus making up the difference between today's funding levels and the anticipated loss of Federal support in 1982.

In fact, the private sector is unable to offset the Federal funding that the administration proposes to cut. This painful reality was most clearly articulated in a New York Times article of July 6, 1981, by Kathleen Telsch.

I commend Ms. Telsch's thoughtful and balanced analysis and urge my colleagues to review it carefully before we complete the budget process.

Mr. Speaker, the message of this article and the reality that cannot be ignored is summed up in the headlines that appeared atop the column in the Times on July 6: "Nonprofit Groups Call On Industry to Replace U.S. Aid—Federal Fund Cut Feared—Corporations Say They Cannot Make up for Bulk of Grants Reagan Seeks to Drop."

NONPROFIT GROUPS CALL ON INDUSTRY TO REPLACE U.S. AID—FEDERAL FUND CUT FEARED—CORPORATIONS SAY THEY CANNOT MAKE UP FOR BULK OF GRANTS REAGAN SEEKS TO DROP

(By Kathleen Telsch)

Large companies from coast to coast report a surge in appeals for grants from antipoverty groups, universities, cultural agencies and other nonprofit orgranizations scrambling to replace money they fear they will lose as a result of Reagan Administration budget cuts.

The companies say there is no way they can come anywhere near offsetting the Federal grant money that is to be eliminated.

"We've been deluged with thousands of requests, a 100 percent increase in the first quarter of this year," said Mary Hall, vice president of corporate contributions at the Weyerhaeuser Company headquarters in Tacoma, Wash., which twice a day receives mail sacks crammed with appeals. Most corporate givers reported an increase of 25 to 35 percent in requests from the Nation's 300,000 nonprofit organizations, which range from opera companies and private universities to groups that feed the poor.

"There's a certain element of panic about anticipated losses," Richard F. Neblett, contributions coordinator for Exxon, said at its Manhattan headquarters, where the increase in appeals is less dramatic than that at Weyerhaeuser.

VOLUNTEER AID ENCOURAGED

Throughout the budget-cutting process, senior White House officials have said that they expected private volunteer efforts to replace many curtailed Government programs. For example, a Task Force on the Arts and Humanities that President Reagan named in May is to report by the end of the summer on what Mr. Reagan called a plan "to make better use of existing Federal resources and to increase support for the arts and humanities by the private sector."

However, despite efforts in Congress and elsewhere to encourage private giving, corporate officers and other experts on charity say that business, foundations and individual givers combined will be unable to offset the Federal grant money being cut.

While final details of the budget cuts are not yet known, a study by the Urban Institute in Washington recently estimated that there would be reductions of $128.2 billion from 1981 to 1984 for social welfare, health, environment, the arts and Government-financed housing and food programs.

27 BILLION DOLLAR LOSS IN 5 YEARS

Lester M. Salamon, the political economist who directed the institute's study, said that the anticipated cuts would mean a loss of $27 billion over the next five years for the nonprofit organizations working in these fields, the groups now flooding corporations with their appeals for money.

Contributions to nonprofit groups by companies and some 600 company-operated foundations last year totaled only $2.55 billion, according to the American Association of Fund-Raising Counsel Inc.

The difference between the amount of funds to be lost and the total corporate contribution is of such dimensions that companies cannot possibly pick up the whole tab, said Anne Klepper, a senior research associate for the Conference Board, whose 4,000 members include the country's leading foundations, government agencies and educational institutions.

"There have been unrealistic expectations about who will do what for a long time," she said. "Now the situation is getting crunchier. Inevitably there will be a struggle to survive among the non-profits. It could be a Darwinian scene."

Private giving from all private sources for nonreligious purposes would have to increase by 144 percent over the next five years to make up for reductions in Government assistance and keep up with inflation, Mr. Salamon estimated, growth four times faster than the average over the last five years.

TOO MUCH, TOO SOON

Corporate officials say the Administration's assumption that the private sector and especially business can fill the void is expecting too much, too soon.

"You cannot send a Mailgram from Washington to all corporations and say a funny thing happened, and expect they will be ready immediately to make up the shortfall—life is not like that," Edward M. Block, a vice president of the American Telephone and Telegraph Company, remarked in objecting to the proposed cutback in financing for the National Endowment for the Arts. Mr. Block is also president of the American Council for the Arts.

Even if business took the lead in support of the arts, a vast fund-raising campaign could not be started in time to avoid serious damage, Mr. Block contended. Business will also be under heavy pressure to help pay for a variety of human services, he observed, suggesting that these might be assisted at the expense of the arts.

A.T.&T. is the leading partner of the Bell System, whose $38.2 million budget for philanthropy made it the largest single donor in the business community in 1980. Exxon

ranked second, with contributions of $38.1 million. Only six private foundations in the United States give away more money annually.

Many companies plan to increase giving, among them Exxon, International Business Machines, Levi Strauss and General Electric, but the widespread opinion is that the total for all would not offset the Government reductions.

A DROP IN THE BUCKET

Contributions from corporations increased 15 percent in 1978 and 1979, dropping to 4 percent because of low profits last year, but even if the former high level was reached, it would amount to only $380 million more a year, "a drop in the bucket," in the words of John J. Schwartz, president of the American Association of Fund-Raising Counsel.

"Dollar for dollar, there is no way for the private sector to make up for the cuts," agreed John H. Filer, chairman of the Aetna Life and Casualty Company, although he maintained that companies and nonprofit groups could have significant impact in critical areas, including training the hard to employ.

Less than 30 percent of the country's two million companies report to the Internal Revenue Service that they make philanthropic donations, the Conference Board said. Under Federal law, companies are permitted to deduct for charitable giving up to 5 percent of their taxable income. Only a few, mainly companies in the Minneapolis area that have joined a 5 Percent Club, reach the maximum; the average hovers around 1 percent.

Even before the Reagan Administration, there were efforts by organizations and individuals to persuade companies to step up giving and to reach the thousands that do not make any contributions.

The National Business Roundtable issued a policy statement in March endorsed by the Chamber of Commerce and the National Association of Manufacturers calling on the business community to increase giving. And Laurence A. Wien, a New York lawyer and real estate investor, is credited with having "shamed" dozens of prospering companies into increasing their contributions by presenting or threatening to push stockholder resolutions.

Raising the present level of company giving to 5 percent would increase corporate contributions from $10 billion to $12 billion, according to philanthropic experts. However, even doubling the present level to 2 percent is expected to take several years, these analysts said.

BUSINESS FACES IMPLICATIONS

The Administration and public expectations that business can be "the thousand-fingered Dutch boy plugging the dikes" poses risks for business, which "will have to perform as never before," according to Donald H. Haider, professor of public management at Northwestern University.

Speaking at a Public Affairs Council meeting of corporate leaders in Chicago in March, Mr. Haider produced a stunned silence with his warning that a failure by industry to increase business activity, create jobs and also act as the "great gap-filler" could result in a backlash in which business could lose the freedom from regulations and other benefits it expects from the Reagan Administration.

Brian O'Connell, president of the Independent Sector, said it would be a mistake for the Administration to single out business and give the impression that the burden now rests with it to pick up the slack. The group, set up two years ago to stimulate private charitable giving, has been lobbying for new tax laws to encourage giving by individuals. Its 310 members include leading companies, foundations and nonprofit organizations.

"I believe business will do more and can do more, but it has to be done in a spirit of encouragement and cooperation and not by giving the impression that business must fulfill an obligation," Mr. O'Connell said.●

MONROE AND THE PRESERVATION OF AMERICAN INDEPENDENCE

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 14, 1981

● Mr. McDONALD. Mr. Speaker, the Monroe Doctrine is just as valid as the day it was proclaimed. It should be enforced and again become actively applied to our everyday foreign policy. President Monroe would be taken aback to see Castro trodding roughshod around the Caribbean. He would be shocked to see the state of affairs in Central America as regards Nicaragua and El Salvador. The Richmond Times-Dispatch in an editorial of July 4, 1981, reminds us of this great Virginian and his contribution to America. I commend the editorial to the attention of my colleagues.

MONROE AND THE PRESERVATION OF AMERICAN INDEPENDENCE

Independence Day this year coincides with the 150th anniversary of the death of James Monroe, a Virginian whose career in public service extended over long years from the War of Independence to that enduring landmark of American policy on inter-American freedom and security known as the Monroe Doctrine.

A native of Westmoreland County, Monroe was but an 18-year-old student at the College of William and Mary on that momentous Fourth of July in 1776 when Jefferson's bold Declaration of Independence was proclaimed. Young Monroe stirred to the patriots' cause, quitting school to join the Third Virginia Regiment. He was wounded in battle at Trenton.

When independence had been won, Monroe studied law under Thomas Jefferson, then governor of Virginia. Subsequently he served in the Virginia General Assembly, in both the United States House of Representatives and Senate, as governor of the commonwealth, as minister to France, Great Britain and Spain and as secretary of state and secretary of war. In 1817 he became the fifth president of the United States, the fourth Virginian to hold that office.

Monroe was not born into great wealth, and his long public career did not make him wealthy. Ash Lawn, his farmhouse near Monticello in Albemarle County, is notable for its modesty. The former president was in financial straits when he died in New York City on Independence Day in 1831. It was not until 1858, the centennial of his birth, that his remains were transferred from New York to the gothic tomb that stands in Richmond's Hollywood Cemetry.

Of the Monroe Doctrine—probably more the handiwork of Monroe's secretary of state John Quincy Adams than of Monroe himself—a saying attributed to the American Everyman has been: "I am not quite sure what the Doctrine means, but I would lay down my life to defend it." Indeed the Doctrine is worth sacrificing to defend; it is worth understanding, too.

Having in mind the Holy Alliance of reactionary European monarchies, Monroe on Dec. 2, 1823 declared that the United States would "consider any attempt on their part to extend their system to any portion of this hemisphere as dangerous to our peace and safety." Though various Old World powers have fallen and risen since then, and though the United States has grown to be a major power and a party to world wars, the fundamental proposition remains valid that United States security is endangered by aggression by an imperialistic, absolutist power anywhere in the Western Hemisphere.

The Monroe Doctrine is not, as some have misunderstood or missapplied it, a manifesto of "Yankee imperialism." To the contrary, it is an assertion that the United States of America, both for reasons of national security and on account of the American people's cherished principles of maximized civil liberties and national self-determination, opposes the spread of any imperialism in the New World.

Monroe's description of this inherent security threat applies well to the Soviet domination of Cuba and Nicaragua and the campaign of Soviet backed guerrillas to conquer El Salvador: They are "dangerous to our peace and safety." Moreover, the totalitarianism of the Soviet empire is like the European absolutism of Monroe's day especially in the sense that, as Monroe put it, no one can "believe that our Southern brethren, if left to themselves, would adopt it of their own accord."

That American independence has endured for a century and a half since the noble life of James Monroe is not of itself assurance that it will endure for many more years to come. Our Republic, our constitutional guarantees of civil liberties, do not have a life of their own. Hemispheric security and self-determination among our neighboring nations may not be taken for granted. If there is to be another generation of peace and freedom in our Republic and among our neighbors, we, the living, through creed and deed, must propagate it.●

THE YOUNGEST OLD MEN IN JOURNALISM

HON. RICHARD BOLLING

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 14, 1981

● Mr. BOLLING. Mr. Speaker, I wish to bring to the attention of my colleagues a column which appeared in the June 21 Washington Post. David Broder writes about two of the finest people I have ever known, Richard L. Strout and Marquis W. Childs.

[From the Washington Post, June 21, 1981]

THE YOUNGEST OLD MEN IN JOURNALISM

(By David S. Broder)

We had breakfast the other morning to honor one of our own, a reporter for the

Christian Science Monitor named Richard L. Strout. It was an ordinary working day for him, as for us, except for Dick Strout it was the start of his 61st year on beat.

He was hired by the Monitor on June 13, 1921, and two years later drove his Model T down to Washington and began covering the administration of Warren G. Harding, the first of 11 presidents he has seen. He is a tall Yankee with a neatly trimmed moustache, straighter and slimmer than most of us a generation or two younger. He stays fit, he says, by steady work: 60 years for the Monitor; 38 years doubling in brass as the weekly columnist for The New Republic, writing under the non-disguise of TRB, an acronym with no meaning.

He may well be the best print journalist working in Washington. His claim to that title was probably strengthened when a colleague and competitor named Marquis W. Childs retired at the beginning of June, after 55 years as a reporter and columnist for the St. Louis Post-Dispatch. Childs quit so he could write some more books, a decision Strout probably thinks he will get around to—in due time.

As we sat with Strout the other morning, hearing him do capsule profiles of the presidents he had known and discourses on his favorite topics—the dangers of the arms race and the folly of our political sweepstakes—all of us, I suspect, were thinking of what such a career can mean. Journalism is, in many respects, in public disrepute these days; the polls and everyday conversation tell us most of our readers disbelieve what they find in our copy and have meager confidence in our ability to get the story right.

Yet Strout and Childs are regarded with affection and trust and confidence, not only by colleagues in the business but by people about whom and for whom they have written.

What lessons can they teach us? One is the importance of steadiness. They did not flit. Sixty years on one paper in Strout's case, 55 for Childs. Most of it on one beat, the nation's capital. They learned the ground they were covering, and they let both their subjects and their readers know what to expect from them.

Today, too many of us move from beat to beat, from paper to paper, from network to network—seeking novelty or fame. We sacrifice the knowledge and credibility of a Strout or a Childs in the process.

The second characteristic the two men have in common is their liveliness and their love of the human follies they have seen. They are the youngest old men in journalism. Childs was a connoisseur of gossip, carrying tidbits both ways across the Atlantic on his frequent trips, reveling in a colleague's rendition of some particularly implausible anecdote.

Strout speaks of the roguish Harding with more affection than any of the late, greater presidents he knew, still marveling at his dalliances among the galoshes in a White House closet, while the Secret Service stood guard.

But, at heart, both men are dead serious about their work. They have witnessed a lot of history, but they have read widely, avidly, to encompass more. They have the scholar's fetish for accuracy, for getting the names and numbers right, for checking their recollections against the reference books.

They care deeply about the fate of this country and this world—and they do not disguise their concern. Childs in his valedictory column and Strout in two of his most recent New Republic essays wrote about the dangers of nuclear arms in the hands of those "fanatics, the ideologues," as Childs called them, "who have brought on one catastrophe after another in this bloody century."

But they are—as journalists must be in order to rise and write another day—optimists. "If occasionally I have despaired over earthlings who seem bound to destroy our small planet," Childs wrote, "I have fallen back on the tough stuff of human nature and the ingenuity for mankind, which has survived despite all the plagues, natural and man-made."

Finally, they have immense pride in their craft. "For all the 'new journalism' and the public's skepticism over what sometimes seems to be invention, it is a splendid trade, and there are admirable practitioners who serve the cause of intelligence and order in a turbulent world," Childs told his readers as he left.

Stout offered this advice to fellow journalists at the National Press Club a couple years ago: "I hope they will stay committed. I hope they will retain their curiosity—their interest; yes, and at their heart a touch of anger. When the Adrenalin runs low, when the little flame of anger flickers out, I think it is time for the reporter to think about going into some more remunerative form of work."

Fortunately, Dick Strout and Mark Childs have not found that other form of work—in all these years when they could have been looking. For us in this troubled, and vulnerable line of work, their example is important.●

NAM SUPPORT FOR H.R. 1648, EXPORT TRADING COMPANY ACT

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 14, 1981

● Mr. LAFALCE. Mr. Speaker, on April 8, the Senate unanimously passed S. 734 which is the companion bill to H.R. 1648, the Export Trading Company Act of 1981. That unanimous passage was indicative of the broad support which this export incentive bill enjoys throughout the country.

Within the private sector of the economy, supporters include groups as diverse as the Electronic Industries Association, the National Small Business Association, the American Soybean Association, and the National Governors' Association. That wide support demonstrates that the Economist was quite correct in last week's issue, when it described the Export Trading Company Act as the most important export incentive in this country.

The private sector has been enthusiastically joined by the Reagan administration which has repeatedly backed the bill as the top item on its trade agenda. Both Secretary Malcolm Baldrige and Under Secretary Lionel Olmer have frequently spoke and testified in favor of H.R. 1648 and for prompt passage of the bill.

On June 24, Mr. Lawrence A. Fox, vice president of the National Association of Manufacturers, submitted a statement to the Judiciary Subcommittee on Monopolies and Commercial Law concerning the Export Trading Company Act. I want to share the relevant parts of his testimony with all of my colleagues, because it contains succinct and compelling reasons why the House should act expeditiously on this bill. I hope that all of my colleagues will join with me in support of this bipartisan effort to boost U.S. exports and reduce our alarming trade deficits.

The excerpts from his testimony follow:

> The legislation under discussion today involves two broad policy areas: competition policy and trade policy. In fact, export trading companies pose no threat to competition policy in the United States or overseas. On the other hand, increased exports can directly benefit the American public through the contribution they make toward increased employment and a stronger dollar. We believe that an export trading company bill such as H.R. 1648 would contribute to an increase in U.S. exports, and we urge the Subcommittee to act favorably upon it. * * *
>
> We cannot reverse the trends of the last decade without at least recognizing both the need to do so and the fact that the future economic strength of the United States will depend in large measure on its own international competitiveness. The export trading company legislation now before you, though hardly a full export policy in itself, is nevertheless a recognition that we must change our institutional or business structures if American industry is to become truly competitive internationally.
>
> This legislation has two basic elements: banking provisions and antitrust provisions. The banking provisions, by permitting banks to invest in export trading companies, give the firms that form such companies access to the expertise on foreign markets which many banks possess and to the financing that is crucial to success in so many export ventures. The antitrust provisions should enable potential exporters to form associations among themselves without fear of running afoul of the antitrust laws. An export trading company statute needs both of these elements.●

THE PEACE CORPS AND ACTION

HON. THOMAS F. HARTNETT

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 14, 1981

● Mr. HARTNETT. Mr. Speaker, the Peace Corps should not be independent and separate from ACTION. Recently the Senate passed an amendment to the State Department authorization (S. 1193) that separated the Peace Corps from ACTION. This was a mistake for the following reasons:

First, in a period of severe budget cuts, requiring the most efficient use of our resources, an independent Peace Corps would entail larger ex-

penditures. Under the current Peace Corps status as an autonomous agency within ACTION, joint services are provided by ACTION to the Peace Corps and domestic volunteer programs in the areas of: administrative services, recruitment, communications, computer services, health services, accounting, and payroll.

If we make the Peace Corps independent it would cost the taxpayers millions of dollars more a year. Additional funds would be necessary to pay for increased staff, office space, computer hardware and software, business machines, and other expenditures.

Second, under the Executive order which conferred autonomy on the Peace Corps within the ACTION structure (Executive Order 12137), Peace Corps was granted control over policy formulation and implementation, the allocation of its resources, the budgeting function, and the selection and appointment of its personnel. Complete independence from ACTION would give the Peace Corps direct management control over the services outlined in my first point, but at considerable cost to the taxpayers. Little else is gained by granting complete independence.

Third, ACTION serves as a central focus for all federally funded volunteer programs. This capability is needed now more than ever to tap the well spring of the American volunteer spirit that has manifested itself in our country since the early years of our history. We need to work with local communities to provide channels through which this spirit can flow at the community level as well as the national level. Peace Corps itself is the product of such a spirit. Retaining the two agencies under the same roof would insure that we speak as a single voice regarding the federally funded volunteer programs.

Furthermore, from a cost/yield point of view, Peace Corps programs were better managed before the agency was granted autonomy. An analysis of the available data shows that during the 2 years since Peace Corps autonomy the following negative results have occurred:

One. The number of volunteers in the field has diminished.

Two. The number of requests from Host Countries for volunteers has diminished.

Three. The Peace Corps has had to expend more funds on administrative support to establish its own personnel system, budget staff, General Counsel, and legislative and governmental affairs office.

Four. Costs per volunteer have risen considerably.

In fact, the date indicates that instead of creating another bureaucracy by separating the Peace Corps from ACTION, it would be more efficient and better management to return the Peace Corps to the centralized authority and accountability of ACTION.●

ANOTHER IRISHMAN DIES ON A HUNGER STRIKE

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 14, 1981

● Mr. BIAGGI. Mr. Speaker, Martin Hurson, age 27, on Sunday became the sixth Irishman to die from a hunger strike in the Long Kesh Prison in Northern Ireland. As in the past, the British Government has adhered to a policy of intransigence—and as each person dies—they reveal to the world the true moral bankruptcy of their policies in the North of Ireland.

Tragically, violence has followed Hurson's death as it has when each of the preceding five men who have died. This I oppose, as I do all violence which exists in Northern Ireland. However, I am compelled to be critical of the barbaric actions taken by British security forces at last week's funeral of Joe McConnell. Security forces, using plastic bullets, fired into crowds maiming innocent men, women, and children. I am increasingly disturbed over reports that these plastic bullets are in fact being manufactured in the United States. I have made an inquiry with the Department of State on this issue and expect a report in the very near future. These bullets are to be used for crowd control. They are supposed to be fired at the ground and if they ricochet they are only supposed to hit a person in the legs. Reports I have received indicate that these bullets are being fired point-blank at people, causing far more serious injuries. If my investigation should reveal that our Nation is supplying these plastic bullets, I will seek an immediate legislative remedy.

As the Northern Ireland hunger strike crisis continues to deteriorate, I again appeal to my colleagues to join me as cosponsors of House Resolution 158 which calls on the British Government to exercise greater urgency and flexibility in trying to achieve a humanitarian resolution to the hunger strike. We must convey this message of concern to Great Britain, for this Nation's continued official silence has contributed to Great Britain maintaining its inflexible policy. My resolution currently has bipartisan support from 74 of my colleagues.

The cause of peace, justice, and freedom for Ireland is being drastically delayed as long as the hunger strikes continue. As chairman of the Ad Hoc Congressional Committee for Irish Affairs, I remain committed to working to keep the hopes for peace in Ireland alive through a positive American contribution to the cause.

SUPREME COURT RULING ON RETIREMENT BENEFITS FOR DIVORCED MILITARY SPOUSES

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 14, 1981

● Mrs. SCHROEDER. Mr. Speaker, recently the U.S. Supreme Court in McCarty against McCarty ruled that Federal law precludes a State court from dividing military retired pay in a dissolution of marriage. This ruling has thrown State domestic relations law into chaos since it deprives States of a traditional tool used to provide economic protection to divorced military spouses. It also means that military spouses will be treated differently than civilian spouses in those States.

The McCarty decision has serious ramifications across the country. Members of Congress have received calls from constituents who have been informed that their ex-spouses intend to cut off their court-ordered payments as a consequence of the McCarty decision.

The Supreme Court did not say that the divorced spouses of military personnel should be deprived of any of the retirement benefits earned during the marriage. It simply concluded that the responsibility for making changes in military retirement law should be made by the Congress and not by the courts.

Legislative action on this issue is now critical. This week Representative KENT HANCE and Representative G. WILLIAM WHITEHURST joined me in writing to Secretary of Defense Caspar Weinberger to urge his careful attention to executive comments which are being prepared by the Department of Defense on bills that have been introduced to deal with the plight of divorced spouses of military members.

H.R. 1711, introduced by Representative HANCE, authorizes direct payment of a court awarded portion of the retired pay to a former spouse. H.R. 3039, which I introduced, was cosponsored by Representative WHITEHURST. This bill would allow State courts to award a prorata share of the retired pay and survivor benefits to a former spouse married 10 years or more according to the individual merits of each case. It would also insure that a spouse or ex-spouse sign a waiver agreeing to the retiree's election to take a reduction in or opt out of the survivor benefit plan.

In the letter we state that the position of the service member must be protected. At the same time, we are convinced that a legislative remedy is necessary that is fair to both military members and their families. We also think that protections for military spouses will encourage, not discourage,

military reenlistment because of the well-documented role of the spouse in this decision. We hope to work with both DOD and the Armed Services Committee to resolve this situation.

I ask that the text of the letter to Secretary Weinberger be attached to my statement, as well as an article from the New York Times about the McCarty decision.

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

DEAR MR. SECRETARY: The Department of Defense is currently reviewing several bills which have been introduced in the 97th Congress dealing with retirement protection for divorced spouses of military personnel. H.R. 1711 and H.R. 3039 were introduced by Representatives Kent Hance and Patricia Schroeder, respectively and S. 888 was introduced by Senators David Durenberger, Bob Packwood, and Mark Hatfield.

We recognize that the position of the service member must be protected. However, we think that legislative changes are needed that are fair to both military members and their families.

A recent Supreme Court decision makes legislative action on this issue imperative. On June 26, in *McCarty* v. *McCarty* the U.S. Supreme Court overruled the California Court of Appeals, and ruled that Federal law precludes a state court from dividing military retired pay. This ruling has thrown traditional state domestic relations law into chaos, and has effectively deprived states of a tool to provide economic protection to divorced spouses of military personnel.

While the Supreme Court recognized that the plight of an ex-spouse of a retired service member is often a serious one, it concluded that Congress, not the courts, should decide whether more protection should be afforded to military former spouses.

We are all in accord that the Supreme Court decision has made legislative action on this issue critical. In some cases we understand that court ordered payments that are presently being made will be cut off, leaving these divorced military spouses in financial distress.

We urge your immediate attention, therefore, to the Department's Executive Comments that are being prepared on our bills. We ask that the changes to protect military spouses be carefully considered.

We firmly believe that laws that offer a measure of protection to military spouses will enhance the military way of life for families. We think that protections for military families will encourage, not discourage, military reenlistment because of the well-documented role of the spouse in this decision.

We ask for your support for legislative change that will protect the military family, and would appreciate your ideas on the best way to make these changes. We look forward to working with you on this important issue for the military.

Sincerely,

KENT HANCE,
Member of Congress.
PATRICIA SCHROEDER,
Member of Congress.
G. WILLIAM WHITEHURST,
Member of Congress.

[From the New York Times, June 27, 1981]

DIVORCED WIFE MAY NOT SHARE ARMY PENSION

(By Linda Greenhouse)

WASHINGTON, June 26.—The Supreme Court ruled today that military pension benefits may not become part of a property settlement in a divorce.

Since for many military families the service member's pension is the single largest economic asset, the decision placed a significant limit on the financial rights of divorced spouses of military personnel, the overwhelming majority of whom are women.

Groups including the National Organization for Women and the Women's Legal Defense Fund criticized the decision as failing to recognize the economic contributions of women who choose "traditional" roles as homemakers.

ISSUE OF PRIVATE PENSIONS

Private pensions are playing an increasingly important role in divorce settlements. The Court has been asked to decide whether Federal law permits private pensions to be divided as community property. The Justices have not yet said, whether they will hear the case, an appeal from a Federal appeals court ruling that treated a private pension as community property.

In another decision, the High Court ruled that local governments were immune from having to pay "punitive damages" for violating an individual's constitutional rights. [Page 7.]

Today's 6-to-3 ruling on military pensions applied an analysis similar to the one the Court used yesterday in upholding a male-only draft. Writing for the majority, Associate Justice Harry A. Blackmun said that Congress had decided that it was in the nation's military interest to preserve military pensions as the service member's "personal entitlement," not subject to being shared with anyone else.

Justice Blackmun, quoting yesterday's draft decision, said: "In no area has the Court accorded Congress greater deference than in the conduct and control of military affairs. It is manifest that the application of community property principles to military retired pay threatens grave harm to 'clear and substantial' Federal interests."

Justice Blackmun said that Congress had designed the military retirement system to induce military personnel to stay in uniform the 20 years required to receive a pension, and then to induce them to retire soon after eligibility. The prospect that the pension might have to be shared in a divorce, he said, would reduce the value of these inducements.

The decision, McCarty v. McCarty, No. 80-5, overturned the ruling of an appellate court in California. That court, applying the state's community property law in which assets earned by either partner in marriage are regarded as the property of both, awarded the divorced wife of an Army colonel, a 45 percent interest in his $1,500-a-month pension.

Today's decision is not limited to the eight community property states. It also bars a judge in an "equitable jurisdiction" state like New York from awarding an interest in a military pension to a divorced military spouse. The majority based its ruling on the Supremacy Clause of the Constitution, under which Federal law is deemed to override conflicting state laws that interfere with Federal goals.

Justice Blackmun's opinion was joined by Chief Justice Warren E. Burger and Associate Justices Byron R. White, Thurgood Marshall, Lewis F. Powell, Jr., and John Paul Stevens.

Associate Justice William H. Rehnquist wrote a dissenting opinion that was joined by Associate Justices William J. Brennan, Jr. and Potter Stewart. In 110 full decisions this term, this was the only time that Justices Rehnquist and Brennan, who represent opposite ends of the Court's ideological spectrum, dissented in the same case.

They said that the majority opinion was "both unprecedented and wrong" and was "wholly inconsistent with this Court's previous pronouncements" concerning a state's power to determine laws concerning marriage and property in the absence of Congress direct enactment to the contrary.

The ruling does not foreclose a divorced military spouse from obtaining a court order to garnish the pension benefits to satisfy an unpaid alimony or child support obligation.

BILL TO AID MILITARY SPOUSES

Representative Patricia Schroeder, Democrat of Colorado, called today's decision "shocking" and said that she hoped it would aid passage of a bill she has sponsored to guarantee military spouses after 10 years of marriage a pro rata share of pension benefits. The bill has languished, she said, in part because it appeared that the issue was being adequately addressed under state law.

In the last few years, Congress has amended the Foreign Service and Civil Service retirement systems to provide for benefits to former spouses. Lawyers familiar with divorce cases said today that this approach was cumbersome and often fruitless.

Eleanor Smeal, president of the National Organization for Women, said today it was "ludicrous" for the Court to "say that national security depends on men knowing they will get their entire pension."

Several feminist groups, as well as organizations of military wives, argued in briefs filed with the Court that the relatively low pay in the military, frequent transfers, and special obligations placed on military wives made the case for the sharing of pension benefits in divorce especially strong.●

SUPPORTERS OF TERRORISM ATTACK INTELLIGENCE REFORMS

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 14, 1981

● Mr. McDONALD. Mr. Speaker, under the impetus of organizations alined with Cuba and the Soviet Union, a campaign was launched on June 19 to render the Senate Subcommittee on Security and Terrorism impotent, to block efforts by the administration to rectify and reform major gaps in America's foreign intelligence and internal security defenses, and to

frustrate efforts in the Congress to restore the House Committee on Internal Security.

This campaign was launched on June 19 with small rallies in Detroit, Mich.; Los Angeles, Calif.; Houston, Tex.; Albuquerque, N. Mex.; Burlington, Vt.; St. Louis, Mo.; New Haven, Conn.; Washington, D.C.; Amherst, Mass.; and Toledo, Ohio, with larger meetings in Chicago and New York City.

The date chosen for launching the attack on efforts to restore America's internal security defenses was the 28th anniversary of the execution of two convicted Soviet atom spies—Julius and Ethel Rosenberg, both Communist Party members. Communist Party, U.S.A., members played a highly visible role in the anti-intelligence rallies and not surprisingly, the impetus for the rallies came from an old Communist Party, U.S.A., front group, the National Committee to Re-Open the Rosenberg Case (NCRRC), one of its spinoffs called the Fund for Open Information and Accountability, Inc. (FOIA), and the Center for Constitutional Rights (CCR), a litigation and agitational organization founded by leading "Old Left" activists in the National Lawyers Guild (NLG), itself a CPUSA front organization with intimate ties to Cuba and which remains the principal U.S. member of a major Soviet-controlled organization, the International Association of Democratic Lawyers.

In New York, the NMWH main rally was preceded by a picket line and rally outside the U.S. Courthouse in Foley Square. This was sponsored by the NCRRC, 853 Broadway, New York, N.Y., 10003, and attracted only some 75 people. Its main speaker was Michael Meeropol, one of the Rosenberg sons, who called for "official exoneration" of his parents and their codefendant, Morton Sobel, who served 19 years in Federal prison for his part in the Rosenberg spy ring.

The NMWH rally was held on Astor Place outside the headquarters of District 65, a CPUSA-dominated unit formerly of the Distributive Workers but not affiliated with the United Auto Workers. District 65 was the announced location for the NMWH rally in the event of rain. NMWH's various events from 4 until 10 p.m. included a literature fair, press conference, and rally and attracted a total of 1,000 people.

The event was endorsed by 70 organizations ranging from the American-Arab Anti-Discrimination Committee (AAADC) which opposes deportation of members of the terrorist Palestine Liberation Organization (PLO) and the Committee Against Repression in Italy (CARI) which opposes Italian internal security investigations of the Red Brigades and other terrorist organizations through militant homosexual groups like Dykes Against Racism Everywhere (DARE) to the Legal Services Staff Association, the U.S. Peace Council (USPC), a CPUSA front and U.S. section of the U.S.S.R.'s main international front, the World Peace Council; and the small drug-oriented Youth International Party (YIP).

A variety of speakers were scheduled including:

Norma Becker, a leader of the militant socialist/pacifist War Resisters League (WRL) who has been active with the WPC and assorted Communist-dominated coalitions backing the Communist terrorist insurgents in Southeast Asia. In West Germany and other countries, the local affiliates of the War Resisters International have been infiltrated and captured by Communists so that the organizations act as adjuncts to the World Peace Council.

Anne Braden, rally cochair and the CPUSA's veteran southern organizer based in Louisville, Ky., founder and leader of CPUSA's current southern front group, the Southern Organizing Committee for Economic and Social Justice (SOCESJ). Braden called for a minute of silence to honor the Rosenbergs and she praised those two Communist spies who preferred execution rather than reveal other members of the Soviet ring Julius Rosenberg had organized, calling them "two people who did not compromise, two people who all Americans are indebted to."

Braden pointed out the "advances" made by the Left's campaign to smash U.S. internal security defenses over the past 10 years, particularly the killing of the House Internal Security Committee which terminated investigations into subversion, terrorism, and other activities that the KGB calls "active measures" against the United States. She boasted, "We will never have the kind of witch hunts that destroyed some of our movements in the past."

Michael Meeropol, rally cochair and son of the Rosenbergs, provided a political analysis which stated activists should concentrate on breaking up the new consensus among moderates and conservatives that national defense, our foreign intelligence, and domestic security defenses need to be strengthened. He attacked previous periods of consensus in which the United States helped its allies in South Korea and South Vietnam resist Communist aggression with arms if necessary as having brought about "murders" of the Communist attackers.

Gil Green, CPUSA political committee, who was a leader of the underground Communist Party apparatus set up after World War II to operate in the event of a war between the U.S.S.R. and America with a capacity both for propaganda and subversion and for sabotage. Green, who heads the Labor Taskforce of the Mobilization for Survival (MFS) and was one of CPUSA's main overt representatives in the leadership of the anti-Vietnam coalitions, claimed the U.S. Government had forced him to spend 4 years "underground" and had "persecuted" him under the Smith Act.

Robert Lewis, general counsel of the United Electrical Union (UE), long under the influence of the Communist Party, attacked restrictions on Communists in trade unions in the 1940's and 1950's. Lewis, a veteran National Lawyers Guild activist, has been involved in the leadership of Arthur Kinoy's efforts to form a new Marxist-Leninist party, a group now called the Coalition for a People's Alternative (CPA).

Judge Bruce McM. Wright, who excoriated the Senate Subcommittee on Security and Terrorism, and said, "Patriotism is not the last refuge of scoundrels; it is the first."

John Connolly, representing a front of the Trotskyite Communist Socialist Workers Party (SWP), the Political Rights Defense Fund (PRDF), provided a highly biased version of the SWP's lawsuit against the FBI without noting trial evidence that the SWP has given money to Latin American terrorists at the instruction of international Trotskyite leaders or that telephone calls were made from the terrorist FALN's Milwaukee hideout to a New Jersey apartment occupied by two SWP national committee leaders.

Helen Rodriguez Trias, M.D., active with the pro-Castro Committee of 77 and in efforts of Castroite revolutionary groups to gain control of an "independent" Puerto Rico.

Debby Chaplin, a member of the FOIA, Inc., staff who was a coordinator of national NMWH organizing.

Arthur Kinoy, in the 1950's associated with the Ben Davis faction of the Communist Party; and for the past 7 years trying to form his own revolutionary party. His group has undergone a chameleonlike series of name changes from "Organizing Committee for a Mass Party of the People" (1974) to its present "Coalition for a People's Alternative" incarnation. Kinoy is a veteran leader of the National Lawyers Guild and a founder of the Center for Constitutional Rights (CCR).

William Kunstler, Kinoy's colleague in the CCR and NLG, who has said his purpose is to "bring down the system from within the system." His clients have ranged from members of the terrorist Black Liberation Army to West German terrorist fugitive Kristina Berster.

Donna Cooper, Mobilization for Survival (MFS).

Afeni Shakur, former Black Panther 21 defendant now active with the Black United Front (BUF).

ANTI-INTELLIGENCE RHETORIC

The rhetoric utilized both by speakers at the Rosenberg/NMWH rallies and in the promotional literature distributed was shrill and hysterical.

Coalition for a People's Alternative (CPA), headed by NLG veteran and CCR cofounder Arthur Kinoy. The CPA coalition includes several revolutionary and terrorist support groups.

Covert Action Information Bulletin.

Fund for Open Information and Accountability (FOIA)—a spinoff of the National Committee to Re-Open the Rosenberg Case.

Government Accountability Project (GAP) of the Institute for Policy Studies (IPS)—a project by which Washington's Marxist think-tank encourages defectors from the U.S. intelligence agencies to "tell all" to IPS which has been characterized as the "perfect intellectual front for Soviet activities which would be resisted if they were to originate openly from the KGB."

The Grand Jury Project of the NLG, which coordinates resistance and obstruction of grand juries investigating revolutionary terrorist groups from the Weather Underground Organization (WUO) to the Puerto Rican FALN.

National Emergency Civil Liberties Committee (NECLC)—a CPUSA legal action and propaganda front which has played a leading role in the anti-intelligence campaigns of the 1970's. Its principal lawyers, all NLG members, are Victor Rabinowitz and Leonard Boudin, the paid agents of the Cuban Government since the early 1960's. Rabinowitz was identified as a CPUSA member 20 years ago, but Boudin was a secret Communist Party member whose affiliation was revealed during Federal court proceedings in 1980.

Harlem Fightback, a CPA member led by James Haughton.

Institute for Labor Education & Research (ILER).

National Lawyers Guild (NLG), U.S. section of the Soviet-controlled International Association of Democratic Lawyers.

New Democratic Coalition (NDC).

North American Congress on Latin America (NACLA) a Castroite "research" group which Philip Agee credited, along with members of the Cuban Communist Party, for helping him produce his CIA exposé, "Inside the Company."

Vietnam Trial Support Committee—a support group for convicted spy for the Vietnamese Communists, David Truong.

Women Strike for Peace (WSP)—a group thoroughly penetrated and dominated by the CPUSA which works closely with the World Peace Council and Women's International Democratic Federation, a Soviet front with which it affiliated in the early 1960's.

Two groups present and involved with the New York "No More Witch Hunts" campaign were of particular significance in relation to support in the United States for foreign terrorists.

The Committee Against Repression in Italy (CARI), distributed an attack on Italian security authorities and defended revolutionaries arrested following the 1978 kidnaping and murder of Aldo Moro by the Red Brigades.

Among CARI's sponsors are Victor Rabinowitz, identified in the early 1960's in Senate testimony as a Communist Party member, and who has been a paid agent of the Cuban Government for the past 20 years; Bertell Ollman, a Marxist activist who wrote that if he carried out his function correctly as a Marxist teacher, his students would leave his courses as Marxists; George Wald; revolutionary filmmaker Emile de Antonio, who conducted clandestine interviews with leaders of the terrorist Weather Underground Organization (WUO) and made a propaganda film for the terrorists; James O'Connor, a veteran Institute for Policy Studies fellow; Stanley Aronowitz; James Petras, former head of the Trotskyist Young Socialist Alliance in Berkeley who converted to Castroism and is currently active in supporting the terrorist Farabundo Marti National Liberation Front (FMLN), coalition of Castroite terrorists and the Communist Party of El Salvador; Howard Zinn, and Noam Chomsky.

Ignoring the record for brutality earned by the Red Brigades in their assassinations, "kneecapping" maimings and kidnapings, CARI demands that an "international commission of inquiry" be established to analyze "the general degradation of individual and collective civil rights" in Italy brought about by counterterrorist measures and investigations. CARI also calls for consideration of a general amnesty for "political prisoners" in Italy.

Italy's so-called political prisoners are convicted terrorists and individuals awaiting trial for terrorist acts. In December 1980, the Red Brigades started a campaign to demand closings of maximum security prisons holding convicted terrorists. The campaign included murdering and maiming prison physicians, guards, police, and other officials connected to the Italian correctional and judicial systems. Jailed terrorists staged riots which were quelled by special antiterrorist commando units.

CARI distributed a statement at the NMWH/Rosenberg rally attacking the Senate Subcommittee on Security and Terrorism that concluded, "While CARI is primarily concerned with the Italian situation, we recognize a dangerous international trend toward the restriction and criminalization of dissident politics."

Terrorism is not "dissident politics."

The Congolese National Liberation Front (FLNC), represented in New York by a Serge Mukendi and operated from P.O. Box 2919, Grand Central Station, New York, N.Y. 10007, was formed in 1968 and operates against the Government of Zaire headed by President Mobutu. It operates on a two-point program: "To fight against the present neocolonialist and Fascist regime in Kinshasa and against imperialism in general; and to set up a republican state and a new democracy which must guarantee the country its independence and the nation its full sovereignty."

Active in three Provinces of Zaire, the main element in the FNLC is the Katanga Gendarmerie. With East German backing, FNLC invaded Zaire from Angola and Zambia in 1977 and 1978. Supported by Cuban troops, FNLC continues its efforts to overthrow the pro-Western government in Zaire.

A recent development publicized at the NMWH rally is an attempt by the New York-based, pro-Cuban Material Aid Campaign for ZANU-PF group to promote and support the FLNC. The Material Aid Campaign for ZANU-PF started as a support organization for the terrorist Marxist-Leninist Zimbabwe African National Union (ZANU) section of the Patriotic Front of Zimbabwe which is led by now Prime Minister Robert Mugabe. The Material Aid group operates from P.O. Box 1276, Stuyvesant Station, New York, N.Y. 10009, and is a front of the May 19th Communist Organization which was formed in a factional fight inside the terrorist Weather Underground Organization and its open arm, the Prairie Fire Organizing Committee (PFOC).

This branch of the old Weather Underground is working in conjunction with the Covert Action Information Bulletin, the magazine that specializes in exposing alleged American intelligence officers that was launched in Cuba by Philip Agee, and with a black Marxist group, the Patrice Lumumba Coalition, to develop "the historic unity between the black liberation struggle here and the struggle in the Congo" in "building a movement that fights U.S. imperialism as our common enemy and for the full liberation of Africa and the defeat of white supremacy."

In the context of these U.S. support groups for foreign terrorist organizations taking part in the NMWH/Rosenberg rally together with groups such as the Palestine Solidarity Committee (PSC), Puerto Rican Socialist Party (PSP), IRA-supporting H-Block Committee, Socialist Workers Party (SWP) and Communist Workers Party

(CWP), consideration of a brochure, "Tools for Resistance: A Manual for Protecting Civil Liberties in the 80's," is revealing.

According to its publisher, NMWH, "This short guide focuses on some of the many repressive tactics being used by government agencies to stifle public opposition, and gives suggestions and resources to build a strong and united resistance campaign."

Contributors to the brochure include CCR attorneys Michael Ratner and Margaret Ratner; Esther Herst, National Committee Against Repressive Legislation (NCARL); Ann Marie Buitrago, FOIA; Steve Volk, North American Congress on Latin America (NACLA); Michael Smith, SWP; and William Schaap, Covert Action Information Bulletin.

The content of the brief homilies by these contributors are central to a theme that is summarized as:

> The SST has been established and has already begun to hold hearings. We must not let this Committee gain the legitimacy it seeks, legitimacy it needs to subpoena witnesses or hold hearings into the political beliefs of individuals and organizations. The proposal to resurrect the House Internal Security Committee is still working its way through the Congressional machinery. Along with the other legislation previously described, we can and must make sure that these efforts to quash dissent are defeated.

The warped logic of the NMWH groups which term investigations of terrorist infrastructures and unregistered foreign agents "efforts to quash dissent" is plainly set out in a sample letter of protest to Congressmen and Senators which reads in part:

> I was distressed to learn that efforts are underway to dismantle the First Amendment and Strip Americans of their political rights and civil liberties.

Steve Volk of NACLA, an organization along with agencies of the Cuban Government and Cuban Communist Party credited by CIA defector Philip Agee as having provided him with information for his anti-CIA diatribes, directed his attack at the Foreign Agents Registration Act (FARA). Volk singled out the U.S. Government's successful criminal indictment of W.E.B. DuBois and his Peace Information Center, a front of the Soviet-controlled World Peace Council (WPC). [The U.S. Peace Council and its local affiliates were sponsors of the NMWH activities]. Wrote Volk:

> One of the few Justice Department officials considered to be an expert on prosecutions under the FARA, Joel Lisker, is the current Chief Counsel of the Senate Subcommittee on Security and Terrorism (SST). Given that one of the general thrusts of the SST is against U.S. organizations which support liberation struggles abroad, it is highly likely that the Reagan administration will try to prosecute solidarity committees under the provisions of the FARA. At least one California-based solidarity group has already been challenged by the Justice Department under the FARA. It was asked to provide the Justice Department with information as to who "controls or directs" the organization, what type of information they disseminate, and who receives their information.

NACLA is particularly distressed by the fact that those required to register as foreign agents must open their financial records to Justice Department inspection.

Mr. Speaker, it is obvious that in many cases, the mail and other communications we receive originate with the organizations who were involved with the June 19 rallies that marked the anniversary of the executions of two convicted spies who also were members of the Communist Party.

Another organization closely associated with the American Civil Liberties Union and the Center for National Security Studies, the Campaign for Political Rights carried out publicity for the national NMWH campaign as a "day of resistance" against the Senate Security and Terrorism Subcommittee and House Resolution 48.

I believe that most of my colleagues will agree with me that these groups on June 19 revealed their real purpose—to restrict America's foreign intelligence, counterintelligence and internal security defenses so as to make America safe for the next group of David Truongs and Rosenbergs.

Let us make sure that does not happen. I ask that those who have not yet become cosponsors of House Resolution 48 contact me promptly and do so.●

WILLIE H. POWELL

HON. WILLIAM H. GRAY III

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 14, 1981

● Mr. GRAY. Mr. Speaker, it is a great honor for me to note for the RECORD the retirement of a gentleman who for many years has been held in high esteem in the field of higher education.

Mr. William H. Powell is retiring this year as coordinator of student teaching in the Department of Educational Leadership and In-Service Programs at Virginia State University. His retirement comes after 18 years of service at Virginia State and a lifetime of unselfish dedication to the community of Petersburg, Va.

Mr. Speaker, if Mr. Powell's retirement years are anything like his years as an educator, civic leader, and servant to our country, they will be busy years, indeed.

After serving for 24 years in the U.S. Army and receiving the Bronze Star Medal for Meritorious Service and three certificates of achievement for outstanding service, Mr. Powell retired as a chief warrant officer. He enrolled in what was then the Virginia State College, earning a bachelor of science degree and a master's degree in history and education. In addition, he studied at Carnegie Mellon University.

In his native Petersburg, Mr. Powell has served as a member of the Voters' Education Council, the Association for Teachers Educators, the National Association for the Advancement of Colored People, Phi Delta Kappa, and Omega Psi Phi Fraternity, Inc. He is vice chairperson of the Petersburg Redevelopment and Housing Authority, has served on the Petersburg School Board and the Petersburg Board of Housing Appeals, and was active in the local USO and the Retired United States Officers Association.

From 1954 to 1956, Mr. Powell served as president of the Henry Williams Elementary School PTA, and from 1962 to 1964 he was president of the Fourth District of the Virginia Federation of the PTA.

Mr. Powell is married to the former Lena M. Powell. They have three children: Lois Ann, Mary Kathy, and Wayne H.

I know, Mr. Speaker, that my colleagues join me in wishing Mr. Powell well in his retirement years. Fortunately for the community of Petersburg, Mr. Powell plans an active retirement, intending to remain active in those aspects of community affairs—politics, civil rights, and education—to which he has contributed so greatly already.●

A TRIBUTE TO ARPAD HEGEDUS

HON. THOMAS A. LUKEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 14, 1981

● Mr. LUKEN. Mr. Speaker, I rise to recognize and to honor a great symphony dedicated to the House of Representatives and the American people by Mr. Arpad Hegedus. Mr. Hegedus, an American citizen of Hungarian descent, trapped behind the Iron Curtain, has spent the past several years of his life preparing this gift for his beloved adopted homeland, America.

Mr. Hegedus was educated at the Hungarian Royal Academy, and became music director of the Budapest Main Church and music professor of several universities. After World War II, he was offered a heated apartment, food, and better working conditions if he would accept Communist Party membership and compose a symphony for Lenin. He rejected the offer and was tailed and tormented. Fellow Hungarian music leaders rejected him because he renounced his citizenship in Soviet-dominated Hungary. After 20 years of oppression (living day to day as a casual worker not permitted to compose professionally), he was allowed into the United States under a

special immigration law reserved for outstanding European scientists and artists. This was a great tribute to Mr. Hegedus, who was the first Hungarian to enter the United States under this special law.

Mr. Hegedus was an outstanding asset to the Cincinnati community during his stay in the United States. Not only was he an educator of more than 2,000 students at the University of Cincinnati College Conservatory of Music, he was also staff composer and music consultant at the World Library Publications in Cincinnati. His work was performed at the Ohio Composers First Symposium. Mr. Hegedus was also a music historian and a professional concert singer, and had his own orchestra for many years. He was the music director at the Hungarian state radio, where he used every opportunity to help unknown talented musicians. Along with Arpad's many accomplishments he has written music for theater, several radio plays, television operas, librettos for his operas, hundreds of poems, textbooks, and compositions for piano, organ, classical guitar, violin, cymbalum, and others.

After several years in Cincinnati, Mr. Hegedus was forced to return to Hungary because of an illness in his family. Upon his arrival in Hungary, he refused to renounce his American citizenship; because of this he was refused a previously offered position as a professor of music at a Hungarian academy.

Mr. Hegedus often refers to Cincinnati as "my real home." He has demonstrated his devotion to America in many ways, even voting by absentee ballot in the 1980 elections. He attempted to return to Cincinnati in 1974 but was blocked by a severe illness. Further efforts were deterred because of a lack of financial resources. His greatest show of appreciation and admiration for America have been demonstrated in the last several years of his life. He has spent 14 to 16 hours per day, writing Pentalogy, a symphonic concert drama depicting the story of America, through famous Presidents. In 1977, Mr. Hegedus sent the first volume of the symphony, called "American Trilogy," to the House of Representatives with the hope that the work would be performed in the Kennedy Center on the anniversary of President Kennedy's death. Since then, Mr. Hegedus has sent copies of the first symphony of the "American Trilogy," "Memory of JFK," to my Washington office. The work was then sent to the Kennedy Center which acknowleged the quality and beauty of it. Unfortunately, the directors are unable to use it at this time.

My office has a synopsis of the "Pentalogy"; an excerpt from part II of the American Trilogy, "America"; and the three movements of part I of the American Trilogy, "Memory," which is dedicated to John F. Kennedy. The whereabouts of the complete volume are unknown. The scores that we do have are to be immediately forwarded to the Kennedy Library in Boston, where they will be made available to the public through Shirley Jobe to use and enjoy. Mr. Hegedus has asked that when his music is to be performed that he be informed so that he can come to America and assist in the preparations.

On behalf of the American people, I sincerely thank Mr. Hegedus for his tremendous gift, and I look forward to seeing this unique and beautiful work performed and Arpad Hegedus honored, on an American stage in the near future.●

GUARANTEED STUDENT LOANS

HON. FRANK J. GUARINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 14, 1981

● Mr. GUARINI. Mr. Speaker, on June 23, 1981, Dr. Jerome M. Pollack, president of Fairleigh Dickinson University in Rutherford, N.J., testified before a House Appropriations Subcommittee on the subject of the guaranteed student loan program. I would like to share Dr. Pollack's well-received testimony with my collegues as I believe they demonstrate an innovative approach to the problem of educational assistance:

STATEMENT OF JEROME M. POLLACK, PRESIDENT, FAIRLEIGH DICKINSON UNIVERSITY, RUTHERFORD, N.J.

Good afternoon, I am Jerome M. Pollack, president of Fairleigh Dickinson University, the largest independent higher education institution in New Jersey. In the 39 years since it was established, Fairleigh Dickinson has grown from a two-year junior college enrolling 153 students to a 20,000-student, tri-campus University offering 129 degree programs ranging from the two-year college to the doctorate level. Because of our institution's tremendous growth and diversity, encompassing within its students body a broad socio-economic range, Fairleigh Dickinson is often representative of what is happening at colleges and universities across the nation. We are, in effect, a microcosm for higher education, a typical contemporary American University.

The families of 50 percent of our students have incomes of less than $25,000. Among the 70 percent of our students receiving some form of financial aid, the average family income is $18,722. However, 30 percent of our students come from families with incomes ranging between $25,000 and $40,000, and it is in this category that the Guaranteed Student Loan Program has had the most beneficial effect. I am here today to talk to you about the importance of maintaining federal support for a viable Guaranteed Student Loan Program that allows independent colleges and universities such as ours to continue to educate students of all income levels.

Under current eligibility criteria for financial assistance, middle and higher income familes often are barred from receiving direct tuition aid. This forces many to seek loans if they choose to provide their children with a college education. Frequently parents with the financial assets to pay their own way are faced with cash flow problems and use loans to meet their expenses more effectively. Tightening eligibility requirements for student loans may force their children into public institutions with low tuition, where tax dollars must support them. The Guaranteed Loan Program allows families who want to pay their own way to do so without robbing them of the valued tradition of freedom of choice.

It would be indeed ironic if, at a time when the espoused ideology is "making it on your own with less government handouts," legislation were enacted that resulted in a massive shift of students from the private to the public sector. This would have the effect of forcing people to have their education publicly subsidized.

Furthermore, the availability of Guaranteed Student Loans has ensured that independent colleges and universities reflect a broad socio-economic base, rather than becoming institutions for only the rich and the poor.

Granted there are difficulties with the present program, but the problems are very explicit and can be dealt with in specific ways. The areas that need remedy are: unnecessary borrowing, subsidization of interest for those who have no need for it, and a high default rate.

I propose that all families be permitted to borrow funds to attend college, with interest rate subsidies established on the basis of adjusted gross family income as defined by the Internal Revenue Service. For instance, a family with an adjusted gross income of $25,000 or less would get full rate subsidy and a family with an adjusted gross income of $40,000 or more would get no interest rate subsidy. Between these income amounts the rate subsidy can be scaled. Gross income figures and interest rate subsidies should be adjusted annually for costs of living and current interest rates. We chose the $40,000 figure because most families at Fairleigh Dickinson University show financial need up to this level, based upon our educational costs. The average cost of tuition and fees for a full-time undergraduate student at our University will be $4,232 next fall, compared to an average of $4,031 at independent colleges and universities across the country.

The Guaranteed Student Loan Program should continue to incorporate interest payment by the federal government for students while they are enrolled in school. If the federal government cannot fully subsidize these payments, then, here again, a graduated interest subsidy, sensitive to gross family income, should be employed.

A fully need-based eligibility formula is undesirable. Past experience in this program in the early 1970s demonstrated that a need-based requirement is administratively burdensome and costly for government, schools and banks. It also discourages lender participation due to high servicing costs and the complexity of need-based formulas. Families are discouraged from applying due to the greatly increased amount of paperwork required for need determination.

In order to help eliminate unnecessary borrowing and abuse of the program, other resources such as veterans' benefits and employer tuition reimbursements should be included in the calculations of student eligibility and loan amount which can be borrowed.

To cut down on the default rate and give increased financial stability to the loan program, I propose the following plan. Each state should be required to establish its own reserve fund equal to a fixed percentage of all money on loan in the state. The money would come from a service charge levied against participants in the loan program. The fewer the number of defaults, the less that service charge would have to be. The major accomplishment of such a state-by-state pool of funds would be that Congress would never again have to appropriate any money to cover defaults. In addition, states would have an incentive to be diligent about collecting outstanding loans because the lower a state's default rate, the smaller the service charge to borrowers.

Attached with this statement is profile material on Fairleigh Dickinson University with examples of typical cases which reflect the broad spectrum of what is occurring at independent higher education institutions throughout the country.

I urge you not to view the Guaranteed Student Loan Program as just another addendum to the total student financial aid picture. This is not a scheme for the rich to get richer, but a vital program allowing those with the means and desire for self-reliance, to pay for the cherished privilege of exercising their options as to where they want their children to be educated. Certainly, it is far more cost effective than subsidizing tuition in the public sector.●

PADRE GARCES YEAR

HON. JOHN J. RHODES

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 14, 1981

● Mr. RHODES. Mr. Speaker, on June 1, 1981, Gov. Bruce Babbit of Arizona proclaimed the year from July 1981 through June 1982 as "Padre Garces Year." This proclamation was made to honor this outstanding Franciscan Missionary who contributed so much to the rich history of Arizona. Jose de Jesus Vega, Ph. D. of Phoenix, published a paper on the occasion of the second centennial of Padre Garces' martyrdom. I am inserting an abridged version of this article in the RECORD so my colleagues may come to know and appreciate this early Arizona hero.

FATHER GARCES

Father Francisco Tomas Hermenegildo Garces came to Arizona from Mexico in 1768. He was born on April 12, 1738 in Villa de Morata, Spain and assumed responsibility for the Franciscan Order's missionary work in Arizona in 1767.

Father Garces traveled extensively throughout the territories of the present State of Arizona and beyond, teaching the Gospel and showing to the Indians by word and deed the meekness and long-suffering of Christ. He lived among the Indians around his mission of San Xavier. He learned their languages and customs and visited other tribes throughout the territory. He spoke of Christianity and with his fervent zeal, reached the eastern limits of our state.

A very practical man, Garces realized that true religion must appeal to the whole man. Thus, he endeavored to bring the Hispanic culture and the Western tools that would create a more comfortable life in Arizona. He taught the Indians the arts of carpentry, agriculture and building. From Mexico, he brought plants and vegetables and trained his parishioners to cultivate them. He brought horses, cattle and citrus trees; elements that would become the foundation of Arizona's economic progress.

During the 18th Century, Mexican viceroys promoted the building of "caminos reales" to connect Mexico City with outlying towns and cities. In 1769, they instructed representatives in the Northern provinces to open ways of communication among old and newly established cities.

Following those instructions, Juan Bautista de Anza, captain of Tubac, Arizona, decided to explore the possibility of establishing a route to link the "Camino del Rey," recently opened along the California coastline, with Mexican highways in Sonora. This road could replace the long and dangerous sailing trips which previously connected the two areas. To explore this possibility, he chose his good friend, Garces. In 1774, these two early Arizonan pioneers crossed the steep mountains of the Sierra Nevada and the California desert to trace the future route from Tubac to Monterey, California.

Greatly encouraged by the success of Junipero Serra in California, the viceroy of Mexico sent word to Father Garces to establish a chain of cities in Arizona, which would facilitate the traveling of Mexican businessmen and missionaries.

Garces requested his superiors in Mexico to send additional Franciscans to help him. With these new workers, he undertook the task of building towns in the southwestern corner of our state.

Although the "padres" had dreams of many settlements on the banks of "Rio Colorado" and to the west of it into the present State of California, tragic events reduced such ambitious plans to the founding of two villages: the "Pueblo de la Purisima Concepcion" and the "Pueblo de San Pedro y San Pablo de Bicuner." Following the Hispanic custom, each of these towns consisted of a church, a plaza and municipal buildings. The population was a mixture of Indians, Mexicans and Spaniards.

One of the most fervent desires of Father Garces was to spread an atmosphere of understanding and love in the region and to promote a peaceful living among all the people under his care. However, he had to contend with the hostility of nomadic tribes which often attacked the settlements of peace-loving Indians and Hispanics. The Spaniards were quite often responsible for the Indian unrest, because of their frequent injustices to the natives. Garces reprimanded them and reminded them of the words of the Papal Bull, "Sublimis Deus" which directed the Spaniards to respect the rights of the Indians, even those who have not embraced the Christian religion.

Early in the morning of July 17, 1781, two Franciscan missionaries were preparing for mass when a horde of barbarians broke into the church, massacred the two priests and the parishioners who were there worshipping. On July 19th, the blood-thirsty nomads attached the town of Purisima Concepcion, killing Fathers Garces and Barraneche and burning their village.

The martyrdom of these heroes of Christianity became the dawn of a true peace for the inhabitants of Arizona. The viceroy of Mexico, Don Bernardo de Galves, forbade any reprisals against the Apaches. With wisdom and generosity he negotiated a treaty with nomadic tribes by which Mexico would provide for their sustenance on the condition that they commit themselves to live peacefully among Hispanics and other Indians. Arizona began then to experience an era of material abundance which lasted well into the 19th Century.

In 1793 the bodies of the four padres were exhumed from the Franciscan church in Tubutama where they had been buried in 1781 and re-buried in the crypt below the main altar of the church of "Colegio de Misiones de la Santa Cruz" in Queretaro, where the four of them had been trained as missionaries.●

WILLIAMS AMENDMENT TO INTERIOR APPROPRIATIONS—H.R. 4035

HON. PAT WILLIAMS

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 14, 1981

● Mr. WILLIAMS of Montana. Mr. Speaker, under the Indian Sanitation Facilities Act of 1959, Public Law 86-121, the Indian Health Service (IHS), within the Department of Health and Human Services is authorized to provide water supply and waste disposal systems for Indian homes, communities, and lands. IHS is primarily responsible for direct health care to American Indians and Alaskan Natives living within federally recognized reservations and communities. IHS has also helped to establish community-oriented health programs working toward the prevention of disease. It is toward this goal that the sanitation facilities construction program is directed. As with direct health care, IHS is the primary source for this service to Indian communities.

At present, IHS has the responsibility to provide water and sewer systems for Indian homes through a tripartite arrangement with two other Federal agencies: The Bureau of Indian Affairs (BIA) and the Department of Housing and Urban Development (DHUD). Under this agreement, IHS provides sanitation facilities for Indian housing when they are actually ready for occupancy. This takes into consideration the practical aspect of the time involved in the planning and development phase, as well as the construction phase. It would be wasteful and near impossible to authorize moneys for 1 to 2 years before they would actually be needed. Inflation would be extremely difficult to estimate and compensate for 2 years forward. It would also be difficult to determine the actual number of units that would eventually get built. As a result of this funding arrangement, moneys for this particular IHS budget item are very precise.

For fiscal year 1982, the House Appropriations Committeee has reported

a total of $46,739,000 for the Indian health facilities section of H.R. 4035. According to the accompanying report, House Report 97-163, out of that amount $28,625,000 is to provide sanitation facilities for Indian housing. This amount appears to be an adequate figure but on closer scrutiny $20,500,000 of those moneys are to provide for the construction of facilities for 2,840 homes to be ready for occupancy in fiscal year 1981. An additional $8,125,000 is to provide for the planning and design of 9,233 units that had been previously authorized in preceding years. What it does not take into account are the homes that will be awaiting occupancy in fiscal year 1982. And until moneys are provided and sanitation facilities are constructed those homes will remain empty.

Based on information provided by IHS, the Committee on Interior and Insular Affairs staff has been able to determine the amount needed to provide sanitation facilities for those homes to be completed in fiscal year 1982. It will require an additional funding of $15.5 million, increasing the amount listed on page 42, line 16, of H.R. 4035, from $46,739,000 to $62,239,000.

As Chairman YATES has rightly pointed out in his report, his committee was cognizant of the fact that the amount requested for sanitation facilities may be inadequate. It is the responsibility of Congress, along with the executive branch, to develop a realistic proposal to correct the present program's deficiencies and develop a better coordinated Indian housing program. Staff of the Committee on Interior and Insular Affairs has been working with several concerned and involved parties to develop alternatives to the existing Indian housing program. It is unrealistic, however, to expect that a new solution and more efficient and effective program can be in place by fiscal year 1982.

The fact is that without this $15.5 million, IHS statistics show that there will be 6,300 units for which IHS has not received any funding to proceed with materials purchasing and initial construction. In addition to adequate housing being denied to Indian families, there would be vacant houses subject to vandalism and premature deterioration. There would, of course, be a loss of rent. We cannot allow this wasteful use of Government money. The construction of these 6,300 units was approved by Congress up to 2 to 3 years ago and has now proceeded to finished construction. It is incumbent on this Congress to complete the process so that these homes can be occupied.

Gramm-Latta II sets a ceiling of $725,900,000 for Indian health services. The Interior appropriations bill—H.R. 4035, is well under this amount at $676,200,000. With the addition of this $15.5 million, contained within my amendment, we would still be $34,200,000 under the Gramm-Latta II reconciliation instructions.

I urge the approval of this necessary amendment.●

DECISION OF GOVERNORS OF U.S. POSTAL SERVICE

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 14, 1981

● Mr. DERWINSKI. Mr. Speaker, in a further effort to bring the attention of the Members to the financial situation of the U.S. Postal Service, I am inserting the second part of the recommendation by the Board of Governors of the Postal Service, which calls for the Postal Rate Commission to reconsider its earlier decision. That decision resulted in a loss of about $1 billion in needed revenue. The recommendation follows:

DECISION OF THE GOVERNORS OF THE U.S. POSTAL SERVICE ON THE POSTAL RATE COMMISSION'S JUNE 4, 1981, RECOMMENDED DECISION UPON RECONSIDERATION

(Commission Docket No. R80-1)

SERVICE-RELATED COSTS

The Commission adheres to its use of the "service-related costs" concept, which assigns $1.8 billion of unattributable costs to certain preferred categories of mail on the ground that these costs would not be incurred if the Postal Service delivered mail only 3 days a week instead of 6, and that the only reason the Postal Service delivers mail 6 days a week is to benefit the mailers of this preferential mail. As we said in March:

"No one who is informed on postal matters can seriously suppose that the Postal Service would make regular deliveries only three days a week if a few paragraphs concerning priorities were cut out of some internal operating instructions. Yet, without precisely this supposition, the whole 'service-related costs' methodology is meaningless. . . . [It is] a transparent fiction."

The Commission asserts that NAGCP III prevents it from abandoning the service-related costing concept. This is not correct. NAGCP III affirmed the Decision of the Governors in the "15¢ stamp" rate case, in which service-related costing was first used. But NAGCP III merely affirmed our Decision in that case—it certainly did not require that the concept be applied in future cases.

The Commission asserts that it did not "assume" that the Postal Service would deliver mail only three days a week if preferential service standards were eliminated, but rather that it found this to be a fact. There is no basis in the record for this assertion.

SECOND- AND THIRD-CLASS RATES

The Commission now asserts that, in our March 10 Decision, we "modified" its recommended rates for Red Tag second-class mail and for bulk third-class mail. This reflects a misunderstanding of our action.

For regular rate second-class mail, the Commission had recommended rates as though two subclasses were in effect: an "expedited" (or Red Tag) subclass and a "regular" subclass. These subclasses were not due to become effective until June 1; only a "regular" classification existed at the time we considered the recommended decision. Accordingly, we allowed the rate recommended by the Commission for the "regular" publications to take effect for all publications in the classification. Subsequently, the U.S. Court of Appeals for the D.C. Circuit decided in the Dow Jones case that our Decision approving the Commission's 1980 Red Tag classification and rate recommendations was "void in its entirety," and we have now rescinded that Decision. Therefore, there is no classification in effect to which the "expedited" rates can apply.

The Commission now reaffirms its recommendation of a separate subclass for "expedited" second-class mail, with rates for that subclass reflecting the assignment of service-related costs. We reject this classification recommendation because it relies on a rate concept (service-related costing) that we have repeatedly rejected.

For bulk third-class mail, the Commission, as part of this rate case, had recommended a classification change dividing third-class bulk mail into light and heavy pieces. As we pointed out in March, folding classification changes into a general rate case in the expectation that we must accept the classification recommendation is inconsistent with the Postal Reorganization Act. The statute is unmistakable: The Commission is to make its recommendations following the statutory procedures and criteria; the Governors are to make their decision on these recommendations in accord with the statutory policies. If the Commission includes a classification change with rate recommendations in circumstances that virtually require the Governors to approve or allow the rate changes as a matter of economic necessity, then the statutory scheme is violated because the Governors cannot, as a practical matter, apply any judgment to the classification change.

This is not to say that the Commission may not recommend a classification change in connection with a rate case. If it elects to do so, however, it should provide alternative rate recommendations—with and without the classification change—so we may decide on the classification change on its merits, as the Act requires us to do. Where, as here, it fails to do so, and we do not approve the classification change, the Commission has not provided us with recommended rates in accord with the Act. Consequently, we reject them. The Board placed temporary rates for bulk third-class mail into effect in March because the Commission had failed to recommend rate changes in accordance with the Act within the statutorily prescribed ten-month period. The rates placed into effect were lower than those we would have chosen had we, in fact, intended to "modify." They were rates which, consistent with the existing classification structure, were not greater for any mailer than either the rates recommended by the Commission or those originally proposed by the Postal Service. As a consequence of the Commission's failure to recommend appropriate rates based upon the existing classification, mailers of third-class bulk materials have thus far had, on the average, a lower percentage rate increase than they would have had under either the Postal Service's suggested rates or the Commission's recommended rates. Accordingly, we urge the Commission to recommend appropriate rate changes for bulk third-class mail that are

based on the existing classification for that category.

The Commission now says that what it previously characterized as a "classification change" was not really a classification change within the meaning of section 3623. But the bifurcation of the bulk third-class mail classification into heavy and light pieces does change classification. The courts have defined mail classification as a grouping of mail matter according to size, weight, content, etc. for the purpose of assigning a specific rate or method of handling. The U.S. District Court for the District of Columbia, in concluding that the Board acted within its authority on March 10 in deciding to implement temporary rates for third-class bulk mail, found in the Advertisers Distribution Services case that the Commission's recommendation was indeed a recommended classification change.

ESTIMATE OF ANTICIPATED REVENUES

This decision to reject the Commission's recommended decision will not, of course, affect anticipated revenues; it does not change any rate or fee now in effect. As we have previously stated, we estimate on the record of this case that Postal Service revenues will fall short of covering costs for the test year by nearly $1 billion. Current forecasts, summarized above, indicate losses of more than $600 million, without providing for contingencies or prior year losses.

ORDER

The Postal Rate Commission's Recommended Decision upon Reconsideration dated June 4, 1981, is rejected. The rate, fee, and classification changes ordered into effect in the Decision of the Governors of March 10, 1981, will remain in force.

The foregoing Decision was adopted unanimously by the Governors on June 29, 1981.

LOUIS A. COX,
Secretary.●

H.R. 1909

HON. MARILYN LLOYD BOUQUARD

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 14, 1981

● Mrs. BOUQUARD. Mr. Speaker, in February of this year, Mr. FUQUA, Mr. LUJAN, and I were privileged to join as cosponsors of Mr. GOLDWATER'S Nuclear Waste Research, Development, and Demonstration Act of 1981, H.R. 1909. The purpose of this bill is to accelerate and provide direction to the Department of Energy's research, development, and technology demonstration program for the disposal of high level radioactive waste. Since the original introduction of the bill, 13 additional Members have joined as cosponsors led by Mr. ROE, the ranking majority member of the full committee.

In February and June of this year, the Subcommittee on Energy Research and Production, which I chair, received testimony from witnesses representing the Government—NRC, DOE—Congress—OTA—industry, and the research, geological sciences, and the environmental communities. The testimony from these sources was carefully considered, and a bipartisan amendment, incorporating various recommendations, was overwhelmingly adopted at subcommittee markup.

In summary, the key provisions of H.R. 1909, as amended are:

First. The Secretary is required to characterize three sites, and then, by January 1, 1985, select one for a test and evaluation facility. The facility is to be in operation by the end of fiscal year 1988. The facility's operation is to be terminated when the Secretary determines that the continued operation is not necessary for research and demonstration.

Second. The bill prohibits conversion to a permanent disposal facility unless separate legislation for disposal of high-level radioactive wastes is enacted, and the facility meets all the requirements for conversion to a commercial repository.

Third. The test and evaluation facility is to be designed with a capacity for receiving a minimum of 40 and a maximum of 300 full-size canisters of solidified waste.

Fourth. The engineered barriers and the geology operating as a system are to have a design life of sufficient length so as to contain the waste until it decays to a level comparable to the health hazard of the uranium ore which would be the ultimate source of such wastes unless Federal standards for high-level radioactive waste repositories would require an even longer design life.

Fifth. The bill specifies an in situ research program to be conducted at the test and evaluation facility.

Sixth. A requirement is established for the Secretary to provide for waste solidification facilities as authorized by other legislation.

Seventh. The Secretary is required to consult and coordinate with State officials from States where potential sites are located for a test and evaluation facility.

Eighth. A deadline of March 1, 1982, is established for the Secretary to provide the House Committee on Science and Technology and the Senate Committee on Energy and Natural Resources with a comprehensive program management plan.

I believe, Mr. Speaker, that H.R. 1909 is a solid vehicle for focusing the multi-hundred-million-dollar DOE nuclear waste R. & D. program and for building public confidence in waste disposal technology. With the changes that have been incorporated, I believe this bill will generate strong bipartisan support for possible enactment this year. On behalf of the cosponsors, I would welcome the other Members of the House to cosponsor this legislation.●

NATIONAL POW/MIA RECOGNITION DAY, JULY 17, 1981

HON. FRANK J. GUARINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 14, 1981

● Mr. GUARINI. Mr. Speaker, President Reagan signed into law a congressional resolution declaring Friday, July 17, 1981, as National POW/MIA Recognition Day, a day dedicated to former prisoners of war, those missing in action, and their families.

While I was proud to have been an original cosponsor of this resolution, I was prouder still to be chosen honorary State chairman of this POW/MIA Recognition Day program by National Committee Chairman Anthony Varsalona of Jersey City and New Jersey State Commander Patrick Mancino of the Catholic War Veterans of the United States. This recognition day, or day of remembrance as proclaimed by the Catholic War Veterans, will serve to remind all Americans of the great sacrifice our prisoners of war and missing in action made while serving our country and defending the American ideals that we all love and cherish.

Mr. Speaker, I can report to you an overwhelming response to this remembrance by the people of my district and the State of New Jersey. So overwhelming, that through the support of the Catholic War Veterans and other supporting organizations, remembrance day has become remembrance week with ceremonies lasting the entire week of July 13.

As honorary chairman I have asked local governments, various organizations, and private citizens to join with the Catholic War Veterans in the observation of this recognition period with appropriate activities and ceremonies.

On the individual level my offices in Jersey City and Bayonne have provided several thousand citizens of the district we proudly proclaim as the Statue of Liberty district with red lapel ribbons.

Government has also responded in excellent fashion. The Hudson County Freeholders adopted a resolution in support of Recognition Day. Governor Byrne has placed the State of New Jersey firmly behind this effort, while many communities have made plans to show their support. It is also my understanding that groups in almost 20 States are working on their own remembrance day. In some States these events are part of what is called the red badge of courage program.

Because I believe so deeply in this idea, Mr. Speaker, I will introduce legislation calling for a postage stamp honoring the MIA and the POW. It is my feeling that this matter should not be allowed to disappear after 1 day.

Mr. Speaker, it is very important for all of us to remember the people who are missing in action or were prisoners of war. They are the ones being honored. Recently it was my pleasure to present a copy of the POW/MIA resolution to the National Officers of the Catholic War Veterans and to Mr. and Mrs. Sal Mascari, the New Jersey State coordinators for the National League of Families of MIA's.

One of the most impressive ceremonies took place on Monday, July 13, at the New York-New Jersey Transportation Center at Journal Square in Jersey City. With the cooperation of Alan Sagner, chairman of the port authority, three 6-foot ribbons, two American flags, and a 20-foot sign were placed in view of the 70,000 individuals who use the transportation center on a daily basis.

Present at the ceremony was Vice Chairman Francis Gorman who impressively represented Chairman Sagner. Also present were the chapter of the Gold Star Mothers, Veterans of Foreign Wars, the American Legion, AMVETS, Jewish War Veterans, Catholic War Veterans, and the Veterans of World War I Association. In attendance were Peter Parese and his staff at the Vietnam Veterans' Center in Jersey City. The poignant closing remarks were made by Steve Holinka, a Vietnam veteran who is commander of the Lafayette AMVETS Jersey City chapter. Of special note was the attendance of Anthony Stencel of Secaucus, N.J., a prisoner of war during World War II.

At the end of the ceremony red ribbons were placed in Journal Square's 21 trees by Aiden Goggins, commander of the fourth New Jersey Infantry Post No. 51 of the American Legion. These trees were dedicated on November 11, 1978. They honor the 21 Hudson County residents who were then missing in action in Vietnam.

But, Mr. Speaker, the plight of the MIA/POW cannot be measured by statistics. Statistics show that there are more than 2,500 American servicemen who are still unaccounted for from the Vietnam war. Can we really know what they or their families have suffered?

It was the late John F. Kennedy, who while speaking of the POW said:

> The stories of past courage can define that ingredient—they can teach, they can offer hope, they can provide inspiration. But they cannot supply courage itself. For each man must look into his own soul.

Our servicemen still missing in action and our former POW's give us reason for not forgetting acts of courage which men have lived without belittling the courage with which men have died.

Mr. Speaker, there are two particular stories which touch my heart concerning these ceremonies. It was our intention to have Father Wallace Pangborn, S.J., a retired professor and student counselor at St. Peters College, at the Journal Square ceremony. Father Pangborn was captured in the Philippines in 1944 and was a prisoner of war in a Japanese concentration camp in Los Banos. He remained there until released by American forces in February 1945. Unfortunately, Father Pangborn passed away just hours before the ceremony began.

Perhaps the sentiment toward this day of recognition was best summed up by a business card slipped under the door of my Jersey City office. The card listed the name of Chris W. Morgan, Commander, Garden State Chapter, American Ex-Prisoners of War, Old Bridge, N.J. On the back of the card was handwritten, "Thank you for remembering."

I am sure that you will join with all patriotic Americans on July 17 to remember our POW's and MIA's and their relatives who wait with heavy hearts yearning to see and touch their loved ones again.

Thank you Mr. Chairman.●

A LOOK BEHIND THE COLLAR

HON. MARY ROSE OAKAR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 14, 1981

● Ms. OAKAR. Mr. Speaker, one of Greater Cleveland's most dedicated priests, Father Donulus, is celebrating his 35th anniversary as a Franciscan Friar.

I join members of his Franciscan community, St. Anthony's Parish, and Father Don's many friends in congratulating him and in expressing my personal gratitude for his years of service. The following is an article about Father Donulus which appeared in the Parish Bulletin:

A LOOK BEHIND THE COLLAR

Nineteen eighty-one will mark the 35th year of Father Donulus' service as a Franciscan Friar. In that period, his pastoral ministry has taken him to a variety of assignments throughout the Midwestern Province. Father Don, a native of Washington, Missouri, spent several years as Assistant Pastor at Our Lady of Angels in Cleveland. Subsequently, he moved to Quincy, Illinois where he was also an Assistant Pastor. In addition to those duties, Father Don added what he called his "part-time job." He became a booking agent at the Franciscan-operated Quincy College. At that time, the big bands dominated the music scene and would tour colleges and nightclubs. As an agent, Father Don booked the orchestras to perform at the college. In this capacity, he worked with such stars as the Dorsey Brothers, Benny Goodman, Blue Barron, and many others. In his spare time, Father Don hosted a weekly television program devoted to broadcasting Catholic news.

After his term in Quincy, Father spent the next six years as Pastor in Jordan, Minnesota. From there, he became Pastor at St. Boniface in Sioux city, Iowa. Then, in 1968, he assumed his duties as Pastor of St. Anthony's.

Our parish is located in the Midwest Province which covers an area from Ohio west to Nebraska, north to Minnesota and south to Texas. It's administrative hierarchy is elected and includes a provincial, a vicar provincial, 6 consultors and a secretary.

Father Don was elected consultor in 1975 and, in this capacity, he was the provincial liaison for Ohio and Michigan. One of his current projects is overseeing the construction of a senior citizen housing project located at Our Lady of Angels.

In light of a rather hectic schedule, Father Don has little time for relaxation. He is a golfer and laments the limited opportunities available to play. He is also a theater buff and enjoys live productions of musical shows.

In the time that Father Don has been Pastor, we have seen the emergence of a variety of programs. The PSR program has become expanded and solidified. Our parish debt has been reduced by almost $500,000.

He sees challenges in the future. He would like to see more growth in the parish organizations. He would like to see a church built but he realizes the financial burdens placed on the parish families by inflation. Also, he is intent on providing the students at the elementary school with a quality education. With his commitment to Christ and the parish, Father Don will continue to work hard in providing for the needs of the parishioners.●

SOVIET INSENSITIVITY

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 14, 1981

● Mr. PHILIP M. CRANE. Mr. Speaker, no one has or can deny that the Soviet Union's treatment of its Jewish population is anything less than despicable. Their policy toward Jews and Judaism has been consistently cruel and insensitive. An article in the July 14, 1981, New York Times, by John Burns, reprinted below, clearly illustrates the depth of the Soviet regime's oppressive nature.

MOSCOW JEWS BURY MATRIARCH

(By John F. Burns)

Moscow, July 13.—Judith Lerner was buried today in a pleasantly shaded glade at a suburban cemetery, her funeral attended by dozens of men and women to whom she had become a symbol of hope and courage in the difficult world of the Soviet Jew.

Mourners, Jews and non-Jews, stood shoulder to shoulder beneath the thick overhang, many in sportshirts and cotton blouses, while an aging rabbi intoned in Yiddish over the grave.

Speeches at graveside and at an open-air funeral earlier near the cemetery gate were filled with the affection Mrs. Lerner earned as a kind of matriarch to Moscow's troubled Jews. But almost everyone knew that it was not the funeral Mrs. Lerner or her family wanted, and that the cemetery, at Vostryakovo, was thousands of miles from the burial place she had sought.

That place was Israel. For 10 years Mrs. Lerner and her husband, Aleksandr Y. Lerner had sought emigration. Dr. Lerner is

a noted specialist in automatic control systems, a field considered sensitive in the Soviet Union, and the emigration petitions were declined on the ground that his departure would be "contrary to the state's interests."

When his wife died last week at the age of 65, the authorities declined permission for her body to leave the country for burial in Israel.

Instead, the authorities allowed the Lerners' 31-year-old daughter, Sonya Leven, who emigrated with her husband and child in 1973, to return for the funeral. In case exit visas are ultimately granted to Dr. Lerner and his 35-year-old son, Vladimir, the family arranged for the body to be placed in a sealed metal coffin inside a wooden box, an arrangement that would allow for exhumation and reburial in Israel.

Dr. Lerner today recounted his visit last week to the police where he was told that his wife's body must remain in the Soviet Union. The 68-year-old scientist, smiling wryly, said the decision had been announced by Col. Konstantin Zotov, who frequently had been delegated in the past to reject the Lerners' emigration petitions.

"When I said, 'Tell me why,' he just sat there at the desk, cast down his eyes and said nothing," Dr. Lerner said.●

TESTIMONY OF STEPHEN M. SONNENBERG, M.D.

HON. LES AuCOIN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 14, 1981

● Mr. AuCOIN. Mr. Speaker, I commend to the attention of my colleagues the following testimony given by Stephen M. Sonnenberg, M.D., chair of the American Psychiatric Association's Federal Government Health Services Committee and codirector, Medical-Legal Clinic of the National Veterans Law Center. His statement was delivered before the Senate Committee on Veterans' Affairs on April 30.

Thanks to the efforts of Dr. Sonnenberg and others, the Veterans' Administration will be increasing its efforts to assess and treat stress disorders among veterans resulting from combat in Vietnam. This is a program that deserves national attention and the following testimony serves to educate all of us on the special needs of the Vietnam veterans and how effectively the Outreach Centers are dealing with their problems.

STATEMENT OF STEPHEN M. SONNENBERG, M.D.

Mr. Chairman and distinguised Members of the Committee: I am Stephen Sonnenberg, M.D. I am in the private practice of phychiatry in Washington D.C. and Co-Director of the Medical Legal Clinic of the National Veterans Law Center, working side-by-side with the legal staff to help Vietnam Veterans who suffer from Stress Disorders stemming from their Vietnam combat experiences. I also Chair the Committee on Federal Government Health Services of the American Psychiatric Association.

I am testifying today on behalf of the American Psychiatric Association, a medical specialty society representing over 26,000 psychiatrists nationwide, and to share our concerns on S. 26, S. 458 and S. 872 which seek to provide a two-year extension of the Vietnam Veterans Counseling Readjustment Program.

The American Psychiatric Association remains concerned with the plight of the Vietnam Veterans, and the need to develop and evaluate appropriate mental health treatment programs. To this end, the APA mandated the Association's Committee on Federal Government Health Services to study those Vietnam Veterans participating in the counseling program, as well as the treatment provided. This Committee's composition is extensive: its members include the Chair of the Department of Psychiatry at the Uniformed Services University of the Health Sciences; the Associate Director, for Psychiatry, Veterans' Administration Mental Health and Behavioral Science Service; and outside consultants such as Drs. Egendorf and Laufer of the Center for Policy Research, from which stemmed a most comprehensive and perceptive study of the current psychological needs of Vietnam Veterans. The first annual report of the Committee's findings will be presented at the American Psychiatric Association's annual meeting, May 11-15, 1981.

For more than a decade I have worked intimately with these suffering from the effects of psychological stress. Two of these ten years have been spent at the National Veterans Law Center, where I work with Vietnam Veterans who have Delayed Stress Disorder. Through the National Veterans Law Center, I provide two Outreach Centers here in Washington, D.C. with back-up support; in that connection I treat the most needy of Vietnam Veteran patients. I am also familiar with the work of the Outreach Program on a nationwide basis. Indeed, the American Psychiatric Association wholeheartedly endorsed the counseling program, and it has been my charge to encourage psychiatrists around the country to volunteer time as consultants to the program. Moreover, I have in these efforts worked extensively with Jack Ewalt, M.D., Arthur Blank, M.D., and Donald Crawford, Ph. D., whom you know. In sum, I appear here today with a background as a service provider and researcher in the area of psychological stress among Vietnam Veterans; as an individual with a substantial familiarity with the Vietnam Veterans Counseling Readjustment Program; and as the representative of the thousands of American psychiatrists concerned with this issue.

Who are the Vietnam Veterans who attend the Outreach Centers? Why, so many years after Vietnam, is this new program to treat mentally ill Vietnam Veterans so vitally important? First, the majority of the Vietnam Veterans who go to the Outreach Centers are typical of those who suffer the effects of severe psychic trauma. They are similar psychologically to World War II concentration camp survivors, or those who survive tragic civilian disasters. In the case of the Vietnam Veterans, the trauma to which they were exposed was guerilla warfare, and for the most part those who are most substantially disturbed witnessed the mutilation of a close combat buddy, or survived the ambush of their unit. Because they survived, and feel guilty over survival, they suffer emotionally.

A striking feature of this psychological condition, labeled as "Post-Traumatic Stress Disorder" in the 1980 edition of *The Diagnostic and Statistical Manual of Mental Disorders*, the official psychiatric nomenclature recognized by the APA, is that the pyschiatric profession did not recognize its existence throughout the 1970's. The psychiatric profession came to recognize the condition, which the general public referred to as "Delayed Stress Reaction," following the observation of Vietnam Returnees, and the lessons taught by my colleagues working with these veterans.

One reason this program is of such critical import today, years after Vietnam, is that many psychiatrists were, in all honesty, unaware of the Stress Reaction which afflicted many Vietnam Veterans, and were thus unable to diagnose and treat this specific disorder until recently. You may wonder why, for a decade, this condition was absent from our nomenclature. The reason, I believe, is that we are all, even psychiatrists, resistant to recognizing how vulnerable we are to a powerful enough stress. We can accept that there are mentally ill among us, but when viewing the emotional wreckage wrought by psychic stress, we recognize that we are all vulnerable, all potential victims. Thus, when the most disturbed troops from World War II and Korea disappeared from view, we abandoned what we knew about serious combat trauma. Today, then, we must cure those who have waited to be recognized as ill and in need.

Let me now describe Post-Traumatic Stress Disorder, also known as Delayed Stress Reaction, and a typical Vietnam Veteran with the Reaction who goes to an Outreach Center. Keep in mind that this condition is seen in others who have suffered severe psychic trauma, and in the past has been known as Shell Shock, Traumatic Neurosis, and the Survivor Syndrome. To begin, the individual suffering from a Stress Disorder is guilty over having survived a disaster, which took the lives of others. The individual experiences anxiety much of the time and various forms of insomnia. The individual experiences depression, with a full range of accompanying symptoms, such as loss of appetite. In addition to insomnia, the individual experiences nightmares of the traumatic event, and in waking life can experience flashbacks. These are altered states of conciousness in which the individual believes he is again experiencing the traumatic event. As can be seen from what has so far been described, much of the individual's psychic life is devoted to re-experiencing the traumatic event, and on an unconscious level the individual hopes to master the trauma, make it come out differently. As the Disorder is so psychologically painful, many of these individuals sedate themselves with drugs or alcohol. Since at the core of the disorder is a fear of a loss of loved ones and friends, these individuals keep distant from those around them. Thus, they are hardly able to function with friends, family and employers. Their divorce rate and unemployment rate are in excess of what would be predicted based on variables excluding combat service in Vietnam.

The typical Vietnam Veteran who comes to an Outreach Center with elements of Delayed Stress is in his late twenties or early thirties, and saw Vietnam combat in his teens. He was younger than the typical combat soldier of World War II or Korea, and was therefore more psychologically vulnerable than those men. He will be poor and from an underprivileged racial or ethnic background in greater than expected numbers, given the size of his race or ethnic group in the population at large. He may present with a history of poor vocational

and/or marital adjustment, and perhaps alcohol or drug abuse. He will report that his problems began immediately after combat trauma, or that there was a latency period of months to years (which resulted in the name Delayed Stress Reaction), but he will consistently report some combination of the following: guilt over survival, anxiety, depression, nightmares, and altered states of consciousness. He will tell you that he has suffered for long years, was distrustful of the Veterans Administration, and would never have sought treatment in conventional VA facilities. He will tell you that he sees the Outreach Center as a life-saver.

Based on what I have described, we can see that the Outreach Program is of importance today because it meets a medical need of a population so far untreated. In fact, it provides a viable form of treatment for a group which previously believed no appropriate help was offered it by the VA or any other health care provides.

This brings me to the next vital questions: Is this a mental health program in any traditional sense of that term? Is this a program meeting high professional standards? Is this a program designed carefully, allowing assessment of utilization patterns and effectiveness? Is this a program which is potentially self-limited, one which will allow for integration of this clinical population and program into the health care system, or are we asking you to support an open-ended special program, one which sets a precedent for the development of separate health care systems for any group asserting its special needs?

I think it is important for you to know that the Outreach Program bears the special mark of Dr. Jack Ewalt, Director of the Veterans Administration Mental Health and Behavorial Science Service. We are fortunate to have Dr. Ewalt serving in that position. For many years Dr. Ewalt was Professor of Psychiatry at Harvard Medical School, and several generations of American psychiatric residents regarded him as one of the very finest psychiatric educators and innovators in the United States. Among his many contributions to the evolution of psychiatry in this country after World War II was an emphasis on bringing psychiatric services to those in greatest need. He did this with creativity and determination, by bringing psychiatric practitioners and trainees into the streets of Boston, into the neighborhoods, and out of the ivory towers of the university. He taught the psychiatric profession important lessons about how we had to make ourselves available; he taught us that part of this process was in some instances the development of a team approach, so that we worked with talented paraprofessionals who could reach disturbed patients who were poor and underprivileged, who distrusted middle class psychiatrists because, in many ways, these professionals spoke a different language.

This is a good point to elaborate on the role of the paraprofessional in the provision of mental health services. There is much room for potential misunderstanding about these individuals. A better name for this group is "indigenous mental health workers", and the role they play at times is crucial. They are not trained to do the work of psychiatrists. They are trained to be good listeners, they are trusted by their clients because of shared experiences—in this case Vietnam service. This training and quality of being trusted makes them a vital asset to appropriate mental health service teams.

The Vietnam Veterans Outreach Program bears the hallmark of Dr. Ewalt's time honored methods, methods which in my profession are well recognized as most effective and most humane.

Clearly, the Vietnam Veterans who go to neighborhood Outreach Centers with Post-Traumatic Stress Disorder are in need of medical assistance, and they receive it. They present with a medical condition recognized by the psychiatric profession, and at the neighborhood Centers they receive psychological counseling from a team of paraprofessionals and professionals. These helping individuals have certain qualities in common. They have special abilities in dealing with those suffering from Stress Disorders, and in many cases these abilities are related to their experiences in the jungle battles of Vietnam. In all cases they are emphatic, skilled listeners, and thoughtful providers of emotional support and encouragement. They are, as a team, highly skilled, highly professional. In each Center there is ample interaction between those with more formal professional training, and those who are called paraprofessionals, and again in this case this is a hallmark of good psychiatric service provision.

Now, we can ask if this program is scientifically structured and encourages assessment of its effectiveness. The answers are unequivocally "yes". Under the leadership of Jack Ewalt, M.D., and Donald Crawford, Ph.D., who as a younger man saw service in Vietnam, the program allows for service provision where it is needed, given by those who can effectively give it, and in a setting where data collection is conducted in the natural course of events. I am sure that from the testimony coming from Dr. Ewalt's office you will learn of increasing patterns of utilization, of Veterans receiving psychological relief after many years of suffering. It is clear that after only a little over one year no scientifically incontrovertible data is available, and it is also clear that since the program has suffered from threats of extinction and staff freezes since the start of its second year, the chance of fair scientific assessment is even slimmer. However, I do know that preliminary assessment is taking place.

An assessment study conducted by the Office of Planning and Program Evaluation, under the Office of the Administrator of Veterans Affairs, produced a highly favorable report. It shows that the program is effective in the minds of service recipients, VA physicians and administrators, community agencies, Veterans organizations, and police departments which turn to Outreach Center personnel when dealing with troubled Vietnam Veterans. Clearly, the program is having substantial impact on those it seeks to serve.

This brings me to the final question: Is the program self-limited, or does it establish a precedent for separate health care systems for groups shouting loudly enough that they are unique? It is my prediction that a few short years down the road we will see the Outreach Program become an anachronism. This will be the case because those now providing psychiatric services in VA medical centers and those providing what are currently Outreach services will learn, quite naturally and in the course of time to work together in ways which are yet to evolve, ways which will be most helpful to the target population in question—Vietnam-Era Veterans. Finally, these Veterans, now distrustful of the system, will come over time to seek help in long-standing VA medical centers. This will reflect their contacts with the system via the Outreach Program, and alterations in the system reflecting its contact with Outreach Center service providers and service recipients.

We trust you will concur with our views and extend this vital and effective program for three more years. At that time, practitioners inside and outside the VA and Outreach systems will have evaluated the program's strengths and weaknesses, and will be able to provide the Congress well reasoned data concerning how to integrate these Outreach Centers into the VA health care system. These same individuals will be in a position to provide you with a timetable for that integration. Indeed, I am confident that the results of the assessment that would take place during the next three years will identify very specific ways of providing Vietnam Veterans with specially tailored care, and that these techniques, integrated fully into the VA's system of health service provision, will be the lasting legacy of this innovative and courageously conceived program.

This concludes my prepared statement. I appreciate the opportunity to appear before the Committee and welcome the opportunity of working with the Congress in not forgetting the metally ill Vietnam-Era Veterans who remain in need of mental health care. We are pleased to respond to any questions that you may have.●

MONEY MARKET FUND REGULATION

HON. CARROLL HUBBARD, JR.

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 14, 1981

● Mr. HUBBARD. Mr. Speaker, in light of the continued discussions regarding money market mutual funds and whether or not they should be restricted, Mr. William L. Hale III, president of the Exchange Bank of Mayfield, Ky., my hometown, has written to me indicating that these funds should be brought under regulation similar to banks, and banks in turn, should be allowed the instrument to compete with them. With your permission, I would like to insert in the RECORD, Mr. Hale's remarks on this very timely issue now facing Members of Congress.

The letter follows:

DEAR CARROLL: This is just a note to comment on the Money Market Fund issue which Congress will no doubt be discussing. These Funds are for all intents and purposes—banks; they accept deposits and they allow withdrawal by checks or other demand-type methods. If there is any validity to the rationale of regulation of commercial banks and S & L's by the government in the public interest, the same ought to apply to the Funds. As you know we are one of the most overregulated industries in the country and for the government to allow other "banks" to spring up unregulated is grossly unfair. Not only must we play by different rules but we are not even allowed to offer a competing deposit-type instrument.

A practical effect that these Funds are having on virtually all banks in your district is the outflow of funds to large money-

center banks that would otherwise be available for loans and investments locally. I can assure you from what I have seen in our bank that this outflow is substantial. It is not inconceivable that as the economy recovers there could be a significant adverse impact on the availability of loan funds at banks and S & L's in our area due to the Funds.

In my opinion, at the very minimum, these Funds should be brought under regulation similar to banks and we should be allowed to offer an instrument to compete with them.

Thanks for considering these views; I hope you will take them seriously.

Sincerely,

WILLIAM L. HALE III,
President.●

STATEMENT BY HON. MAURICE MEYERS, MAYOR OF BEAUMONT, TEX.

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 14, 1981

● Mr. MARKEY. Mr. Speaker, at this time, I would like to speak out in favor of retaining the Urban Parks and Recreation Recovery Program, generally known as UPARR.

Urban parks have traditionally served as centerpieces of neighborhoods, reflecting and influencing the quality of life of an area. In an era of rising energy costs, more Americans, especially those in lower income brackets, have been turning to their cities' parks for recreation of all types. And in many cases, they have found that their parks have become unusable due to poor neighborhood conditions, the age of the facilities, and a lack of upkeep.

UPARR was enacted in 1978 as a partial solution to this problem, providing matching Federal funds for park rehabilitation, planning, and innovation projects, on a competitive basis. Note that the program places the main emphasis on the needed rehabilitation of the existing park infrastructure, instead of the acquisition of new land.

UPARR is not a large program. In fiscal year 1980, $65 million was appropriated for the program, yet this level of funding has produced impressive results.

On June 15, 1981, I chaired a hearing of the Interior Committee's Oversight and Investigations Subcommittee on the subject of the UPARR program. Twenty-eight mayors attending the annual meeting of the U.S. Conference of Mayors, in Louisville, Ky., provided testimony as to the impact of the program on their cities. The testimony that follows is an example of the overwhelming support that the mayors expressed for the UPARR program and evidence of the valuable role UPARR is playing in helping to revitalize our urban areas by rehabilitating a key element of neighborhoods, the urban park.

HON. MAURICE MEYERS, MAYOR OF BEAUMONT, TEX., EXPRESSES SUPPORT OF URBAN PARKS PROGRAM

Mr. Chairman and Members of the Subcommittee: I am Maurice Meyers, mayor of Beaumont, Tex. I am pleased to have the opportunity to testify in support of the Urban Parks Program.

In a time of severe budget restraints, for both the federal government and local governments, I ask you to evaluate the positive effects a relatively small amount of targeted federal funds has had in stimulating community investment, saving existing facilities from decay and encouraging creative planning and uses.

The current Administration has tried recently to convince state and local governments to support a series of new "special revenue sharing" programs described as state block grants. While this type of funding can be of assistance in some cases, it is not always the best approach. Block grants require larger sums of money in order to distribute funds evenly across the Nation—more money than we will ever see for recreational purposes, I'm afraid. The urban parks program is an excellent example of the type of federal grant program which is not a block grant but is of great assistance at the local level.

The funding requirements of the program are designed to evoke public participation, state financial involvement, and partnerships between public and private organizations and interest groups. UPARR has stimulated a state role in urban recreation. Texas isn't well known for its participation in urban programs. Yet, after the UPARR program was started, Texas began their own program at the state level. Eighteen other states also have contributed varying amounts of funds to UPARR projects.

Furthermore, the UPARR program has maintained great flexibility. For example, Beaumont was not eligible for an Urban Parks grant under program regulations. We were, however, eligible to apply for discretionary fund money because of our specific economic and social circumstances.

In my City of Beaumont, we face two major problems in meeting our present and future park and recreation needs. First, the City is expanding rapidly to the west and north, with new residential areas creating the necessity for new parks. Many areas developed within the past 30 years do not have neighborhood parks at all.

Second, the City must meet the recreational needs of neighborhoods in the older eastern portion of Beaumont where nearly 60 percent of the population lives. Most of this area developed before 1940. There are high concentrations of minorities, low to moderate income families and the elderly. Although the parks are fairly well distributed in eastern Beaumont, many are small and most of the equipment is 20 to 50 years old and in need of replacement due to deterioration or obsolensence.

Participation in the UPARR program has helped Beaumont to attack these recreation problems in at least three ways:

(1) The planning requirements of the program have resulted in an increased awareness of the strengths and weaknesses of our recreation system and what can realistically be done to improve the system;

(2) Our UPARR rehabilitation grant and matching contribution from the State of Texas have enabled us to begin a $345,000 project to rehabilitate four inner-city parks. We are currently rehabilitating two playgrounds with modern "creative playground" equipment, replacing a substandard wading pool, rehabilitating a 4,700-square-foot community center building that might have otherwise been demolished, and installing new slabs and prefabricated shelters at two multi-purpose court areas. Most of this work would not have been done without the UPARR program.

(3) The UPARR planning process and financial assistance have contributed to the development and implementation of a neighborhood conservation strategy which approaches improvements to housing, streets, drainage, parks, social services and neighborhood businesses as parts of and inter-related system.

My City strongly supports the program's emphasis on the need for rehabilitation of existing facilities. Preventing decline in existing investments now will mean substantial future savings, particularly when coupled with a commitment by cities to maintain these facilities. For most cities this is a one time grant to stimulate recovery.

Interest in the program has been understandably high. UPARR makes a substantial contribution to local efforts to rebuild cities by revitalizing one of the key amenities that make urban life attractive. People want and need recreation opportunities for their physical and emotional well being. Yet, particularly now as local governments are asked to take on greater responsibility with limited funds, many cities can afford to meet only the most basic service needs and maintenance. A limited federal role in urban recreation is necessary.

The Administration has proposed elimination of this program in order to redirect funds to the rehabilitation of the National Park System. But the low income, inner city resident is often unable to utilize those facilities, which are usually located some distance from population centers. I ask the Committee to look carefully at the side effects of this redirection of funds.

In summary, the UPARR program has been a welcome source of assistance to financially distressed park and recreation programs in cities throughout the nation. A comparatively very small investment of federal funds has been targeted to assist recreation program in cities with proven abilities to plan creatively and efficiently for providing recreation services in an era of increasing austerity, and the primary beneficiaries of the program have been the inner-city residents who are most in need of close-to-home public recreational facilties and programs.●

INTRODUCE LEGISLATION FOR FEDERAL FIREFIGHTERS

HON. MICKEY LELAND

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 14, 1981

● Mr. LELAND. Mr. Speaker, today I am introducing legislation which addresses and seeks to rectify the inequitable and inconsistent treatment Federal firefighters receive under current pay practices.

The current compensation scheme for Federal firefighters includes three basic elements—base pay, premium

pay, and overtime pay. Base pay is compensation under the General Schedule, which covers the vast majority of Federal employees. In recognition of the long and irregular schedules required and the hazardous nature of the occupation, Federal firefighters also receive premium pay of up to a maximum 25 percent for the 72 hour workweek. In addition, under the Fair Labor Standards Act of 1974, Federal firefighters are entitled to overtime pay for all hours in excess of 54 per week.

This complicated calculation of Federal firefighter pay levels has resulted in a number of inequities and inconsistencies that demonstrate the inappropriateness of the General Schedule as a basis for Federal firefighter compensation. The General Schedule was designed to cover the wide range of employees and occupations making up the majority of Federal work force. While premium pay and overtime pay provisions seek to recognize the unique nature of firefighting as compared to other occupations falling under the General Schedule, the current pay scheme does not allow for an appropriate classification of Federal firefighters which reflects the actual level of duties, responsibilities, and skills involved in the performance of duty.

Furthermore, the current Federal firefighter pay and classification schedule seems to ignore the overall value of firefighting and the increasing difficulty, responsibility and hazards with which Federal firefighters are being confronted as the state-of-the-art advances in aircraft, weapons, building construction, rescue procedures and as hazardous materials become more abundant and their handling more technical each day.

In spite of the current premium pay and "overtime" pay provisions, the average Federal firefighter works 72 hours per week for which he receives about the same pay as most municipal firefighters receive for an average 54-hour week. The glaring inequity of these long hours and relatively low wages as compared to municipal firefighters, threatens morale and has led to difficulties in retaining high quality personnel, with many firefighters leaving the Federal service to work for municipal fire departments.

Rather than working to bring Federal firefighter salaries in line with the compensation levels of their State and local counterparts and a vast majority of the profession, the complicated Federal firefighter pay formula, with its premium pay policies and its unique calculation of overtime pay has served as a source of discontent and resentment, and has added to the inequitable and inconsistent treatment of Federal firefighters under current pay practices.

While the Fair Labor Standards Act extended special overtime provisions to all fire and police personnel, including Federal, mandating the payment of overtime for all hours in excess of 54 hours per week; under a decision of the Comptroller General, Federal firefighters working 72 hours per week receive only one-half time, not time and one-half, for each of the 18 hours of overtime they are required to work. The rationale for this payment scheme was that since Federal firefighters receive regular pay, which includes premium pay for each of the 72 hours they work, they are only entitled to one-half time their regular rate of pay for the 18 overtime hours. What this has meant to the average Federal firefighter (GS 5, step 4) is the payment of approximately $1.85 per hour for 18 hours of overtime. This calculation of overtime pay has worked to increase resentment and discontent among Federal firefighting personnel.

Furthermore, the current Federal firefighter pay structure has had a severe negative impact on the career development of Federal firefighters. The problem arises due to the reluctance of qualified personnel to move into positions involving promotion and increased responsibilities, but because of a shorter workweek and parallel reductions in the rate of premium pay and overtime pay, offer less take-home pay and reduced retirement and other benefits.

For example, an assistant chief, who is ruled to be exempt under the FLSA, makes less money for the same number of hours than does a crew chief who is two grades lower and subordinate to him. Similarly, the fire chief, who is a program manager and administrator and therefore must work a tour of duty more nearly coinciding with the work hours of other managers at a particular facility, makes considerably less than his assistant chiefs. As a result of these pay practices it is becoming more and more difficult to get employees to accept promotions to more responsible jobs, since they must take substantial cuts in pay to do so.

For all these reasons I am introducing legislation today that removes Federal firefighters from the General Schedule classification and pay system and establishes a separate pay system which is designed to deal with and eliminate the inequities and inconsistencies of current compensation schemes. This separate pay system brings Federal firefighter salaries in line with the vast majority of the profession, and provides a realistic classification system that accurately reflects the nature and level of duties performed at every level within the Federal fire services.

In addition, by providing compensation levels that reflect and include payment for long and irregular hours and the hazardous nature of firefighting, this bill disposes of the need for premium pay and overtime pay and eliminates the problems and inequities that these pay practices have resulted in.

I believe that this discussion of the issues involved completely supports the argument that Federal firefighters are treated unfairly by the Federal Government in terms of pay and classification. I ask that Members of both the House and Senate lend their support to this legislation, so that this inequitable treatment of Federal firefighters may finally be rectified.●

VIEWS FROM THE OTHER SIDE

HON. JACK FIELDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 14, 1981

● Mr. FIELDS. Mr. Speaker, for too long, a few Eastern newspapers have been permitted to "set the agenda" in Washington—to determine what issues the Congress and the President will discuss. Those newspapers are, by and large, liberal publications with an intense dislike for Republicans and conservatives and the policies we want now to implement.

In recent weeks, it is fair to say, the editors of publications such as the New York Times, the Washington Post, and the Boston Globe—to name only a few far-left newspapers—have systematically attacked the President and his policies, urging, instead, that America continue to travel down the same road to ruin on which we have journeyed for the better part of these last four decades.

Ronald Reagan received an overwhelming vote of confidence this past November—and public opinion polls show the overwhelming majority of Americans still like him personally and the policies he has proposed.

I do not know whether President Reagan's policies or his personal popularity most upsets the editors of these liberal Eastern publications. For whatever reason, however, the editors of major liberal publications have attacked President Reagan with abandon—and we conservative Republicans have not called them to task as of yet.

Today, I propose to change that. I am today beginning a regular effort to insert into the RECORD editorials from major Eastern publications alongside of editorials from Southern, Western, and Midwestern newspapers. I believe this process will provide us all with an exhilarating freshness of the kind that new ideas and commonsense can provide.

Today, I would like to insert an editorial from a recent Boston Globe that—predictably—attacks the Reagan

tax plan, and an editorial from the Dallas Morning News which uses sound logic and an understanding of economic realities about our Nation. I think you will agree that compared to the tired hot air coming out of Boston, there is a fresh and exhilarating breeze blowing eastward from Dallas. Thank you, Mr. Speaker.

[Editorial From the Boston Globe, June 10, 1981]

MAKING TAX POLICY

The House Ways and Means Committee is due to begin work on its much discussed tax legislation today. Within the regrettably narrow bounds in which all discussion of tax policy is taking place this year, the committee ought to draft a proposal that provides an alternative to the policies of President Reagan.

The proposal of committee Chairman Dan Rostenkowski to limit cuts in personal income taxes to 2 years ought not be abandoned. A 1-year cut is, in the current climate, not politically possible. However, the 3-year plan favored by President Reagan would leave inadequate revenues for any domestic initiatives in the near future.

Further, a minimum principle of any Ways and Means bill ought to be that all taxpayers at all income levels receive enough of a break to compensate for the effects of inflation and the resulting "bracket creep" and of rising payroll taxes in the 2-year period. The Reagan plan offers no such protection for taxpayers with earnings below $25,000.

Third, the committee—which still has a Democratic majority—ought not accept the Reagan proposals for flat cuts across all income levels. The political pendulum has not swung so far as to rule out the traditional Democratic goal of enhancing the progressive nature of income taxation at the Federal level. Through the widening of brackets and such, the committee ought to endeavor to target the cuts to the degree possible to the lower end of the income spectrum.

On the business side, the committee ought to be chary of accepting the Reagan plan for simplified depreciation schedules. Different capital assets have varying useful lives; a flat depreciation schedule may have the effect of skewing sensible investment policy. Further, the Reagan approach provides too little incentive for investments in research and development. The rationale for cutting business taxes is that it will spur productivity. The Ways and Means Committee ought to strive to make sure that business tax cuts do, in fact, have a reasonable chance of accomplishing that.

The truth, of course, is that now is not the proper time for personal income tax cuts or anything but the most artfully tailored business cuts. The truth is that if tax cuts are to be made, they ought to be accompanied by changes in the tax code that close some loopholes and questionable shelters and that enhance the equity of the tax system. However, both Congress and the President are hellbent on enacting substantial cuts without any tax "reform." The least the Ways and Means Committee can do under the circumstances is to seek to make the cuts fair and effective.

[Editorial from the Dallas Morning News, June 21, 1981]

CLASS DISMISSED

The Marxists, of course, have made class struggle the keystone of their philosophy. But neither are the Democratic leaders in Congress any slouches when it comes to pitting "the poor" against "the rich."

The official Democratic line on President Reagan's economic policy is that it favors what House Speaker Thomas O'Neill grandly calls "the wealthy of America." The poor, by O'Neill's reckoning, get short shrift: Just as you'd suppose with proud, heartless Republicans at the helm.

If automobiles could run on high-octane buncombe, O'Neill and his fellow House leaders would make a mint. The President's reproof to them, offered at his press conference last week, was exactly on target.

O'Neill professes to be some kind of expert on poverty, notwithstanding that House speakers earn $75,000 a year, with limousine and other lucrative perks thrown in.

He has suggested that Reagan doesn't understand the poor; which comes as a surprise to Reagan. "We didn't live on the wrong side of the railroad tracks," he said in answer to the final question at his news conference, "but we lived so close to them we could hear the whistle real loud. And I know very much about the working group. I grew up in poverty and got what education I got all by myself and so forth. . ."

But only debating points are scored in arguments by politicians over who used to be poorest. What matters far more is who's really going to do something to help the poor—and everyone else.

Reagan had something to say about this, too: "We have watched the so-called social reforms for three or four decades now fail in trying to lift people that are not in the mainstream and don't have their foot on the ladder of opportunity, and they failed . . . I believe that our economic package is aimed at stimulating the economy, providing incentives, increasing productivity so as to create new jobs."

By contrast, O'Neill and his colleagues hike taxes, afflict the nation with double-digit inflation and interest rates, and call it compassion. Then, when Reagan proposes compensatory cuts in spending and taxes, the O'Neillians flap their gums and drag their feet.

Democratic-controlled House committees haven't exactly got into the spirit of budget-cutting, the President noted. For instance, "One House committee claims to have achieved savings by eliminating a day-care program to provide suppers. But it also slipped into the changes of the law to say that lunches can be served at supper time."

Meanwhile, according to Reagan, O'Neill indulges in "sheer demagoguery" by pretending "that this economic program which we've submitted is not aimed at helping the great cross section of people in this country that have been burdened for too long by big government and high taxes."

The facts are on the President's side: Fifty-three percent of his tax cuts would go to Americans earning from $20,000 to $50,000—those who pay 51 percent of our taxes. What would be nice now is to have the House speaker and his troops also on the President's side.

What would be nicest of all, naturally, is for O'Neill to call off the class-struggle rhetoric, stop arguing about who loves poor people more, and pass some bills to help not just one segment of the people but the people as a whole.●

POW-MIA RECOGNITION DAY

HON. WILLIAM HILL BONER

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 14, 1981

● Mr. BONER of Tennessee. Mr. Speaker, we have the honor of proclaiming Friday, July 17, as National POW-MIA Recognition Day. A day dedicated to honor former prisoners of war, and those still missing in action, for the painful sacrifices they made for our country and its people, and to give our appreciation, comfort, and support of their families.

I would like to urge my colleagues to support legislation which would continue the investigation in Southeast Asia, until we can be assured that no other Americans are being held captive. The plight of Vietnam will not be over until all POW's have been returned home.

This day honors these citizens that gave up their freedom in order that their fellow Americans could maintain theirs. We owe a great debt, not only to those who have returned home, and their families who will continue to have memories of those long months or even years of anguish, but also to those still missing in action as they will continuously be in our thoughts.

Today, I would like to salute, and pay tribute to these Americans for their loyalty and service.●

HUMAN RIGHTS

HON. TOM HARKIN

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 14, 1981

● Mr. HARKIN. Mr. Speaker, the Reagan administration has recently signaled its intention of abandoning human rights as a factor in American foreign policy.

At the same time, it wants to increase arms sales to foreign governments.

I believe the Reagan administration policy flies in the face of what the American people want and what the people of the other nations want.

To prove that latter point, I insert in today's RECORD the results of a public opinion poll conducted by the Gallop affiliates in nine Latin American nations.

The results of their poll have not previously been make public. They have, however, been available to the Reagan administration. On May 28, the Office of Research of the United States International Communications Agency summarized the results of this poll for the State Department, the National Security Council, and the Department of Defense.

The poll clearly demonstrates that the people of Latin America, the people who are often the victims of state terror, favor the United States pursuing a strong and aggressive human rights policy. I believe the poll results show that strong, public U.S. efforts to protect human rights have given hope to oppressed Latin Americans and that they very much want those U.S. efforts to continue.

In six of the nine countries surveyed, over half of the respondents said that one of the two things they would "most like to see the United States do in Latin America" was "help protect human rights."

Only in Chile and Argentina was human rights not mentioned by the poll respondents as one of their top two concerns. In those two countries, it was ranked third. Human rights ranked as high as "increase economic assistance"—the only other foreign policy objective favored by the people of Latin America—in most of the countries surveyed.

Among the policy options presented to the poll respondents, only the option of the United States "increasing military assistance" received almost no support.

Over the past few months, the Reagan administration has begun systematically dismantling our human rights policy, substituting instead a policy which can best be described as more arms and more aid for brutal dictators who have no qualms whatever about kidnaping, torturing, and murdering their own citizens.

The new policy not only pulls down one of the last pillars of hope for millions of oppressed Latin Americans, but will only work to alienate us from the people in those countries. It is a policy which is as foolish as it is tragic.

Mr. Speaker, I also want to say that I believe this poll seriously underestimates support for a strong human rights policy among the Latin American people. It does so for two reasons:

First, as the data indicate, many people in Chile and in Argentina expressed no opinion on the question about human rights. I submit that is because the repressive nature of the regimes in those two nations has so cowed the people that they are afraid to say they support human rights.

Second, the pollsters unfairly juxtaposed a private versus a public human rights policy and presented the alternatives in such a way that a private policy of human rights was seen as the middle ground between public demonstration and no human rights policy at all.

Despite these factors, less than one-fourth of the people surveyed said they wanted the United States to stay out of human rights entirely. And, despite the bias in the question wording, most Latin Americans who support human rights said the U.S. Government should publicly denounce abuses in Latin America.

The results of the poll follow:

Now let's talk about some things that the United States could do in Latin America. (Show Card) What two things from this list would you most like to see them do in Latin America?

[In percent]

	Mexico	Argentina	Chile	Uruguay	Brazil	Peru	Ecuador	Colombia	Venezuela
1. Encourage foreign private investment	21	23	32	39	19	25	18	13	14
2. Help combat subversion and terrorism	30	32	26	30	35	25	29	28	42
3. Help protect human rights	59	25	29	43	56	56	57	59	57
4. Increase military assistance	7	8	9	4	12	7	23	8	10
5. Increase economic assistance	53	50	63	63	50	66	58	61	41
6. Reduce U.S. involvement in the region	18	8	5	10	12	9	8	23	12

Percentages add to more than 100 percent because most people gave two answers.

In your opinion, what position should the United States Government take concerning human rights abuses in some Latin American countries? Should the United States denounce those abuses publicly, discuss them privately with the governments concerned, or stay out of the matter entirely, or do you not have an opinion?

[In percent]

	Mexico	Argentina	Chile	Uruguay	Brazil	Peru	Ecuador	Colombia	Venezuela
Denounce publicly	34	19	30	36	24	54	34	40	51
Discuss privately	39	22	28	24	40	28	36	27	22
Stay out entirely	17	25	17	28	25	12	24	24	14
No opinion	10	34	25	12	11	6	6	9	13
Total	100	100	100	100	100	100	100	100	100

Source: Foreign Opinion Note, International Communications Agency, USA, May 28, 1981. Surveys conducted by Gallup affiliates.

THE CHALLENGE FOR NATO IN THE 1980'S

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 14, 1981

● Mr. DERWINSKI. Mr. Speaker, there have been many news reports in past months on the condition of the North Atlantic Treaty Organization. Much of this news opinion has it that the alliance is in trouble. Ambassador W. Tapley Bennett, Jr., U.S. permanent representative to NATO for 4 years, and a diplomat with a most distinguished record recently spoke his views of NATO. Ambassador Bennett believes that "the alliance today is strong and healthy." His speech covers a good deal of ground, and it is instructive and hopeful. It is printed below in full for the benefit of the Members.

ADDRESS BY AMBASSADOR W. TAPLEY BENNETT, JR., U.S. PERMANENT REPRESENTATIVE TO NATO, TO THE GERMAN-AMERICAN ASSOCIATION STEUBEN SCHURZ—DUSSELDORF, JUNE 11, 1981

THE CHALLENGE FOR NATO IN THE 1980'S

I am most appreciative of the opportunity to speak before this distinguished group. I am also grateful for the generosity of the Deutsch-Amerikanische Vereinigung in agreeing to reschedule the talk at time, after an earlier date at the beginning of the year had to be cancelled.

In any event, the postponement may prove an advantage. As you know, NATO has been very active over the past several months, and the new American administration of President Reagan has been consulting intensively with our Allies on all aspects of Western security policy. Thus, the topic on which I have been asked to speak, namely the outlook for the NATO alliance, has been more sharply defined, at the same time, the policies of the Reagan administration, which have some influence within the alliance, have been more fully developed.

As President Reagan has made clear, NATO remains the keystone—the bedrock—of American foreign policy, just as it has been for over thirty years. Indeed, the new U.S. administration is determined to strengthen ties with the alliance, and to seek a new strategic consensus on the basis of which we can together continue to defend our freedoms.

There is no doubt in my mind—and I have now served as U.S. Ambassador to NATO for over four years—that the alliance today is strong and healthy. The fundamental agreement on the political and strategic requirements for alliance security in the

1980's which has emerged from three ministerial meetings this spring—in Bonn, Rome and Brussels—offers firm demonstration alliance unity continues to be the best guarantee of peace in Europe and in the world.

It is evident, however, that very serious security issues are posed today for the alliance. These issues require difficult political choices. We must, for example, provide increased resources for defense, at a time when many of our nations face severe economic resource problems. We must proceed with the implementation of NATO's double decision on long-range theater nuclear modernization and arms control, at a time when some are raising questions about the requirements of nuclear deterrence. We must develop the conventional military strength needed to meet and thus deter soviet and other challenges outside Europe, at a time when major Soviet improvements have already strained our capacity to maintain the balance in Europe itself.

Defense capabilities

The Reagan administration has taken firm and clear positions on all of these challenges. On the question of providing adequate resources for defense, we have resolved to increase our defense effort by the amount needed to restore the balance with the Soviet Union. This had meant an increase of some $6 billion—approximately DM 13.8 billion—over the already large defense budget presented by the Carter administration for the current fiscal year; an increase of some $25 billion—about DM 57.5 billion in the defense budget planned for next year; and a steady increase of 7 percent per annum in real terms through 1985. The principal objective of these increased expenditures is to improve the readiness, mobility, and equipment of our conventional forces, and to strengthen the Navy, to meet challenges whenever and wherever they occur. These increases are not easy to make. Defense is the only sector of the U.S. budget to be increased; all other sectors have been cut in the proposals of the Reagan administration. Social areas have been hard hit. This action has required political courage. It has been taken because these measures are necessary if the military balance is to be restored. This necessity has been understood and supported by our Congress. In the American view, defense is not deferrable. If we lack adequate national security, then all else is at risk.

I have sometimes heard it argued that the budgetary choices of the Reagan administration unduly favor "guns" over "butter", and that this alleged imbalance will somehow be damaging in the long run. The answer to this is that the American people, in giving President Reagan his sweeping victory last November, indicated very clearly the priority they set on reestablishing a strong defense capability to offset the forces of the Soviet Union. The President's priorities reflect this popular will. Basically, the American people have decided that in the present unsettled circumstances security must come first. The simplistic dichotomy between "guns" and "butter" is meaningless if our opponents see us as weaker than themselves and are thus tempted to further adventures and aggression.

We can afford the needed level of defense. The share of defense expenditures in United States national product is expected to rise modestly, to about 6 percent, well under the 10 percent levels of earlier periods of crisis—and less than half the current level of the Soviet Union, which spends between 12 percent and 14 percent of its national product on defense. Moreover, when this level of expenditure is seen against the backdrop of a more developed United States economy than we had in either the 1950's or 1960's, that level of effort becomes both politically and economically sustainable.

The Reagan administration made clear at the outset that it does not want to engage in fruitless polemics with its Allies about the percentages of national product which they are dedicating to defense, or to focus solely on the percentage rates of increase in their defense expenditures. As Secretary Haig indicated in his first appearance before the Senate, we are very conscious of the important contributions to defense made by our Allies, including particularly the Federal Republic. At the same time, we are convinced that an effective defense of Western interests around the world cannot be achieved unless all members of the alliance are prepared to do more than at present for defense. We cannot be arbitrary in measuring contributions. The financial target established in 1977-78 of real growth in defense expenditures in the neighborhood of 3 percent provides a benchmark for the alliance. But beyond this, the Reagan administration is interested in measuring more directly the results of defense expenditures in terms of increased military output: more tanks, better anti-aircraft defenses, more Active and Reserve brigades, improved models of aircraft, and so forth. The meeting of NATO defense ministers last month in Brussels agreed that future evaluation of Allied defense efforts must include this measurement of specific improvements in military capability.

Consultations

A second topic of major importance for the internal NATO situation is consultations. The Reagan administration has put great weight on improving the consultation process. Secretary of State Haig has made it clear that we will be clear and consistent in our policy line, and that we will discuss all steps thoroughly with our allies. We shall count on the same in return.

This US commitment to improved consultations has been effectively demonstrated in the three ministerial sessions of the alliance which have been held this spring: the Nuclear Planning Group in Bonn; the North Atlantic Council in Rome; and the Defense Planning Committee in Brussels. Having participated with Secretaries Haig and Weinberger for the United States in those meetings, I can tell you that the interchange with Allied colleagues on the full spectrum of Western security issues was extremely rich and productive. There emerged a new consensus on the requirements for the alliance, which should serve us well in coming years. We agree on the need to take new action to restrain Soviet adventurism; we have committed ourselves to provide all the resources necessary to rebuild NATO's conventional forces to counter the build-up of Soviet forces; and we have reconfirmed the double decision of December, 1979 on modernization and arms control affecting long-range theater nuclear forces.

Some observers have said that the NATO framework is no longer adequate for the present world, and that we need new consultative mechanisms. Some people want organizations which are smaller, stressing the need to work closely only with countries which have major forces and interests at stake in particular situations. Some people, by contrast, want organizations which are larger, stressing the need to consult with other actors not engaged in the Central European balance. Personally, however, I find this concern to seek new mechanisms somehow misguided. The institutions we now have are performing well. With their varied specializations they effectively cover a great variety of interests and participants. NATO, for its part, represents an important geo-political reality. It is no less central to Western security today than it was three decades ago. Creation of additional bodies in the security field would not serve to facilitate resolution of difficult problems—and no one denies that we have very difficult problems—but it could further confuse the existing structure and create unnecessary political problems. Let us rather concentrate on making our existing bodies increasingly effective.

LRTNF

The most hotly-debated question in the alliance today is clearly the nuclear issue, and more particularly, the implementation of NATO's December, 1979 double decision on the modernization of long-range theater nuclear forces and the offer to the Soviet Union of arms control negotiations affecting LRTNF. These are extremely important topics, and it is understandable that there should be continuing attention to them. At the same time, I am concerned that much of the debate appears to reflect misunderstanding of the issues involved.

To hear some observers, one might think the issue has been reduced to an almost philosophically abstract choice of whether or not NATO should implement a new step in nuclear armament in Europe, totally without connection to the strategic context in which the December, 1979 decision was made, without reference to the size and dynamism of Soviet nuclear deployments, and in ignorance of the basic purposes of the theater nuclear forces which NATO has maintained over the decades.

I would like, therefore, to attempt to remove a few of the prevalent misconceptions concerning the LRTNF issue.

First, it is sometimes argued that the NATO deployments of cruise missiles and Pershing II will only lead to an arms race, and that it would have been better to await results of negotiations before committing the alliance to modernization in December, 1979. However, it is clear for those who will see that for twenty years the only long-range nuclear missiles in Europe have been Soviet; it is clear that the modernization of that Soviet force of SS-4 and SS-5 missiles with newer, mobile, mirved SS-20 missiles began prior to the NATO decision to modernize its forces with the deployment of cruise missiles and Pershing II; and it is clear that the size of the agreed NATO program is less than the size of the force the Soviets already have deployed. Moreover, the Soviets are continuing to expand their LRTNF force rapidly, with some 220 SS-20's now deployed, representing 660 warheads, which cover all of Europe with lethal danger. Thus, NATO cannot start an arms race in this area. But it must respond to Soviet deployments if the security of NATO populations is to be protected.

Second, some people argue that negotiations would have a better chance of success if we had made no deployment decision, or if we had even accepted Brezhnev's proposals for a moratorium. That is a very naive view of Soviet negotiating tactics, and it goes against all experience of dealing with the Soviets. If there is to be any chance of bringing the Soviets to negotiate seriously, it can only be on the basis of a clear NATO

determination to implement the December, 1979 modernization decision. In its absence, the Soviets will have no incentive to reduce their own theater nuclear forces. Why should they? It was only after the December decision that the Soviets agreed to negotiate, and it will only be by the implementation of that decision that the Soviets can be brought to negotiate seriously.

Third, it is argued in some quarters that deployment by NATO of new missile systems would increase the danger of war in Europe. This argument fundamentally misreads NATO doctrine and the objectives which led to the December, 1979 decision. In fact, theater nuclear forces serve exactly the same purpose as all other alliance forces—they serve to deter conflict. They have done so successfully for three decades. Properly maintained and modernized they can do so in the future. Under the strategy of "flexible response," which NATO adopted in 1967, the alliance must be prepared to meet any possible attack at a level appropriate to defeat aggression and cause an attacker to withdraw. The means behind this strategy range from conventional defenses, through theater nuclear systems, up to strategic nuclear weapons. All these forces are linked together, in a continuous spectrum of deterrence. As long as the Soviet Union understands that NATO has the capacity and the will to employ any or all of its forces, as necessary, to meet potential aggression, then it will not be tempted to attack, and it will not be able to exert political pressure on the alliance. That is how NATO has kept the peace for more than thirty years.

However, the continued success of this strategy of deterrence depends on our ensuring that each element of the NATO posture, including the theater nuclear forces, is effective and credible in the light of the present situation. We no longer ask our infantrymen to defend peace with swords, nor do we send the Navy to patrol the seas in sailing ships. In the same way, we cannot expect the theater nuclear element of the NATO deterrent to be effective against a vastly improved Soviet threat if we remain with only the weapons of twenty years ago.

Fourth, it has been alleged that there is a divergence between United States and European objectives regarding the December, 1979 double decision, with the U.S. primarily concerned for modernization and the Europeans primarily concerned for arms control. This assertion ignores the strong common interest which we all share in maintaining a united and credible deterrent posture vis-a-vis the Soviet Union. To ensure this, it is a common interest of the United States and Europe that there be a strong coupling between the European theater and U.S. strategic nuclear forces. Indeed, European voices—voices in the Federal Republic—were among the first to raise the question of the need to achieve a balance with Soviet theater nuclear forces so as to ensure effective coupling of the theater to the United States strategic forces. Similarly, as regards arms control, both the U.S. and Europe share an interest that any agreement affecting theater nuclear forces be equitable, verifiable, and supportive of alliance security. The December, 1979 double decision thus reflects a common understanding between the United States and the European Allies. The alliance reaffirmed its commitment to both tracks of that decision at the North Atlantic Council meeting in Rome last month. Secretary Haig expects to meet with Soviet Foreign Minister Gromyko in September at the United Nations in New York to work out the arrangements to begin negotiations before the end of the year. Within the past month he has had preliminary talks with the Soviet Ambassador in Washington.

Wider horizons

A major theme of our consultations in the alliance this spring has been the need to take account of the security challenge outside the traditional NATO area. There is a growing recognition that the interests of the Western industrialized democracies cannot be defended in Europe alone. Aggression by the Soviet Union or its proxies, subversion, and pressure are in fact much more likely to be encountered in other regions of the world, where we are less prepared to defend our mutual interest. The Soviet Union has acquired global military capabilities in the past decade. It employs proxy Cuban and other forces in several countries, starting with Angola and Ethiopia; it engages in subversion in Central America; It supports the Vietnamese occupation of Kampuchea; it has invaded Afghanistan.

The Reagan administration believes strongly that, in the face of these challenges, the only sound security policy is a global policy. The United States cannot think merely in terms of self-contained regions, whose problems are supposedly isolated from the problems of other regions. Nor can we assume that the existence of a balance in one region will ensure the protection of our interests in another. We must, therefore, be prepared to face the difficult resource and political questions involved in confronting possible Soviet challenges around the globe. And we must consider how we can best cooperate with our friends and Allies to accomplish this task.

The most urgent threat to Western interests is posed by the situation in Southwest Asia. There, the Soviet Union is in a position, following its brutal invasion of Afghanistan, to strike against the oil fields upon which Western Europe depends for the overwhelming percentage of its energy supplies. If the Soviet Union were to interrupt the flow of oil, the strategic effects would be as serious as a direct attack on the central front of the alliance itself.

Our common problem then, is to devise a credible defense against possible Soviet adventurism in this area. This must be based on, first, strengthening of friendly states in the area; and, second, preparing our own forces for possible rapid intervention in the area if necessary. The United States is working very actively to support our friends with both economic and military assistance. We are also working to resolve the serious political controversies which set parties against each other in the area. And we are preparing a new rapid deployment force, which will enable us to move conventional forces into the region to confront possible attacks. These United States measures are necessary to deter future Soviet aggression. The United States, however, cannot accomplish this task alone. We have, therefore, asked our Allies to assist, either in the region of Southwest Asia, for those who can, or in Europe. For most of the members of the alliance, which are not in a position to send naval or other forces to Southwest Asia, the most immediate requirement is to strengthen forces in Europe, to ensure that NATO's defense remains effective, in a situation in which certain U.S. forces might have been assigned to Southwest Asia and no longer be available to be sent to Europe in a crisis. There is also a requirement for Allies to provide facilities in Europe for the transit of U.S. forces to Southwest Asia.

This topic has been discussed extensively at the ministerial session of the alliance, and agreement has been reached on the importance of improving our overall ability to deal with threats outside the alliance area. I emphasize, of course, that none of this discussion envisions a change in the geographic boundaries of the Treaty area. All that is involved is a commitment by our individual nations to take the broader security situation into account in developing our mutual defense efforts.

The future

In conclusion, I would like to emphasize the strong conviction of the Reagan administration that the West has the resources, the talent, the people, and the will to meet the challenges posed by the Soviet Union, both in Europe and globally. We should never underestimate the advantages we possess as open, dynamic societies, vis-a-vis a Soviet Empire which is increasingly rigid, unimaginative, and repressive and already beset with grave internal difficulties indicative of a political system in decline. The Soviet system produces tanks, but not food. It produces refugees, not freedom. It is the West which offers hope and opportunity, today and in the future. These Western advantages, together with the unity which we have developed in over thirty years of common experience in the alliance, will enable us to continue to preserve our security and our freedoms.●

RESEARCH IMPROVEMENTS FOR BLACK LAND-GRANT INSTITUTIONS

HON. SHIRLEY CHISHOLM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 14, 1981

● Mrs. CHISHOLM. Mr. Speaker, yesterday the House passed H.R. 1309, the land-grant colleges research facilities bill. This legislation will assist traditionally black land-grant institutions in upgrading their research facilities. I am very pleased that the House has acted, again, so quickly on legislation which we passed in the 96th Congress. I am hopeful that the Senate will also move with dispatch on this legislation so the 1890 institutions and Tuskegee Institute will have an opportunity to continue their growth and achievements in agricultural research.

In support of this vital legislation, I wish to bring to my colleagues' attention the historical background of these postsecondary institutions. While several traditionally black institutions became land-grant institutions through congressional action in 1890, these institutions have never received the kind of programmatic support available to other land-grant colleges. Consequently, the 1890 institutions as well as Tuskegee Institute have lacked the equipment and facilities that would enable them to have a competitive research capability in the areas of food and agriculture. The colleges cov-

ered in H.R. 1309 have many of the problems endemic to black colleges, generally: limited academic programs and small staffs. In today's world of expanding educational opportunities, many young black professors, particularly in the science and research fields, are not restricted to the black colleges as their only source of employment. Increasingly, blacks in scientific fields are being sought after by large research corporations or large white universities with established laboratories and facilities. It is very difficult for black colleges, like the 1890 institutions, to compete for this research talent when they lack adequate research facilities or if fiscal constraints force faculty members to carry heavy teaching loads, leaving little or no time to develop research projects.

The 1890 institutions face a particularly difficult burden in this situation since one of their mandates is to provide research in agriculture which will benefit the needs of the people in their State. The 1890 schools, as with most black colleges, have been making do with their limited resources. In fact, the total resources received by all black colleges from the Department of Agriculture in 1979 was only $28 million in comparison to $430 million received by all institutions. This is an actual reduction in support from 7.6 percent of the Agriculture Department's total budgetary support for black colleges for 1978 to 6.5 percent in 1979. If these land-grant schools are to be full partners with the 1862 land-grant colleges, then we need to insure that H.R. 1309 becomes law in the 97th Congress.●

STATE AND LOCAL GOVERNMENTS SUPPORT OTTINGER AMENDMENT TO INTERIOR APPROPRIATIONS BILL

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 14, 1981

● Mr. OTTINGER. Mr. Speaker, I intend to offer an amendment to H.R. 4035, appropriations for the Interior Department and related agencies. The amendment will add $23 million for various energy conservation programs. The amendment has received wide support from organizations such as the National Governors' Association, the U.S. Conference of Mayors, the National League of Cities, the National Association of Counties, and the Consumer Energy Council of America. The letters of endorsement follow:

NATIONAL GOVERNORS' ASSOCIATION,
Washington, D.C., July 9, 1981.

Hon. RICHARD L. OTTINGER,
Rayburn House Office Building,
Washington, D.C.

DEAR CONGRESSMAN OTTINGER: On behalf of the National Governors' Association, we wish to indicate our strong support for your amendment to H.R. 4035, the Interior Appropriations bill, to add $20 million for state energy conservation programs. While the Governors have supported budget reductions, we have identified the state energy conservation programs as the one area among the many energy and environmental programs where we support additional funding. Your amendment would stave off the elimination of many state energy offices which are critical to fostering energy conservation and renewable resource initiatives as well as coping with energy shortages.

Sincerely,

GOV. VICTOR G. ATIYEH,
Vice Chairman,
Committee on Energy and Environment.
GOV. BOB GRAHAM,
Chairman, Subcommittee on Renewable Resources and Conservation.

U.S. CONFERENCE OF MAYORS,
Washington, D.C., July 9, 1981.

DEAR REPRESENTATIVE: The U.S. Conference of Mayors urges your support of the Ottinger Energy Conservation Amendment during forthcoming House floor consideration of the FY82 Interior Appropriations bill.

The Ottinger Amendment will modestly adjust the energy conservation appropriation by providing an additional $23 million for state and local energy conservation programs. Of this small amount, $20 million would be earmarked for state energy offices while $3 million would be targetted to the Residential Conservation Service which provides much needed assistance to homeowners and renters for energy conservation efforts.

It is important to note that the Ottinger Amendment in no way exceeds the boundaries recently set in the House version of the reconciliation bill.

But the Ottinger Amendment will help to provide the bare minimum of resources necessary to keep state and local governments from losing momentum in the fight for energy independence.

The Ottinger amendment is particularly important to the future of energy programs for the local governments in your district. The Energy Conservation and Power Subcommittee of the Committee on Energy and Commerce will soon mark-up legislation designed to specifically assist local government energy efforts. It is vital that adequate funds be available for this critical function.

Energy conservation is still one of our best tools for fighting inflation—nationally and particularly in local governments. The U.S. Conference of Mayors hopes you will join with Representative Ottinger in helping to make this possible.

Sincerely,

JOHN J. GUNTHER,
Executive Director.

JULY 9, 1981.

DEAR REPRESENTATIVE: The National League of Cities, the National Association of Counties and the U.S. Conference of Mayors urge your support of the Ottinger Energy Conservation Amendment during forthcoming House floor consideration of the FY82 Interior Appropriations bill.

The Ottinger Amendment will slightly adjust the energy conservation appropriations by providing an additional $23 million for state and local energy conservation programs, mostly earmarked for state energy offices which provide state and local governments with assistance for energy conservation efforts.

The Ottinger Amendment falls completely within the ceilings which were set by the House and Senate reconciliation measures.

But the Ottinger Amendment will help to provide the bare minimum of resources necessary to keep state and local governments from losing momentum in the fight for energy independence.

The Ottinger Amendment is particularly important to the future of energy programs for cities and counties in your district. The Energy Conservation and Power Subcommittee of the Committee on Energy and Commerce will soon markup legislation designed to specifically assist local government energy efforts. It is vital that adequate funds be available for this critical function.

Cities and counties are facing the burden of rising energy costs now more than ever. Please join in a prudent effort to help provide them with the tools to turn this problem around.

Sincerely,

ALAN BEALS,
Executive Director,
National League of Cities.
BERNARD HILLENBRAND,
Executive Director,
National Association of Counties.
JOHN J. GUNTHER,
Executive Director,
U.S. Conference of Mayors.

CONSUMER ENERGY COUNCIL OF AMERICA,
Washington, D.C., July 10, 1981.

DEAR REPRESENTATIVE: When the House considers the FY82 Interior Appropriations bill next week, Rep. Ottinger will be offering an amendment to adjust the energy conservation appropriation by adding $23 million for state and local energy conservation programs. The Consumer Energy Council of America (CECA), a broad-based coalition of major national consumer, labor, farm, public power, rural electric cooperative, senior citizen, urban, and low income organizations, urges you to support the Ottinger energy conservation amendment.

Energy conservation is the nation's cheapest and most available energy resource. An aggressive federal commitment to conservation can lessen the nation's dependence on oil imports, thus enhancing national security. In addition, investment in promoting energy conservation is a cost effective means of spending federal dollars, costing less and creating more jobs than other energy policy options.

The Ottinger amendment would restore $23 million for state and local energy conservation programs—the absolute minimum amount necessary to maintain the survival of these programs. The Ottinger amendment complies with the recent budget reconciliation bill approved by the House; the amendment does not exceed these budgetary limits. Of the $23 million, $20 million would be targeted to state energy offices and $3 million would be earmarked for the Residential Conservation Service, a program which assists homeowners and renters in their energy conservation efforts.

State and local governments have demonstrated that they can make an extraordinary contribution to energy conservation, and it is crucial that the modest appropriation contained in this amendment be available to support their efforts.

The Consumer Energy Council of America urges you to affirm your commitment to the nation's energy independence by lending your support to the Ottinger amendment.

Sincerely,

ELLEN BERMAN,
Executive Director.●

IN DEFENSE OF ISRAEL

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 14, 1981

● Mr. PHILIP M. CRANE. Mr. Speaker, the recent raid of the Iraqi nuclear reactor by Israel has drawn serious criticism from many facets of our society and world opinion at large. Joel J. Sprayregen, a Chicago attorney and chairman of the Public Affairs Committee of the Jewish United Fund of Metropolitan Chicago responded to these criticisms in the Chicago Sun Times, Saturday, June 13, 1981. I commend it to the attention of my colleagues.

ISRAELI RAID ON IRAQ WAS IN SELF-DEFENSE

Israel has drawn much rebuke for demolishing an Iraqi reactor that evidence indicates was intended to produce nuclear weapons for use against the Jewish homeland.

But a significant number of respected and knowledgeable people have raised their voices in defense of Israel's move.

Joseph Sisco, former U.S. undersecretary of state for political affairs, said there is no doubt in his mind that the Iraqi reactor was a definite threat to Israel.

If there was a real question about the reason for building a nuclear reactor in Iraq, a nation that has so much oil it doesn't need nuclear power to produce electricity, the answer was given by the man who knows best: Iraq's president, Saddam Hussein.

He is generally considered by world leaders to be a bona fide kook, a bizarre personality who wants to establish Iraq as the leading Arab nation who will stop at nothing to achieve that goal. It was he who started Iraq's war with Iran. Nonetheless, one must believe the statement made last September in his official organ, Al Thawra, after Iranian forces tried to knock out the reactor. The Baghdad paper said then: "The Iranian people should not fear the Iraqi nuclear reactor, which is not intended to be used against Iran, but against the Zionist enemy."

The question Israel had to answer was: Could an irresponsible, avowed enemy who has been at war with Israel for 33 years be trusted not to use atomic weapons once they were available to him?

For Israel, a nation the size of Massachusetts with a population highly concentrated in urban centers, the answer was "no."

It becomes clear, then, that Israel acted justly in self-defense.

Among the many who agree are Sen. Alan Cranston (D-Calif.) and Rep. Philip M. Crane (R-Ill.) Cranston, who sits on the Senate Foreign Relations Committee, admonished the Reagan administration for criticizing Israel before trying harder "to understand Israeli motives." It is unfortunate that the administration has instead chosen to condemn Israel by suspending a promised shipment of F-16s.

In a column he wrote for the New York Times, Cranston reminds us that when this country faced a situation similar to that of Israel—we were prepared to follow the same path Israel has taken. The year was 1962; the adversary was a Soviet-backed Cuba then developing a nuclear-strike capability.

A courageous naval blockade, itself an act of war, forced the Soviet Union to back down and eliminated the need for this country to make a preemptive strike. Cranston wrote:

"If a large superpower, the United States, felt such a defensive strike to be a serious option in 1962, how can we condemn Israel today for making such a strike when its government felt that the entire Nation was imperiled?" And he reminds us that "small, vulnerable Israel could be destroyed by just three Hiroshima-type nuclear weapons."

Crane, in a statement in the Congressional Record, expressed "particular concern over assertions that Israel was not justified," and added: "I am somewhat distressed by the instant analysis and offhand verdicts rendered by many armchair critics around the country." He urged Americans to "consider the circumstances that confront Israel and reflect on what our decision may have been had we been faced with similar circumstances."

What is most unfortunate about Israel's attack is the very need for it. It is a need predicated upon steadfast Arab refusal to recognize the right of the Jewish people to a homeland and to peaceful existence in the Middle East. It also is a need predicated upon the willingness of Western nations to supply unstable countries, such as Iraq, with the technology to carry out their nuclear threats in return for guaranteed supplies of oil.

These are the essential issues. Until they are justly resolved, Israel must deal with the world as it is, rather than as it should be.●

BILL GREEN AND THE BUDGET RECONCILIATION BILL

HON. BILL GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 14, 1981

● Mr. GREEN. Mr. Speaker, in the last several days there have been many accounts in the media regarding the actions of Republican Members of the House from the Northeast and Midwest on the budget reconciliation bill. Because of confusion following some of those reports, I thought it would be useful if I would recount my activities and those of several others of my colleagues.

The first concurrent resolution on the budget, which we approved last May, not only set out broad spending goals in 19 general areas, it also provided specific instructions to 14 House committees to trim spending in the laws under their jurisdiction by almost $40 billion. This is known as the "reconciliation" part of the budget process because it is designed to reconcile actual law with the spending targets contained in the budget resolution.

NORTHEAST-MIDWEST REPUBLICANS PRESS FOR CHANGES

As work progressed in the various House committees on the reconciliation bill, several other Republicans from the Northeast and Midwest and I met and agreed upon issues of importance to us and our regions. We communicated these concerns to Minority Leader BOB MICHEL, who (in cooperation with Budget Director Dave Stockman and Budget Committee Member DEL LATTA) was in the process of fashioning a Republic amendment to the bill the committee would eventually produce.

Our letter explicitly indicated that we found a cap on Federal medicaid expenditures to be "unacceptable." Instead, we proposed five alternative medicaid reforms to save about $760 million. We also pressed for continued funding of low-income energy assistance, the Department of Energy weatherization program, and the Solar and Energy Conservation Bank. We listed further spending priorities for the National Endowments for the Arts and Humanities, special education, vocational education, guaranteed student loans and Pell grants, the Elementary and Secondary Education Act, youth training and employment, mass transit operating subsidies, and Conrail. Finally, we stated our opposition to the use of the reconciliation process to enact block grants.

NEGOTIATIONS ON REPUBLICAN AMENDMENT

Following delivery of that letter on June 10, the other cosigners and I met several times with Messrs. MICHEL, Stockman, and LATTA as well as officials from the White House and other Members of the House Republican leadership. The purpose of these meetings was to negotiate provisions of the Republican amendment (which would be offered to the committee bill) which would be favorable to the Northeast and Midwest. These negotiating sessions were several and continued into the afternoon of voting on the bill and its amendments.

MEDICAID CAP AND THE BROYHILL AMENDMENT

The medicaid issue is especially important to me and I drafted the medicaid portion of our June 10 letter. As I indicated the administration proposed to "cap" Federal expenditures and adjust them by only 5 percent in fiscal year 1982. My group was opposed to any cap and suggested instead several other reforms which were less arbitrary and more acceptable to States and to medicaid recipients.

The medicaid issue was to have been brought to the floor in the form of an amendment to be offered by Congressman BROYHILL, the ranking Republican on the committee which has jurisdiction over medicaid. His amendment would also have made several other changes in health and energy issues. In our negotiating sessions with Mr.

Stockman, Congressman BROYHILL and others, my group remained adamant in our opposition to a cap. The other side, however, continued to insist upon a cap. Given this impasse, I wanted to make sure that, if there was to be a cap, it be as favorable to New York as possible. Over the weeks that ensued, I was able to get Messrs. BROYHILL and Stockman to agree to a 6-percent adjustment (instead of the 5 percent originally proposed), which would have meant an additional $140 million nationally, and eventually they agreed to a 7½-percent adjustment. I was still opposed to the cap, but 7½ percent was better than 5 percent.

I continued to be very concerned about the Broyhill amendment, which was offered late on the final day of consideration of the bill. Several of my Republican colleagues and I had just finished meeting with Mr. BROYHILL and had indicated to him that we would vote against his amendment. Apparently, he did a final nose count on the floor, concluded that there were too many of us opposed, and withdrew his amendment. In my view, this was a major victory for New York City. The June 30, edition of the Washington Post carried an excellent article on this matter and I ask that it be inserted into the RECORD at this point.

[From the Washington Post, June 30, 1981]

AMID FRIDAY'S BUDGET PANDEMONIUM, ONE VICTORY DENIED REAGAN

(By Spencer Rich and Joanne Omang)

Democrats aided by a handful of northern Republicans opposed to cuts in Medicaid and a few lesser programs denied one victory to President Reagan in the pandemonium last Friday night just before the House approved his version of the budget.

In a strategy decision a few minutes before the final vote, GOP leaders withdrew a budget amendment that would have "capped" future Medicaid growth and installed the president's proposals on medical block grants, family planning, energy subsidies and regulation and all other programs in the jurisdiction of the House Energy and Commerce Committee.

As a result, language proposed by the Democrats led by Energy and Commerce Chairman John D. Dingell (D-Mich.), remained in the budget bill. The administration Medicaid cap was not included, and family planning and a large number of other health programs were kept in separate "categorical" programs rather than being submerged in block grants, as the president sought. Some solar conservation programs were kept alive, as were the Public Utilities Regulatory Policy Act and a number of federally funded state energy conservation programs. The Dingell language on these programs, instead of the Reagan language, will now go to conference with the Senate, which on most issues did as the president asked.

The time was just after 6:30 p.m. Friday and the text of an amendment by James T. Broyhill (R-N.C.) putting the administration language into the bill in place of Dingell's had just been read.

Suddenly Broyhill took the floor and, to the astonishment of many members, asked that his amendment be withdrawn. And he promised it would not be reoffered in any form by the Republicans that night.

He said that he was doing it because the hour was late, but actually, according to House GOP aides, the decision to drop the amendment came after GOP leaders and administration nosecounters had huddled and decided it would be too risky to offer.

Reps. Bill Green (R-N.Y.). Claudine Schneider (R-R.I.) and several others had put together a loose coalition of an estimated 10 to 20 northeastern and midwestern Republicans unhappy with the proposal to limit Medicaid growth to 5 percent next year and other parts of the administration's health, energy and commerce proposals.

"The Medicaid cap would have meant very extensive cuts for the states involved," said Green in a telephone interview from his New York office yesterday. "We negotiated it up to 7½ percent" with administration representatives, but Green said the group was still unhappy with the Medicaid situation or other commerce, energy and health proposals and most would have voted against Broyhill.

Moreover, Dingell several weeks before had corralled several southern Democrats by including in his package a provision allowing natural gas-burning utilities to keep using natural gas after 1990 instead of converting to coal. Republicans later offered a similar provision but Dingell had already nailed down the commitments.

GOP aides said the prospect of these defections made it "unclear whether we had the votes" to pass the Broyhill language. An acrimonious debate followed by a loss on the amendment could have derailed the president's victory express and possibly even endangered final approval of the entire bill, so GOP leaders decided to drop the amendment and go straight to the final vote.

Republican and Democratic sources alike said the hottest lobbying came on Medicaid, on which a number of governors as well as hospital groups exerted pressure on delegations.

According to Dingell, both his version and Broyhill's would have cut about $5.9 billion in fiscal 1982 budget authority from health, energy and commerce programs.

The Dingell amendment proposed to cut Medicaid 3 percent in fiscal 1982, 2 percent in fiscal 1983 and 1 percent in 1984 from the amounts it was estimated states would otherwise get under present federal-state reimbursement formulas. This would mean a loss to the states of $1.1 billion over the next three years.

The president, by contrast, had proposed to cap federal Medicaid outlays at $16.4 billion in fiscal 1981, and limit the increase in this amount in 1982 to 5 percent (later 7½ percent) and by the inflation rate thereafter. It would have cost the states considerably more in this program, which is the second-largest national health program and largest welfare program.

Both Dingell and Broyhill would retain the existing child immunization and venereal disease control programs as separate categorical programs with cuts.

However, the Broyhill proposal would have united 24 other health programs into three block grants: maternal and child health, health services and preventive health, with the states given wide latitude to spend the money as they wish.

Dingell also proposed a maternal and child health block and a preventive health block, plus a separate alcohol and drug abuse block, but Republicans said too many federal strings were still attached to these blocks and they were really categoricals "disguised" as block grants to the states.

Moreover, Dingell's three blocks cover only 15 programs, and Dingell would continue a long list of other programs as categoricals, such as family planning, which is a particularly emotional issue for liberals and conservatives, mental health, and migrant health programs. Moveover, Broyhill would have killed health planning agencies, which seek to control hospital expansion; Dingell only cuts their money.

Broyhill would have converted the Consumer Product Safety Commission into a bureau in the Commerce Department, with its budget cut 25 percent and its legislative proposals subject to veto by the Office of Management and Budget; Dingell keeps it independent with slightly more money.

BLOCK GRANTS

As I indicated in describing our June 10 letter, I was also opposed to using the reconciliation process to achieve the block grants the President had requested. If we were to have block grants—and I not necessarily opposed to them—I thought we should have taken our time, gone through the normal committee and hearing process, and brought them to the floor in bills of their own.

One of the final actions on the reconciliation bill came when Congressman JONES, the chairman of the Budget Committee, wanted to offer a motion to delete the block-grant portions of the bill. I voted to allow him to make that motion and was the only Republican Member of the House to do so. We were unsuccessful, however, and, consequently, the motion to take out the block grants was not made in order.

RULES COMMITTEE ACTION

As my colleagues know, the rule is written by the Rules Committee and governs the manner in which a bill will be considered on the floor and spells out which amendments, if any, may be offered.

The Rules Committee met June 24. The Republican leadership had, by this time, fashioned all but the final details of its amendment, and sought to offer it in its entirety with only a single vote on whether or not the amendment should be adopted. This was a huge amendment affecting literally hundreds of programs. It cut funding for some programs and increased funding for others.

The Rules Committee consists of 11 Democrats and 5 Republicans, and on strict party-line votes it approve a rule which would have made 6 amendments in order. Had the Rules Committee taken the entire Republican package and simply divided it into six parts, I would have had no objection. I saw nothing wrong in asking the Members of the House to vote on the details of the Republican amendment—as opposed to a single vote on the whole package.

However, that is not what the Rules Committee proposed. Instead, it would have permitted only amendments cutting programs to be offered, none adding funding as the Republicans had fashioned their package. And, in the case of medicaid, the Rules Committee would have allowed only an amendment including a 5-percent adjustment, not the 7½ percent I had been able to negotiate. Clearly, the rule proposed by the committee was unfair, and it was obviously designed out of political consideration to make the Republican alternative as unattractive to the House membership as possible. It was an attempt to dictate to the Republicans what amendments they could offer. As I said before, I would not have objected to dividing the Republican package and having separate votes on its components, but that is not what the Rules Committee rule would have done. At that time, it was unclear how much support there was in the House for a medicaid cap and I was upset that the House might adopt the cap with only a 5-percent adjustment instead of the 7½ percent to which I had been able to get Mr. BROYHILL to agree.

Adoption of the rule came before the House the next day (the 25th) and I voted to allow an amendment to the rule. I think the Democratic leadership made a considerable error in putting together such an unfair rule, because a majority of my colleagues agreed with me and approved an amendment to the rule which basically discarded what had been proposed by the Rules Committee and, instead, made in order the Republican package (which was to be offered by Mr. LATTA) and an amendment by Mr. BROYHILL (which had at one time been part of the Republican package, but which he decided to separate and offer on its own). I was pleased with this decision to offer the Broyhill part of the package separately because I thought it contained the most objectionable features to New York, and, as I said, we helped in persuading Mr. BROYHILL to withdraw his amendment.

THE LATTA AMENDMENT

The bill produced by the various House committees and assembled by the House Budget Committee made major revisions in hundreds of Government programs and would have cut spending by $35.1 billion in fiscal year 1982. Obviously, such cuts would have an impact on all areas of the country.

On the 26th the Latta amendment was offered to this bill. Contrary to how some press accounts described it, it was not a total substitute for the bill. It amended only certain parts of the committee bill and left intact those portions on which it was silent. From my perspective, there was good and bad in the committee bill and good and bad in the Latta amendment. For example, one major defect of the committee bill was that it contained a 3-month postponement in the cost-of-living increase for social security recipients. This was a one-shot budget gimmick at the expense of the elderly and disabled. The committee bill also failed to put any income limit on guaranteed student loans.

High-income families fully able to pay college tuition should not receive subsidized loans from the Federal Government that are often reinvested in higher yield bank deposits. Finally, the committee bill provided an unrealistic approach to spiraling food stamp costs by simply setting an artificially low authorization for this program. Congress had done this in each of the past 2 years and it has not worked. When funds ran out in mid-year, Congress had to vote more money rather than let families go without food stamps for several months, so the "savings" never occurred. On balance, I did not think that the additional changes the Latta amendment would make to the committee bill would be detrimental to New York. I did, on the other hand, think that they would help to reduce the deficit, lower interest rates, and help turn our economy around. Consequently, the amendment won my support and that of a majority of my colleagues.

GAINS FOR THE NORTHEAST AND MIDWEST

The bill as amended passed the House June 26 by a vote of 232 to 193. Differences between the House bill and the Senate version are now being resolved. A comparison of my group's June 10 letter and what finally passed the House would show that we from the Northeast and Midwest were totally successful on some issues, partially successful on others, and unsuccessful on a few. This was to have been expected from the outset. Seldom is one able to achieve complete victory on legislation of this magnitude and complexity.

We were totally successful, for example, in receiving the assurance we sought regarding mass transit funding for 1982—the Republican amendment contained no reduction, as it might have—and Conrail funding. We were partially successful on the arts—the amendment cut some funding, but not the 50 percent proposed by the administration—and on the Solar Bank—we were able to retain authorization and funding for the bank, over the opposition of the administration, although not at as high a level as we would have preferred. Finally, of course, I have already given considerable attention to the significant victory we won in opposing the medicaid cap.

This summarizes my actions and those of several of my Republican colleagues on the reconciliation bill. I might add in closing that we are continuing to meet and exert influence regarding the conference report so that the final version of the bill will be as fair and reasonable for our sections of the country as possible.●

SUBSIDIZED ENERGY FINANCING LIMITATIONS

HON. LES AuCOIN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 14, 1981

● Mr. AuCOIN. Mr. Speaker, Mr. HEFTEL and I are introducing legislation today to correct a problem that has hindered State and local efforts to encourage conservation and renewable energy use.

Our bill would amend the Internal Revenue Code so that taxpayers who receive certain types of low-interest energy loans from State or local agencies, will be able to claim Federal energy tax credits in addition. A companion bill has been introduced in the Senate by my distinguished colleague from Oregon, Mr. PACKWOOD.

Under present law, taxpayers are ineligible for Federal residential energy tax credits if they receive subsidized financing through a State or local agency. Businesses face a reduction in their investment tax credits if they receive State or local subsidized financing.

At least 15 States—including my own State of Oregon—offer low-interest loans for conservation and renewable energy improvements. But many people are discouraged from participating in such loan programs when they learn they must sacrifice their Federal tax credits.

This double-dipping penalty has been a major stumbling block for State programs—programs that are badly needed because they provide capital to people who might not otherwise be able to afford energy-saving improvements.

Interestingly, a person who receives a low-interest energy loan from his utility company is not considered to be double dipping, and is free to claim a Federal tax credit of up to 40 percent. Our bill would simply extend the same treatment to participants in State and local loan programs.

This bill is not a giveaway. It would not allow anyone to take a Federal tax credit on top of a subsidized loan from a Federal agency. Nor would it make tax credits available to persons who receive energy grants. It would only affect those who receive loans from a State or local agency.

Most of all, it would send a strong message of support to State and local governments that have taken the initiative to promote conservation and renewable energy development—and it would encourage other States and localities to follow their example.

The text of the bill follows:

H.R.——

A bill to amend the Internal Revenue Code of 1954 to limit the application of the subsidized energy financing limitations on certain tax credits to Federal subsidies, and for other purposes

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

SECTION 1. SUBSIDIZED ENERGY FINANCING LIMITED TO FEDERAL FINANCING

(a) TAX CREDITS.—

(1) IN GENERAL.—Subparagraph (C) of section 44C(c)(10) of the Internal Revenue Code of 1954 (defining subsidized energy financing for purposes of the residential energy credit) and subparagraph (C) of section 48(l)(11) of such Code (defining subsidized energy financing for purposes of section 38 property) are each amended by striking out "Federal, State, or local," and inserting in lieu thereof "Federal".

(2) CONFORMING AMENDMENT.—Subsection (a) of section 6050D of such Code (relating to returns relating to energy grants and financing) is amended by striking out "a Federal, State, or local program a principal purpose of which is to provide subsidized financing or grants" and inserting in lieu thereof "a Federal program a principal purpose of which is to provide subsidized financing, or a Federal, State, or local program a principal purpose of which is to provide grants".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to subsidized energy financing made after December 31, 1980.

SEC. 2. PROPERTY FINANCED BY INDUSTRIAL DEVELOPMENT BONDS

(a) IN GENERAL.—So much of paragraph (11) of section 48 (1) of the Internal Revenue Code of 1954 (relating to special rules for property financed by subsidized energy financing or industrial development bonds) as precedes subparagraph (B) thereof is amended to read as follows:

"(11) Special rule for property financed by subsidized energy financing.—

"(A) Reduction of qualifed investment.—For purposes of applying the energy percentage to any property, if such property is financed in whole or in part by subsidized energy financing, the amount taken into account as qualified investment shall not exceed the amount which (but for this subparagraph) would be the qualified investment multiplied by the fraction determined under subpargraph (B)."

(b) CONFORMING AMENDMENT.—Subparagraph (B) of section 48(1)(11) of such Code is amended by striking out "or proceeds" in clause (i) thereof.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after December 31, 1980.●

A.T. & T. DEBATE: SLEEPER ISSUE THAT AFFECTS ALMOST EVERYONE

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 14, 1981

● Mr. MARKEY. Mr. Speaker, I would like to call to the attention of my colleagues the excellent article, authored by Margot Hornblower of the Washington Post, on how to deal with the biggest company in the world—A.T. & T. As you may know, the Telecommunications, Consumer Protection, and Finance Subcommittee is in the midst of building a record on the status of competition in the telecommunications industry. The issues before the Telecommunications Subcommittee are complex and of critical importance. Ms. Hornblower's article clearly pinpoints and defines these issues. I urge my colleagues to read the following article which is to date the most fair portrayal of this controversial and most far-reaching issue that the Congress may take up.

A.T. & T. DEBATE: SLEEPER ISSUE THAT AFFECTS ALMOST EVERYONE

(By Margot Hornblower)

In the spring of 1976, an obscure bill innocuously named "The Consumer Communications Reform Act" was introduced in the Congress and quickly attracted the sponsorship of 192 senators and representatives. The legislation, unobtrusively drafted and promoted by the American Telephone & Telegraph Co., would have guaranteed AT&T's historic monopoly over the telephone business, just as that lucrative industry was opening up to competition.

Although the bill eventually died—competitors labeled it a brazen power grab—it startled a somnolent Congress into taking a look at the mysterious world of high-technology communications. Today, five years, hundreds of hearings and a thousand witnesses later, Congress finds itself mired in the most complex regulatory reform effort in history.

Rewriting basic laws governing the overlapping industries of telephones, television, newspapers, computers, satellites and electronic is a heady business. It involves asserting congressional power over a huge sector of the economy, a $300 billion market; and it entails a massive restructuring of AT&T, the largest company on earth with 1 million employees, 3.5 million stockholders and 72 million customers.

Communications law has remained essentially unchanged since the 1934 Communications Act, written to regulate communications systems that seem almost primitive today. The "Bell Bill" of 1976 awakened Congress to the implications of the new technology, which until then it had left to the governance mainly of the courts and the Federal Communications Commission, an independent regulatory agency.

Flushed with its success in deregulating trucking, railroads and airlines, Congress has turned to a far more difficult task: deciding how to let a mammoth company—which dominates a market far more than any railroad, airline or trucking company—expand beyond simple phone service into computers, data processing and even electronic Yellow Pages in a controversial effort to become the nation's total communications network.

At stake is nothing less than "the control of information in a democratic society," says Timothy E. Wirth (D-Colo.), chairman of the House telecommunications subcommittee. "In the economy of the 1980s, more than half of our gross national product is based on the development, storage, transfer and use of information."

David K. Aylward, the subcommittee's chief counsel, says, "We're talking about billions and billions of dollars and the future of the American economy."

Explosive political pressures are mounting around the issues. President Reagan's closest advisers are urging him to drop the government's seven-year-old suit against AT&T, the biggest antitrust case in history.

The Defense Department, which depends on AT&T for military communications, is championing the company's cause in the name of national security.

And, at a time when the Japanese and Europeans are energetically trying to surpass the United States in telecommunications, industry says the legislation will affect America's global economic power for decades.

Paving the way for its lobbying campaign, AT&T's 23 political action committees gave $622,252 to candidates during the last election—more than twice as much as the PACs of any other corporation in America.

The Communication Workers of America, the union that covers AT&T employees, supports the company's legislative position and gave another $449,720.

Sen. Barry Goldwater (R-Ariz.) recently said that in 30 years in Congress he had never seen such "outlandish efforts" from all sides to influence legislation.

Despite the grandiose scope, for the public, telecommunications is still a sleeper issue, much like energy in the 1960s. "Everyone who has a telephone, a television set or a radio is affected," says Sen. Harrison H. Schmitt (R-N.M.), a cosponsor of Senate legislation. "But so far the user is a passive bystander."

W. J. (Billy) Tauzin (D-La.) shook his head wearily after a recent hearing entitled "Status of Competition and Deregulation: Defining Markets." "Our constituents don't understand this stuff, so there's no political capital in it. They get mad if you spend time looking into long-range issues that you could be spending on their immediate problems."

Probably few more than a dozen members of Congress understand the complexities of the legislation. Mention the words "telecommunications," "semiconductor," "cross-subsidization," "fiber optics" or "interconnection," and most politicians' eyes glaze over.

Even one of the most knowledgeable, Rep. Al Swift (D-Wash.), a former broadcaster, walked into a discussion recently on AT&T's "installed base migration strategy" (how much the company can charge for obsolescent equipment) and declared, "I don't know if I've been eating magic mushrooms or wandering around Alice's Wonderland, but the more I learn about this field the bigger it gets. I'm always losing ground. I think I'm going to cry."

A major Senate bill, introduced in April by Robert Packwood (R-Ore.), would allow AT&T to move into the lucrative fields of computers and data processing, which it had foresworn in a 1956 settlement of a government antitrust suit. The bill also would deregulate key portions of the telephone industry, including the manufacturing and supply of equipment and certain long-distance services.

AT&T's competitors, which range from tiny telephone equipment firms to highly specialized electronics outfits to ITT and Exxon, contend that unshackling a giant, regulated monopoly to compete in the free market will touch off corporate star wars in which small and large companies alike would be destroyed.

The consequent stifling of competition, they say, would hurt the consumer by inhibiting innovative research and raising prices.

The latest in-joke among the communications crowd at conventions and law firms is the appearance of T-shirts and bumper stickers with the slogan "Reach Out and Crush Someone," a take-off on Ma Bell's long-distance ad campaign, "Reach Out and Touch Someone."

Hardly a business in America will be unaffected by the outcome. Data communications, the information system whereby computers talk to each other through telephone wires, microwaves or satellites, is the central nervous system of the economy.

Farmers now call up weather and price information on home computers before planting crops. Doctors diagnose patients and do medical research through computers.

Bridge building and international banking, petroleum exploration and newspapers—all depend on electronic data processing. Without computers and communications to handle payroll and Social Security checks, guide missiles and submarines, track criminals and court cases, the government would virtually come to a halt.

Today the communications business is overwhelmingly dominated by AT&T, which controls about 90 percent of the market, although Comsat, ITT, MCI, IBM and others are trying to move in.

If AT&T can also make computers and market data software—the information packages that travel over its telephone wires—"it has Orwellian implications," Alan Pearce, a telecommunications economist, told the House subcommittee. "I don't think we can tolerate that kind of unchecked power in a democratic society."

At Boeing Computer Services in Fairfax, William Harris, the company's government relations man, shudders at the thought, Boeing leases large trunk lines from AT&T, which clients use to plug into Boeing's computers. The White House has used Boeing to computerize records of gifts from foreign dignitaries. Alitalia calls in from Rome to make calculations for airplane building.

"We're looking at a company—AT&T—which controls our entire business," Harris said. "The idea that Bell wants to compete scares you."

It is small comfort, he adds, that the legislation would require Bell to set up a separate subsidiary for competitive services. "Can you believe that any company won't control its subsidiary and show favoritism?"

The idea of an unregulated subsidiary to include data communications, telephone equipment and certain long-distance business—everything but basic phone service—has already been approved by the FCC, but is being fought ferociously in the courts.

Without waiting for Congress to act, AT&T already has begun to restructure itself, "Baby Bell," as it subsidiary has been dubbed, would take 100,000 employes and up to $15 billion in assets from the parent company.

Opponents fear, however, that Bell will use the enormous revenues from its regulated phone service, guaranteed by the ratepayers to Bell operating companies like C&P, to subsidize the new unregulated company.

Corporations such as MCI and Southern Pacific, which have survived ferocious competition with Bell in the long-distance and equipment markets thanks to the FCC, fear the new subsidiary will wipe them out by impeding their access to Bell's local phone networks.

The solution for many of these opponents is to break AT&T into smaller companies, which is what the Justice Department has been trying to do since 1974, alleging that Bell has followed a pattern of illegal monopolistic practices to stifle competition and force other companies out of business.

But divestiture is viewed as draconian in Congress, and the Justice attorneys' contention that the legislation would undermine its antitrust case has fallen on deaf ears in the White House, which supports the bill.

Newspaper companies, including the Washington Post, are also opposed to the bill that would set up a second subsidiary to allow AT&T to offer its Yellow Pages over home computers.

Newspapers are just getting into the electronic business. Post and New York Times stories, for instance, are offered on Compuserve, an Ohio data bank that links home computers across the country by telephone. If Bell can offer a constantly updated Yellow Pages, amounting to an electronic ad section, over its own lines, would newspapers, offering their own ads electronically, be able to compete with the owner of the network they use? Would Bell eventually want to add stock tables, sports scores, movie listings and even news?

AT&T officials say they have no interest in supplanting newspapers, and that it would be unfair to confine their Yellow Pages, a $2.3 billion a year business, to the print medim if electronic information is the wave of the future.

Indeed, since 1976, when Bell's bill would have outlawed competition, the company has done an about-face, adopting an "if you can't beat 'em, join 'em" stance. Since it could not hold on to its regulated monopoly, AT&T now advocates a virtual free-for-all.

The bill's passage, AT&T Chairman Charles Brown told a recent Senate hearing, "would make it plain that Congress means what the bill says, namely that it's for competition—real competition—and not for a mishmash of protectionist clauses that seek to define who may compete and who may not."

The bill's sponsors, citing such advances as Bell Laboratories' invention of the transistor, contend it would be crazy to lock the company that has done some of the most brilliant electronics research in history out of the booming data communications market.

They argue that technology is moving so fast that it makes no sense for the law to draw artifical barriers between computers and the lines or microwaves that connect them. Touchtone phones use the same digital bits as computers to transmit the human voice. Long-distance switching takes place through computers. Computers are connected to each other by telephones that transmit data.

As for Bell's regulated arm feeding its unregulated subsidiary, Senator Schmitt says, "We're trying to ensure that it can't happen. I'm convinced we can do it. The FCC will have the power to oversee it."

Schmitt opposes spinning off the new subsidiary as a separate company, as opponents advocate. "Telecommunications is becoming the number one industry in the world. We can't do anything to prohibit its growth," he said.

Politically, deregulation fever has seized the Congress. "My gut feeling is I'm against government," said Texas Rep. James M. Collins, ranking Republican on the telecommunications subcommittee. "When you talk about government regulation, I'm against it. That's why I like the idea of Bell getting into" competitive fields.

Nonetheless, Collins said, he has begun to hear from Ross Perot and some of the smaller electronics firms in Texas. "They see that tank coming down the road and they say, 'You'll kill us off.' And the little guys are the ones who innovate."

The House held hearings on the issues last month, but is proceeding far more cautiously than the Senate. When Rep. Wirth submits the subcommittee bill in the fall, it is likely to have far stricter rules for the separation of Bell's new subsidiary and it may well outlaw the company's electronic Yellow Pages.

"We're not into deregulation for deregulation's sake," Wirth says. "We'll deregulate when the market is competitive. . . . It is nonsense to talk about a competitive market in long-distance when AT&T controls 90 percent of the business."

Meanwhile, Wirth acknowledges, "The politics are mammoth."

Members of Congress are acutely aware that Lionel Van Deerlin, former chairman of the House communications subcommittee, considered unbeatable in his district, was ousted in November after his opponent charged a few days before the election that Van Deerlin's support of communications legislation would raise residential phone bills. Although no one has proven that the phone company was behind the ploy, it demonstrated the potency of the issue.

"Everybody I talk to on the Hill is afraid of AT&T," said Jack Biddle, head of the computer and communications industry association that represents 70 firms with $4 billion worth of business. "AT&T tells them, 'If you move one hair on our head, this whole complex thing will come completely unglued and you won't be able to call your mother on the phone.'"

Virtually every congressman is in tough with the head of the telephone company in his district. Bell is known as a good corporate citizen that contributes to the Boy Scouts and United Way. "It's motherhood, apple pie and the Bell system," John Guttenberg, a consultant for the North American Telephone Association, a Bell opponent, says with some disgust.

Bell's message is that bigger is better. Its well-financed ad campaigns with the slogans "the system is the solution" and "the knowledge business" reinforce its argument that when you're competing against Japan, Inc., the French government and other nationally owned communications systems, "it's not a mom-and-pop deal," as AT&T lobbyist Mickey McGuire puts it.

Many computer companies, including IBM, have failed to join in the crusade against AT&T. "Bell spends $15 billion a year on outside equipment," Biddle said. "Many companies don't want to be put in their opposition. You don't bite the hand that feeds you—even if it is about to choke you."

Nonetheless the fact that in five years the committees have been unable to get a bill to the floor of the House or Senate is evidence of how fierce the opposition is. In both chambers, the Judiciary committees, citing antitrust concerns, have tried to claim jurisdiction from the Commerce committees.

This year, for the first time, General Telephone and Electric Co., the nation's No. 2 phone company, has come out against AT&T, as has the International Communications Association, a group of 430 companies who buy more than $1 million a year in communcation services. ICA members Westinghouse and Montgomery Ward have spoken out against the bill. If others, from Sears to General Motors, become active, AT&T may meet its match.

Last year, the cable television industry and the newspaper industry, whose clout among mediaconscious congressmen rivals that of AT&T, both won amendments in the House bill to prevent AT&T from entering the cable business or the electronic Yellow Pages.

Even the tiny burglar alarm industry, which uses electric alarm systems traveling through telephone lines, pushed through a clause to keep Bell out of its business.

Nonetheless, all sides seem to agree now that no bill will pass without AT&T's endorsement. "Bell doesn't browbeat, but it has enormous resources to persuade," says Rep. Swift.

"I'm trying not to be stampeded. Bell hits me once, then I get hit by 18 competitors. "There's an incredible amount of paranoia. Everybody's terrified because there's so much at stake. It looks to me like what's developing is Bell against the world—the world may lose."●

REAGANOMICS

HON. EDWIN B. FORSYTHE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 14, 1981

● Mr. FORSYTHE. Mr. Speaker, with the approval of Gramm-Latta II, President Reagan's economic plan seems to be well on its way to becoming a reality. While our country continues to fight spiraling interest rates and inflation, the importance of a new approach for solving these problems is intensified. Of course, we hear much talk about this new economics, and can only expect both ardent supporters and vocal opposition to its various components. The proposed income tax cuts are one component which bring out many different opinions.

It is certainly not enough simply to support the income tax cuts for which President Reagan has asked. Many people take a negative stand on an issue without really having an understanding of the issue and what one is trying to accomplish. These same people can be convinced of the benefits of that action if one only takes the time to carefully explain it to them. In light of the importance of a public awareness of the income tax cuts and the rationale behind them, I am pleased to bring to the attention of my colleagues in the House an article by David M. Smick which appeared in the Wall Street Journal on Wednesday, July 8, 1981, entitled "What Reaganomics Is All About." I believe that Mr. Smick pinpoints the thrust of the President's economic philosophy, and brings into focus exactly how the tax cuts will help us toward economic recovery. The article follows:

WHAT REAGANOMICS IS ALL ABOUT

In the late 1930s, Chester Carlson had a revolutionary idea—an electrostatic printing process—which he tried to sell to the top mimeograph companies in America. Turned away time and again, he finally converted his kitchen into a workshop and went into business for himself. There was risk and a shortage of capital, but the tiny enterprise survived and prospered.

Today, we know it as Xerox.

Were Mr. Carlson alive, he probably would ask, "What ever became of those smug mimeograph companies?" The answer is that they fell victim to what Joseph Schumpeter, the economic theorist, called "the creative destruction of capital"—the process by which a new idea enters the marketplace, making existing capital worthless.

What sounds like some arcane concept is the heart of Reaganomics. It explains the President's understanding of how growth is produced in the private sector, and why he believes, against a multitude of critics, that his across-the-board tax cuts for people will lead directly to new jobs.

To give the President credit, most policymakers have in recent years understood the process of job creation about as well as John McEnroe has mastered the art of diplomacy. Mention "jobs" and the picture is of giants of industry like Chrysler and U.S. Steel either protecting existing jobs or expanding plant and equipment to create new ones.

Actually, the Fortune 500 have experienced virtually no net job growth for more than a decade. The newest research shows instead that nearly all new jobs are coming from firms with precisely the opposite characteristics.

They are not only small, but minuscule. Nearly 70% of new jobs come from firms with 20 or fewer employes. Almost 100% of net new jobs in the Northeast come from such firms.

They are young. Most new jobs come from firms four years old or less.

They are unpredictable and unstable. The more stable a firm is, the less likely it is to produce new jobs.

FAIL NATIONALLY AT SAME RATE

Many of these fledgling enterprises will go out of business (four out of five do so within the first year) with new ones springing up to take their place. Frostbelt or Sunbelt, such businesses fail nationally in metropolitan areas at roughly the same rate—8% a year. Booming Houston, according to David Birch of MIT, proportionally has more business failures today than the old cities of Boston, Baltimore, Hartford—indeed more than almost every other city in the U.S.

What these facts and statistics create is a perfect object lesson. Houston's success stems not from a strong defense, but a strong offense. Entrepreneurs with new ideas are creating jobs at a pace far exceeding the rate jobs are lost, providing Houston a tremendous engine for prosperity.

The secret to maintaining high levels of national employment is hardly import quotas or Chrysler-like bailouts or even tax proposals aimed merely at modernizing existing plant and equipment.

The secret is creativity—encouraging a groundswell of men and women with fresh ideas to strike out on their own. The secret lies in the enterprises yet unborn, the oil wells yet undrilled, the inventions yet untried. Some of these fledgling entrepreneurs will fail, but others—like Chester Carlson—will replace today's capital and products with new and better ones, to the benefit of all of us.

The irony is that city planners, government growth economists and even successful corporate executives usually find this thinking unrealistic. The reason may be that productive change is not in their own vested interest. But it also may result from the great frustration that in this age of sophisticated econometric models and corporate "five-year plans," enterprise and job growth is just as unpredictable as it was decades ago. It still involves the dynamic process of two competing forces: success and failure. And perhaps most frustrating, it continues to depend directly on the creative implementation of new ideas by folks who, in the eyes of corporate America and the federal government, appear unpolished and relatively inexperienced.

If you have met a true entrepreneur even once, you know they tend to be nothing but crazy. Like Chester Carison, they appear illogical dreamers, even though many have that inner genius for success. As a sophisticated business or government executive would you, or could you, take the risk of investing in such unpredictable characters knowing that many will end up as miserable failures? Perhaps this is why large institutions have not provided many permanent new jobs.

While entrepreneurs may be crazy, they are crazy like a fox. Most expect to lose money in the early years; still they make a careful calculation of current risk against future reward. They are society's dreamers and will endure incredible risk far more than established business with promise of great future reward.

In a sense, every individual is a potential entrepreneur. By that I mean that we have near limitless sources of both human and financial capital professionals in high tax brackets working only three days a week, mid-level industry technicians teeming with new ideas but apprehensive of the risks of individual enterprise, and many others.

Notice this is not just capital formation, but capital mobilization. Capital is more than money. It is also productive ability and thus exists in the minds, hands and hearts of people. The question is, how do you encourage these potential new wealth and job creators to invest their talent and savings in a new enterprise instead of in real estate, elaborate tax shelters, money market funds or in doing nothing at all? What they need is a climate of economic buoyancy, so necessary to individual initiative, and a system that capitalizes on human nature by strengthening the link between effort and reward.

House Speaker Tip O'Neill calls this "the whims of free enterprise." With all due respect, it is precisely such entrepreneurial risk-takers, now lining Route 128 outside Boston with small "hi-tech" firms, who are shouldering his city's job and tax base. If he simply visited these enterprises, the Speaker would discover that entrepreneurial success in America is taxed and harassed more than in just about any other free industrialized country. By the sheer force of logic, he would immediately help lower or eliminate the capital gains tax, lower the corporate rate, eliminate senseless overregulation and, most importantly, lower marginal tax rates on personal income across the board.

POTENTIAL ENTREPRENEURS

After all, 90% of American businesses still pay taxes through the personal schedules. These include proprietorships, partnerships and all the other noncorporate entities engaging in enterprise. Just as vital are potential entrepreneurs who, before entering a risk situation by pulling savings out of tax shelters, look instinctively to their personal tax bracket, which inflation has pushed higher and higher in recent years.

This is why President Reagan calls his across-the-board personal tax-rate reduction plan a "small-enterprise incentive" and why he favors the proposed end to the distinction between "earned" and "unearned" income (establishing a top tax rate on personal income of 50% now, with the goal of 35% as soon as is politically possible). Both increase the after-tax reward for greater entrepreneurial risk, for the direct creation of jobs.

Congress, with a false sense of sophistication, has always preferred more complicated solutions to the creation of jobs—the targeted gimmicks with built-in "triggers" that have failed for so many years. Yet the birth of an enterprise has an elusive, almost metaphysical quality that makes targeting, planning, certainty and "sophistication" most difficult. Something as common and essential as the ballpoint pen was conceived by, of all people, an insurance executive on his summer vacation. The arrival of the automatic transmission had little if anything to do with the multi-million-dollar engineering departments of Detroit's Big Three.

Growth involves ideas and thus is unpredictable. All we can provide is buoyancy—that sense of economic boundlessness where a person can, with energy and initiative, take a new idea as far and as high as he or she wants. If we can keep that initiative from being stifled, as it is today by an inefficient tax and regulatory system, people may once again follow their dreams. Allow entrepreneurs and potential entrepreneurs across-the-board worthwhile returns on their effort and they will start taking risks. Our entire economy will gain in production and jobs, and the nation will regain the energy and opportunity and spirit upon which its greatness depends.●

WHY REAGANOMICS WILL NOT WORK?

HON. DONALD J. PEASE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 14, 1981

● Mr. PEASE. Mr. Speaker, the Wall Street Journal of today, July 14, carries an interesting article concerning John Rutledge, head of Claremont Economics Institute at Claremont College. Mr. Rutledge's apparent enthusiasm for the Reagan supply-side economics seems to have cooled, according to the article.

Starting off with describing the administration as "hardheaded" (and it does not appear to be a compliment), Mr. Rutledge comes close to ridiculing the supply-side notion that cuts in marginal tax rates will induce people to work harder. "Do you know what effect that has in our model?" he asked the Wall Street Journal writer. "About zero."

Going on to thoroughly punch large holes in supply-side economics and Reaganomics in particular, Mr. Rutledge uses his economic background and knowledge of the administration plan to essentially verify all of the criticisms that Keynesians (bite my tongue) have leveled at supply-side economics for years.

Rather than spoil the impact by paraphrasing him further, I urge my colleagues to read all of this short article. Titled "Where Are the Administration's Marketing Men?" and written by Lindley H. Clark, Jr., it might better be described as "A Supply-sider's True Confessions, or Why Reaganomics Won't Work." The article follows:

[From the Wall Street Journal, July 14, 1981]

WHERE ARE THE ADMINISTRATION'S MARKETING MEN?

(By Lindley H. Clark, Jr.)

A year ago Claremont Economics Institute was a small and little-known consulting firm based in a college town east of Los Angeles. The town is accessible via occasional flights to Ontario (the California town, not the Canadian province). Today the Claremont Economics Institute is still a small consulting firm, but there is a difference: Two of its clients are the Office of Management and Budget and the Treasury.

So when John Rutledge, the 32-year-old head of the institute, meets with his commercial clients—as he did recently in New York—he engages in a careful balancing act. It does him no harm at all to have such well-placed clients in Washington. On the other hand, his commercial customers can watch David Stockman and Donald Regan on television. Mr. Rutledge has to offer the customers something a little different to justify his fees.

He does. One reason the Claremont group lined up the Reagan administration business was that its model was one of the few around that took account of "supply-side" economics. In its more extreme form supply-side economics claims that tax cuts and tight money will generate increased savings, investment and production.

The Claremont model predicts that the consumer price index will rise by less than 5 percent in 1983 and the inflation-adjusted gross national product will grow by more than 4 percent. This forecast has been labeled by some as Alice-in-Wonderland economics.

With Claremont clients, however, Mr. Rutledge sounds quite hardheaded. In fact, he argues that the Reagan program is a lot more hardheaded than many of its critics recognize. What the administration needs, he contends, is better marketing men.

To begin with, he stresses that there simply aren't a lot of supply-side extremists in Washington—at least, not in positions of power. The monetarists, among whom he counts himself, are in charge. He comes close to ridiculing the supply-side notion that cuts in marginal tax rates will induce people to work harder. "Do you know what effect that has in our model?" he asks. "About zero."

The Reagan tax cuts, which Mr. Rutledge enthusiastically supports, aren't really tax cuts at all, he tells his clients. The effect of the tax cuts will be largely offset by bracket creep, as inflation continues to push Americans into ever-higher tax brackets. The tax cuts will serve merely to keep a rein on taxes, not to cut them. A few good marketing men might have put that point across, he says.

Mr. Rutledge further notes that his estimate of the effect of the tax cuts is based on his prediction of a rapid drop in inflation. If inflation doesn't come down quite so fast, there will be even more bracket creep, tax revenues will rise even more and the proposed tax cut will be even less of a cut.

There's some question whether political marketing men could afford to be quite as frank as the Claremont economists would like. One Claremont analyst, for instance, says the Reagan tax cut in effect will be entirely offset for the poor by bracket creep and Social Security tax increases. There will, however, be some tax cut for wealthier Americans, which may mean some of them will save and invest more, and if you can look at the overall effect that will be good for the economy. Businesses also will get some tax cut.

Mr. Rutledge nonetheless wishes that the ideologues in government could do a better job of explaining what they're up to. "The secret weapon is Reagan himself," he says. "Put him on the tube for 20 minutes, give him a chart with one straight line on it and he'll sell anything to anybody."

The Claremont group sees no instant magic in the Reagan program. While their forecasts are described as optimistic, their near-term outlook for the economy actually is more pessimistic than most. They expect only slow growth in the real gross national product this year and next. Despite the fact that they don't expect the Reagan tax cuts to inflate the deficit, they contend that sharp cuts in federal spending are needed to make gains against inflation.

Mr. Rutledge, predictably enough, takes a dim view of the Carter administration's economic management. "They simply didn't know what they were doing." But he's still not sure about the Reagan administration.

He is sure that the administration has not sufficiently made the case against inflation. Tight monetary, and fiscal policy are needed not for supply-side miracles but for the old-fashioned purpose of getting inflation down.

We've got to get inflation down, he says, if we want more capital spending, more production and more productivity. "All that supply-side wonderful stuff," he says, hinges on inflation control.

The Reagan administration, he says, took office at a fortunate time. Raw materials prices were already coming down. An oil glut was holding down oil prices. None of this was due to Reagan policies, but the Reagan program could reap the benefits.

A major worry, in Mr. Rutledge's view, is monetary policy. He's concerned about Federal Reserve overkill. The Fed may make money too tight for too long. This could bring on a sharp drop in the economy and a sharp rise in unemployment, leading to a rise in political pressures for a wild swing in monetary policy toward ease.

Mr. Rutledge worries about the administration itself. Slow growth in the economy already seems likely to push unemployment above 8 percent of the labor force in the third quarter. Will the administration retain the will to resist pressure for offsetting actions? Who knows?

Whatever else it may be, that doesn't sound like Alice-in-Wonderland economics.●

THE NATIONAL SCIENCE FOUNDATION BUDGET

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 14, 1981

● Mr. CONYERS. Mr. Speaker, one of the casualties of action last month on the fiscal year 1982 reconciliation bill was the complete elimination of funds for the National Science Foundation. No doubt, most of my colleagues were unaware that the Gramm-Latta reconciliation amendments eliminated all funds for NSF. I am sure that most of my colleagues join me now in the expectation that the conference committee will reverse the incredible blunder that was made, and restore full funding to NSF.

The Biomedical Research Council of the University of Michigan, which includes a great many distinguished scientists and scholars, recently wrote me urging my support for the restoration of NSF funds. It is unthinkable that this Congress would take final action to cripple American scientific enterprise, which of course would be the consequence of allowing the House version of the reconciliation bill to stand.

I want to share with my colleagues at this point the letter from the Biomedical Research Council of the University of Michigan, which points out clearly the very considerable and very dangerous effects of the elimination of NSF funds. I urge their review of this communication. The letter follows:

THE UNIVERSITY OF MICHIGAN
MEDICAL SCHOOL,
Ann Arbor, Mich., July 10, 1981.

Hon. JOHN CONYERS, Jr.,
U.S. House of Representatives,
Washington, D.C.

DEAR MR. CONYERS: As a result of deep concerns expressed by all members of the Biomedical Research Council present at our meeting this morning, we are writing to you to urge you to approve a budget for the National Science Foundation at the level recommended by the House Science and Technology Committee. While the current trend clearly stresses the need to cut unnecessary expenses from the federal budget, the economic growth of this nation depends heavily on its accomplishments in research and development. NSF has played a vital role in promoting U.S. science and technology. At a time when our country's traditional position of leadership in a variety of technically-based industries is being challenged by foreign competition, it is especially important to provide for real growth in the country's investment in science and technology research and education. NSF has been very effective in promoting the overall health of U.S. science and technology in the past. It should be strongly supported in continuing this endeavor.

At the University of Michigan the NSF allocation for fiscal year 1979-1980 was $12,298,397 for research and $1,109,434 for non-research (which includes instructional support). The research dollars currently include support for about 100 faculty and staff on 32 major biomedical research projects. These projects are being directed by scientific investigators of national and international stature in the areas of research that are clearly at the forefront of science and technology. Gene regulation, to cite one area, not only promises to lead to the discovery of the cures to many ancient human diseases, it has recently lead to the birth of a new industry based on recombinant DNA technology which is expected to reach in excess of $3 billion by 1990 (Time, March 9, 1981, p. 51) or perhaps as high as $40 billion by the end of this century (Nature, March 12, 1981, p. 78). The current leading position of the U.S. in this new area is wholly attributable to basic research funded by the U.S. Government agencies in the past 20 years. Support of NSF is, therefore, an investment in the future economic health of our nation.

The members of the Biomedical Research Council trust that you will carefully consider the consequences of a reduction in the NSF budget and we have similar concerns about the budgets of the Department of Energy, the Environmental Protection Agency, and the National Oceanic and Atmospheric Administration. As scientific investigators, faculty members of the University, and advisors to the Dean of the University of Michigan Medical School (please see attachment), we believe that a significant reduction in the budget for NSF sponsored biomedical research would have long-lasting, harmful effects for this country as a whole.

Sincerely,

ETHEL N. JACKSON
(and 13 others).

Attachment (1).

THE BIOMEDICAL RESEARCH COUNCIL (BMRC)
OF THE UNIVERSITY OF MICHIGAN

The Biomedical Research Council (BMRC) of the University of Michigan encourages biomedical research and facilitates interdisciplinary research and training across the University. The BMRC members represent the Health Science Schools and Colleges: Dentistry, Engineering, LS&A, Medicine, Nursing, Pharmacy, and Public Health.

The BMRC has 12 members, who are appointed for 3-year terms by the Dean of the Medical School or the Vice President for Research. In addition, there are two consultants representing DRDA, and the Veterans Administration Hospital. The BMRC meets every Friday morning from 7:45 to 9:00 a.m., to discuss issues and make recommendations to the Medical School and University Administration on policies and practices to assist research investigators throughout the University. Council members would welcome hearing from you about your comments, questions, and problems in biomedical research. The 1980-81 members and their phone numbers are:

BMRC MEMBERS

James N. Cather, Ph.D., (Chairman), Prof. of Biological Sciences, LS&A.

Ethel N. Jackson, Ph.D., (Vice Chairman), Asst. Prof. of Micro./Immunol.

Bennett J. Cohen, D.V.M., Ph.D., Director of ULAM, Prof. of Lab. Animal Med.

Wayne K. Davis, Ph.D., Director, Off. of Educa. Resources and Research.

Walter Loesche, D.M.D., Ph.D., Prof. of Dentistry, Dental School.

John C. Marshall, M.D., Ph.D., Prof. of Internal Medicine.

John E. Niederhuber, M.D., Prof. of Surgery and Micro./Immunol.

William B. Pratt, M.D., Professor of Pharmacology.

Stanley A. Schwartz, M.D., Ph.D., Assoc. Prof. of Ped. and Micro./Immunol.

Joseph E. Sinsheimer, Ph.D., Prof. of Medicinal and Pharmaceutical Chem.

Peter E. Smouse, Ph.D., Assoc. Professor of Human Genetics.

William C. Stebbins, Ph.D., Prof. of Psychology in the Dept. of Otorhino.●

HANDGUN BODY COUNT

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 14, 1981

● Mr. LEHMAN. Mr. Speaker, once again the handgun body count has climbed higher. For the month of May there are 600 reported handgun deaths. Florida ranks fourth among the States; only California, Texas, and Illinois, report a greater number of tragic deaths caused by the use of handguns.

When a President, or a Pope, or any famous person is shot, there is a universal outcry, but we seem to pass over with little concern the deaths of 600 of our fellow Americans in 1 month. Among the handgun victims this month was the Rev. John Jackson of Tennessee who spoke out against handguns at the time of the assassination attempt on Pope John Paul II.

The past weeks have seen violent riots in the cities of England; however, no fatalities have resulted, because neither the rioters nor the police have handguns. Will the threats of riots here which we are hearing again open our eyes and ears to the need for stronger handgun control?

The list follows:

HANDGUN BODYCOUNT—MAY 1981

ALABAMA (5)

Julian Baker, Terry Cofield, James Rogers, Henry Wilhoite, Earl Wilkinson.

ALASKA (4)

James Felton, Juan Perez, Marlene Peters, Harold Trent.

ARIZONA (9)

Gilbert Avena, Barbara Brown, Francis Brown, Adolpho Franco, Jaime Freire, Thomas Millage, Pedro Vega (two unidentified males).

ARKANSAS (6)

Audna Bullock, George Clawson, Dr. Bennett Reaves, Johnny Ricks, John Schleuss, Clayton Tompkins II.

CALIFORNIA (94)

Dennis Andrews, Joseph Andrews, Henry Bagliazo, Walter Berkey, Everett Bowman, Mary Brown, Tommy Calloway, Eddie Casio, Maria Casio, Manuel Castro-Lopez, Mary Cole, William Crutcher.

Barbara Compton, James Conley, Richard Crake, Geneoffa Diekmann, Robert Dornan, Frances Douglas, Lillian Dunning, Marjorie Durkin, Francisco Farias, Phillip Freitas, Paul Ganelin, Sr., Detective G. Garrett.

Javier Gomez, Charles Gouge, Isias Gracia, Mrs. Isias Gracia, Robert Grady, Mary Gross, Carmen Gutierrez, Henry Gutierrez, Richard Halbush, Gary Harris,

Henry Hayes, Belynda Hicks, Robert Hirohata, Isra James.

Ernie Jang, Albert Jensen, Terry Jensen, Eddie Johnson, Irma Juarez, David Lewis, Bradley Linzie, Cesario Luna, Bicholas Mannion, Mark Martin, Darlene Mejia, Alfonso Millan.

Winston Moore, Ruben Nanez, Earl Nelson, Henry Nicol, Charles Nicholas, Richard O'Brien, Armando Perez, Vincent Petretti, Dewayne Porter, Curtis Price, Ben Quiroz, David Rivera.

Benito Rodriquez, Melissa Ryan, Primitivo Salazar, Heather Scaggs, Barry Schnittker, Raymond Simons, David Smith, Dwayne Spears, Matthew Stein, Lawrence Thomas, Joe Torre, Donald Wardrip (four unidentified females, sixteen unidentified males).

COLORADO (11)

Janet Castaneda, Calvin Castelberry, Bill Davis, Lorraine Escarzega, Stanley Hunter, Abel Lechuga, Sr., Josephine Lechuga, Harold Martinez, J. C. Tyus, Richard Voshell (unidentified male).

CONNECUTICUT (2)

Kenneth Bateman, Jr., Leonard Strawther.

DISTRICT OF COLUMBIA (7)

Donald Crosland, Mrs. T. Eggimann, Ingrid Marie Ellis, Donald McCrae, Annette Turner, Ellison Wray (unidentified male).

FLORIDA (54)

Felipe Alba, Mrs. Almeida, Joel Alvarez, Jewel Austin, Robert Barton, John Bella, Harold Blackman, Duane Borysik, Robert Boston, William Braddy, Jorge Carvalo, Peter Castellano, Pete Cordova.

Anna Duque, Oscar Duran, Leo Evans, Angel Fernandez, Ercy Forbes, Patricia Gardner, Earl Gates, Enrique Grant, Norman Hoeltzel, Charles Howard, Jr., Antonia Hernandez, John Jackson.

Yvonne Jennifer, Maurice Julien, Denise Keaton, Fredis Machado, Joan Martin, Lavina Mason, Octavio Mejia, Daniel Mendoza, Frederick Moore, Warren Moore, Virgil Nesbitt, Edith Nicholson.

Anita O'Neill, Benjamin Oshell, Robert Parent, Felton Phillips, Jorge Piloto, Wiley Pollock, Dagoberto Rodriquez, Eugene Senior, Keith Thomas, Nicholas Velasco, Lazaro Rivero, Daniel Sussman, Felile Vasquez, three unidentified males.

GEORGIA (10)

Dent Daniel, Patrick Daniels, John Garcia, Ivey Gardner, Walter Geer, Genus Graham, Danny Hansford, Freddie Johnson, Clarence Lovett, Kimberly Rhodes.

HAWAII (3)

Ernest Amona, James Daniels, unidentified male.

ILLINOIS (74)

Daryl Adams, Henry Alonso, Ricardo Banuelos, Grover Bedenfield, Caroline Black, C. J. Boston, Juan Bracamontes, Joseph Braccio, Johnny Brantley, Guy Bruno, Frank Bruns, James Calvin.

Jose Cintron, Robert Connely, Enrico Copenhaver, Cesar Davis, Victoria Del Valle, Leo Dowery, Richard Duncan, Charles Ellis, Jr., James Ellis, Fiore Forestiere, William Franklin, Merlyn Garland.

Fentress Glascow, Dennis Goins, Sr., Thomas Gonzales, Steve Guy, Mark Hall, Morita Hanson, Eddie Harris, James Hicks, Gary Hilliard, Jr., Milton Hills, Wilbert Hobbs, Willie Houskin.

Gumarco Ibarra, Petru Ivanius, Edward Jasper, John Jones, K. Johnson, Nolan Johnson, Virgil Johnson, Joseph Karijolic, Lex Leaks, Leonard Ivy, Lorenzo Lopez, Frederick Mangun.

Emil Moderhack, Douglas Oppelp, Clement Pacini, Nathan Pearl, James Peyton, Salvatore Pranzo, George Oliver, Roy Powell, Louis Reyes, Domingo Rodriquez, Michael Rodriquez, Gregory Rogers.

Scott Sanders, Jesus Santanna, Edward Spanitz, Ralph Spencer, Edmund Sutherland, Celestino Szmenez, Bernard Taylor, Janet Timmes, Felix Trejo, Roy Turner, George Vaughn, Juan Velasquez, Joseph Votava, Edward Woods.

INDIANA (11)

Charles Border, Thomas Collins, Jay Given, John Goshen, Sandra Goshen, Howard Lacy III, John Malone, Dereck Miller, Isaac Plump, Gerri Roberts, John Torrence.

KANSAS (5)

Richard Bemis, Larry Kirby, Michael McGrew, Jeannine Walton, Kenneth Walton.

KENTUCKY (6)

Robin Barnes, Ora Hash, Herman Matthews, Mae Matthews, Lucille Miller, Ernest Petty.

LOUISIANA (14)

Barbara Aguillard, Patrick Anderson, Kelvin Bridges, Annette Butler, Roger Clanton, Carroll Croucher, Melvin Hall, Samuel Jones, Joseph Margavio, Harold Monk, Cheryl Ricks, Scott Russell, Laura Shirley, Samuel Walker.

MAINE (1)

Armand Langlois.

MARYLAND (11)

Ingrid Ellis, Thomas Ferebee, Joseph Hudson, Steven Jones, Baby Joseph-Jones, Sharon Joseph, Carroll Kelley, Anthony Mathews, Larry Smith, Nathan Thomas, Vanessa Williams.

MASSACHUSETTS (2)

Kevin Geise, Anthony Muolo.

MICHIGAN (40)

George Alford, John Allman, Adel Berry, John Bryant, Marshall Burn, Timothy Childs, William Chudy, Minnie Daily, Lisa de Boris, Thomas Eichhorn, Jack Evans, Osie Gaddy.

Theodore Gist, Harry Graves, Paul Haddad, Frank Holman, Oliver Huwitte, Gwendolyn Jackson, Yusef Karrien, Diane Lewicki, Fred Lucus, Frank Magiera, Robert Matthews, Robert Mendoza.

Elizabeth Nance, Bennie Nelson, Adeline Norman, Johnny Randolph, Juan Reed, James Roberts, Janet Roberts, Victor Rodriquez, Raymond Solomon, Danny Stinson, Diane Super, Rodney Trent, Allen Valentine, Leon White, two unidentified males.

MINNESOTA (3)

Carolyn Andrew, Gregory Rice, Barbara Winn.

MISSISSIPPI (8)

Tommy Benson, Joel Carlisle, Ralph Carter, Jr., James Clark, Margaret Deen, Rolando Gonzalez, Donald Mooneyham, Ethel Webster.

MISSOURI (25)

Carl Caldwell, Esther Chappell, Robert Fields, Freddie Franklin, Harry Gangwes, Ronald Hall, William Harris, Arthur Hayes, Ryan Hill, Curtis Johnson, Robert Jordon, Vesta Martin.

Reginald McCoy, Gayle Meyer, Russell Rice, Edwin Schmidt, Verna Schmidt, Bernat Sutter, Jonathan Sykes, David Thomen, Mark Walker, Wanda Walker, Gary Welch, Larry Wilson, unidentified male.

NEBRASKA (2)

John Bollinger, Frankie Peck.

NEVADA (2)

Frank Thompson, unidentified male.

NEW JERSEY (5)

Herbert Bekoff, Stephen Donovan, Terry Weaver, David Yellin, unidentified male.

NEW MEXICO (2)

Joyce Payne, Stephen Ormonde.

NEW YORK (12)

Modesto Barra, Lt. Jan Brinkers, Reynolds George, Alphonse Indelicato, Guillermo Rodriquez, Edward Rogers, John Scarangella, unidentified female, four unidentified males.

NORTH CAROLINA (9)

Willian Brown, Ashley Deaver, Thomas Egan, Calvin Freeman, James Lindsey, Bob Mountford, Jr., Willie Potts, David Rankin, Carlos Woodard.

NORTH DAKOTA (1)

Dennis Zent.

OHIO (23)

Deborah Adams,. Robert Bourgeois, Roberta Carney, Clifford Cogar, Orville Cogar, Laura Cooper, Willa Davis, Raymond Duerr, Grady Evans, John Faist, Debbie Hale, Gregory Jacobs.

Freman Kleski, Andrew Peasley, James Rhinesmith, Michael Slattery, Ervin Wadsworth, Dorothy Wadsworth, Lori Wadsworth, Joanna Williams, Charles Wheeler, two unidentified males.

OKLAHOMA (9)

Robert Burton, William Cleveland, Jonnie Conn, Patty Hall, P. J. Gaynor, Larry Hardeman, Deborah Kinchion, Rodney Spradlin, Roger Wheeler.

OREGON (6)

John Cooper, Lori Cunningham, Robert Hamblin, Charles Roper, Walter Sprogis, Jr., Allen Wilcox.

PENNSYLVANIA (19)

Richard Angatola, Michael Belcher, Chelsais Bouras, Jeanette Curro, William Henderson, Lewis Hendricks, Leroy Jackson, Bertha King, Robert Major, James Mason, Perry Minich.

Bertha King, Clarence King, Joseph Murray, Harry Peetros, George Sager, Joseph Smith, Jr., James Stoutmire, Joe Weaver.

RHODE ISLAND (1)

Yvonne Willette.

SOUTH CAROLINA (4)

Emma Fleming, Dennis Iler, Wayne Taylor, Chester Williams.

TENNESSEE (11)

Phillip Buchanan, Lt. Clarence Cox, Akbar Dadkhah, William Darden, Hobert Greer, Sharon Hankins, Donald Higgins, Rev. John Jackson, Stella Leach, Joe Smith, Jr., Claudia Webb.

TEXAS (63)

Juan Anzaldua, Silvano Arce, Cleve Brooks, Jr., Loretta Browning, Ira Carlock, Wally Carlson, Jr., Anthony Carroll, Sr., Norris Carter, Pete Cordova, Jesus Coronado, Kittie Cromer, Elizabeth Cruthirds.

Dale Dahlstrom, Larry Dahnke, Billy Davis, Charles Downey, Roy Duran, Terence Gannon, Armando Garza, Erma Gentry, William Green, Jeanne Hassell, Joann Hernandez, James Jones.

Willie Jude, Fenwick Langlinais, Jose Lopez, Henry Luna, Thomas Mahr, Raymond Mettler, Phyllis Miller, Janet Mouton, Pat Newsome, Mary Newsome, Lipscomb Norvell, Natividad Orozco.

Frankie Parsons, James Patton, Daniel Perez, George Perkins, Mark Piert, Carol Pope, Donald Pope, Kenneth Randall, Eusebio Rangel, Annie Rawlings, Jack Roberts, Patrick Rock.

Samuel Rogers, H. W. Savage, Degra Scott, John Shelton, Rocky Shelton, Gregory Spears, L. S. Spencer, Rosalin Suarez, Jr., David Thompson, Dolores Velasquez, Jean Wagnon, Tammy Woods, unidentified female, three unidentified males.

UTAH (4)

Raymond Jordan, Floyd Rowley, Larue Rowley, unidentified male.

VIRGINIA (12)

Michelle Copeland, Tyrone Copeland, Hubert Everett, Irene Hardy, Samuel Jackson, Eugene Lawrence, Glenda Lavender, Shawn Lowe, Mary Montecalvo, Ernest Moody, Robert Mountford, Jr., unidentified male.

WASHINGTON (13)

Charles Allan, Robert Carver, Richard Ellerington, Theron Hoerler, Jimmie Horton, Paul King, Joel Louis, John Mahan, Teresa McNeeley, Timothy Parker, Frances Peery, Willie Price, Jr., Robert Smith.

WEST VIRGINIA (3)

Greg Childers, Ethel Fitch, Freman Kleski.

WISCONSIN (3)

John Ford, Chun Son Guthrie, Christine Schultz.●

DEBATE ON SMALL BUSINESS TAX RELIEF

HON. HENRY J. NOWAK

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 14, 1981

● Mr. NOWAK. Mr. Speaker, as chairman of the Small Business Subcommittee on Tax, Access to Equity Capital and Business Opportunities, I have advocated for the last 2½ years that small business be given its fair share of any tax cut enacted by the Congress. With this as my firm objective, I conducted subcommittee hearings in March and April on proposed administration tax cuts and their effects on small business.

The Assistant Secretary of the Treasury, John E. Chapoton, testified that small business would benefit from the Reagan proposals, but did not have any solid data to back his claim. Although he agreed to work with my staff to develop pertinent data, as of this date, Treasury has not provided any statistics verifying its position. Despite this lack of a Treasury analysis, in testimony before the Ways and Means Committee on April 7 and again in a letter dated June 9, 1981, I made several recommendations for small business relief.

I am pleased to report that on July 9 substantially all of my recommendations were included by the Ways and Means Committee as part of its small business provisions for the comprehensive tax bill. In brief, the Ways and Means provisions are as follows:

Further reduction and graduation of corporate tax rates at the low end; direct expensing of capital expenditures—as adopted June 18, 1981; a technical report on cash accounting and LIFO simplification to be prepared by the Department of the Treasury; increases in both the minimum accumulated earnings credit and the number of subchapter S corporation shareholders; and further beneficial treatment of losses on small business corporation stock.

These measures nicely complement the substantive relief which capital intensive businesses will receive through accelerated depreciation reform. Further, small- and medium-size businesses in the Nation's older urban centers such as my city of Buffalo, will greatly benefit from the Ways and Means tax bill. This action by the Ways and Means Committee is in glaring contrast to the Treasury's position on small business tax relief, as brought out at my subcommittee hearings.

For the benefit of the Congress and the business community, I have attached a fact sheet on 1981 tax proposals as prepared by the National Small Business Association. This statistical analysis substantiates the degree to which the Ways and Means bill is preferable to small business.

FACT SHEET ON 1981 TAX PROPOSALS

(Prepared by National Small Business Association)

Two major business tax proposals are now being debated: the Administration program, which is embodied in the so-called Conable-Hance bill (H.R. 3849) and an alternative being developed by the House Ways and Means Committee. The Administration began with 10-5-3 depreciation, but both proposals are still evolving. At this time the House Committee's alternative—which earmarks nearly $20 billion of additional benefits for small enterprises—seems clearly preferable for the small business community.

BENEFITS SPECIFICALLY ALLOCATED TO SMALL BUSINESS

An explanation is as follows: On June 24th, the majority caucus of the House Ways and Means Committee announced two measures specifically targeted to small firms: (1) $25,000 in "direct [first year] expensing" and (2) corporate rate reductions beginning in 1982, and becoming fully effective up to $200,000 in 1984.

Official estimates of the taxes which can be saved, if these two provisions are enacted, are summarized in the following table:

POTENTIAL SMALL BUSINESS TAX SAVINGS

[Calendar year tax benefits in billions of dollars]

	1981	1982	1983	1984	1985	1986	Total
Expensing	2.9	2.1	1.5	1.0	0.628	0.355	8.483
Rate cuts under $200,000		1.04	1.65	2.6	2.8	2.9	10.99
Total	2.9	3.14	3.15	3.6	3.428	3.255	
Total 1981–86							19.473

The Senate Finance Committee also approved a direct expensing provision (beginning at $5,000 in 1982 and rising to $10,000 in 1986) with benefits adding up to $3.0 billion for 1981–84.

It is important to note that the targeted tax reductions described above would be in addition to any other provisions of the bill (such as mainline depreciation reforms, rehabilitation credits, estate and gift tax reduction, research and development credits) that partially benefit small business along with other business and/or individual taxpayers.

IMPACT OF CORPORATE RATE REDUCTIONS

Tax savings resulting from the proposed corporate rate cuts, compared to current law, for typical small companies at various income levels are as follows:

POTENTIAL TAX SAVINGS FROM CORPORATE RATE REDUCTION PROPOSAL

	1981 tax—Existing law	1984 tax—House committee	Savings		1984 tax—Administration	Savings
			Dollars	Percent		
$35,000	$6,250	$5,250	$1,000	16.00	$6,250	0
$65,000	13,750	10,500	3,250	23.63	13,750	0
$100,000	26,750	17,500	9,250	34.57	26,750	0
$150,000	49,750	30,000	19,750	39.70	49,250	0
$200,000	72,750	45,000	27,750	38.14	72,750	0

IMPACT OF "DIRECT EXPENSING"

"Direct expensing" would permit a small business to deduct 100 percent of the cost of any machinery, equipment, vehicles, etc. purchased in any year. The House would allow a total of $25,000 annually, beginning in 1981. The Senate would permit $5,000 in 1982 and 1983; $7,500 in 1984 and 1985; and $10,000 per year beginning in 1986.

A business investing within these ceilings could thus recover the capital invested almost immediately, rather than waiting 3, 5, or 10 years under the Administration proposal, or an average of 10½ years under current law.

There are now 130 classifications for different types of property requiring different depreciation periods under existing regulations. "Expensing" would treat all equipment the same—thereby reducing the number of classes to one for those businesses purchasing less than the annual ceiling. The $25,000 limitation in the House proposal would cover approximately 86 percent of U.S. businesses.

For such firms, this massive simplification gives the House alternative a definite advantage over all other depreciation proposals, especially since it is accompanied by sizable financial benefits.

COMBINATION OF BENEFITS SUPERIOR FOR MOST SMALLER COMPANIES

Because the level of investment and the level of income vary widely among businesses, it is difficult to generalize about the total impact of any bill on a particular busi-

ness. The effects can be illustrated, however, by way of examples.

A National Small Business Association analysis found that for a typical family-sized corporation, the House alternative—combining "direct expensing" and corporate rate reductions—results in lower federal taxes and higher retained earnings than either the Administration version or existing law during the period 1981-87 and thereafter.

Based on a company earning $50,000 per year in pre-tax profits and purchasing $25,000 of equipment in 1981,[1] the results are as follows:

COMPARISON OF HOUSE AND SENATE PROPOSALS WITH EXISTING LAW

	Federal taxes paid (1981–87)	Improvement over current law (percent)	After-tax cash flow *
Current law	$58,528	.....	$266,472
Administration proposal	56,390	3.65	268,610
House alternative	51,625	11.79	273,375

*Taking into account $25,000 expended for purchase of equipment.

Thus, at a $50,000 level of income and a $25,000 level of investment, the Administration proposal is slightly better than current law while the House alternative is significantly better than the Administration proposal.

As the level of income rises, especially relative to the level of investment, the superiority of the House alternative becomes more pronounced.

In firms and industries where investment is heavy, the Administration proposal becomes more attractive, because of its increased reliance on investment credits and sharply reducing the write-off period for long-life equipment. For example, the 2015 biggest corporations received 75 percent of all the corporate investment credits in 1976. Because of these features, the Congressional Joint Tax Committee expected the following allocation of depreciation benefits under the Administration's package:

DISTRIBUTION OF BENEFITS UNDER ADMINISTRATION PROPOSAL BY INDUSTRY (1981–90)

	Dollars (billions)	Percent
Electric and gas utilities	$74.751	15.71
Oil and gas production and marketing	69.218	14.55
Telephone and telecommunications	39.961	8.40
Trade	31.356	6.59
Agriculture	25.627	5.39
Machinery	24.088	5.06
Chemicals	21.005	4.41
7 industries	286.006	60.10
55 industries	475.860	.....

Where investment is light, and especially if business income is $25,000 or below, both bills appear to be weak, although "expensing" gives an edge to the House alternative. Accordingly, the National Small Business Association is calling upon all concerned to press for improvements to this part of the legislation for both incorporated and unincorporated enterprises, so that the ultimate bill will be equitable and balanced for all elements of the business community.

Individual income tax reductions are not considered here. It can be observed preliminarily, however, that while individual tax rates apply to all income of proprietorships and partnerships, they apply only to funds withdrawn from corporations. Hence, while reduced individual rates may or may not encourage reinvestment in unincorporated businesses, they could cause dis-investment in corporations, especially if corporate rates are not reduced. These matters need to be examined further.

The 1981 legislation will probably be the largest tax cut in U.S. history. As it develops further, additional information will be assembled, analyzed and distributed, so that business owners can make up their own minds on what provisions are best for their enterprises, their industries, and the national economy.

SCORECARD—PROVISIONS RECOMMENDED BY SBLC IN TESTIMONY OF MARCH 30, 1981, ACCEPTED INTO MAJOR HOUSE AND SENATE TAX BILLS, AS OF JULY 1, 1981

	House Ways and Means Committee	Senate Finance Committee	Administration (Conable/Hance bill, H.R. 3849)
1. Corporate rate reductions up to $200,000.	Yes	No	No.
2. Depreciation-expensing of $25,000 per year.	Yes	Partial [1]	No.
3. Increase in used machinery investment credit.	Yes	Yes	Still open.
4. 15 year period for structures, more flexible period for equipment.	Yes	Yes	Yes.
5. No depreciation on progress payments for property taking more than 2 years to build.	Yes	Yes	Yes.
6. 25 percent rehabilitation credit for existing structures.	Yes [2]	Yes (same)	Yes (same).
7. Spread for structures which are "owner operated".	No	No	No.
8. Broadened job credit	Still open	No	No.
9. (a) New issues credit/rollover/small business participating debenture/diesel excise tax.	No	No	No.
9. (b) Accumulated earnings, subchapter S, incentive stock options.	Still open	Yes	No.
9. (c) Broker-dealer "Profit reserve".	Still open	No	No.
10. Credit against social security tax increases.	No	No	No.
11. Capital gain tax reduction to 20 percent.	Yes	Yes	Yes.
12. Estate tax exclusion to $600,000.	Still open	Yes	Yes.
13. Inventory reform LIFO/cash accounting.	Still open	No	No.
14. Research and development credit	Still open	Yes	Yes.
15. Savings: Interest exclusion targeted to construction/IRA-LERA.	Yes/yes	Partial [3] Yes.	No/yes.
16. Extend energy credits to rental property.	No	No	No.
Total:			
Accepted in whole or in substantial part.	8	10	6 plus.
Still open	5		1.

[1] $5,000 in 1982, $10,000 in 1986.
[2] 20 percent regular, 25 percent historic.
[3] Not targeted.●

[1] The example, reduced to simple terms, is based on a company earning $50,000 annually, 1981 through 1987, and buying $25,000 in equipment in 1981, of which $10,000 is vehicles and the remaining $15,000 is machinery having the average life of 10 years.