SENATE—*Wednesday, November 9, 1983*

(Legislative day of Monday, November 7, 1983)

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

PRAYER

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

Let us pray.

In a moment of silence, let us pray for President and Mrs. Reagan, as they journey, for their protection and safe return.

Gracious God, our Heavenly Father, these have been very somber hours on the Hill, and our spirits respond with ambivalence, gratitude mixed with indignation, as we reflect on Monday evening's bombing in the Senate. We are profoundly grateful at the providential early recess of the Senate. Had it been in session, many in the corridors and in the cloakrooms could have been severely injured, if not killed. We are grateful for the safety of the little rookie police woman and the veteran officer who could have been killed had they arrived on the second floor moments earlier. We are grateful that the reception in the Mansfield room had ended. We are grateful Lord, for those dedicated to our security, whose days of routine may so suddenly, so unexpectedly change, putting their lives in great jeopardy.

But our spirits are indignant at the mindlessness, the meaninglessness of an act that violates the people of America whose property this is. We pray Lord that Thou wilt guide as consideration is given for increased security against such senseless acts. We thank Thee, dear God, in Thy gracious providence that no lives were lost and we commend to Thee those responsible for the act, that Thou wilt minister to them in grace and healing. In the name of Jesus, the Saviour and Mediator, we pray. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

Mr. BAKER. I thank the Chair.

Mr. President, I once more commend the Chaplain for his prayer this morning.

SENATE SCHEDULE

Mr. BAKER. At 9:30 a.m. today, Mr. President, we shall resume consideration of the unfinished business, which is S. 1715, the Natural Gas Act. If we can finish that bill or if we must move off that bill to other matters, our problem is somewhat complicated now by the fact that the House of Representatives failed to act on the continuing resolution. I have not yet been able to reach either Representative MICHEL or Speaker O'NEILL this morning, but as soon as I can, I shall try to ascertain the plans of the House, specifically when they think they can have a continuing resolution here for our consideration.

In the meantime, Mr. President, in addition to the natural gas bill, I should like to suggest that today will be a good day, since we will not be able to reach the continuing resolution immediately, in any event, to focus on the Civil Rights Commission Act and perhaps other matters. Treasury-Post Office comes to mind as one of the appropriations bills that has not yet been dealt with and we may not be able to deal with it. But that is a possibility.

What I am saying is that we shall resume consideration of the natural gas bill and we shall stay on that bill as long as it is useful and profitable to do so but, either after passage or when it is clear that we cannot pass the bill today, it may be that the leadership on this side should try to reach another bill such as Treasury-Post Office or Civil Rights Commission or both.

(Mr. GORTON assumed the chair.)

Mr. BAKER. Mr. President, I see the distinguished chairman of the Committee on Appropriations on the floor. I have not yet had an opportunity to confer with him on that, but I shall do so and shall have further remarks to make in the course of the day. I further would like to confer with the chairman of the Appropriations Committee about the complications and the ramifications of the House failure to pass the continuing resolution last night and gain his insights as to what is in store for us, especially relating to the time we finish this week and begin the Veterans Day holiday.

Mr. HATFIELD. Will the majority leader yield?

Mr. BAKER. Yes, Mr. President. I must say I am somewhat disquieted by the fact that the chairman of the Appropriations Committee came in from the Democratic side of the Chamber and is now using the minority leader's microphone. Other than that, I am pleased to yield to the Senator from Oregon.

Mr. BYRD. Will the majority leader yield to me first?

Mr. BAKER. Yes.

Mr. BYRD. We Democrats practice the good neighbor policy.

Mr. BAKER. But do not practice on us.

Mr. BYRD. We enjoy that more than the Senator knows.

Mr. BAKER. Mr. President, now that the chairman of the Appropriations Committee is back to my right—and the Senator from Oregon is not always on my right—I see he is now in a more familiar setting, I yield to him.

Mr. HATFIELD. I thank the majority leader. I say I think we have only about three or four options ahead of us.

As the Senator knows, the Appropriations Committee of the Senate did report a continuing resolution yesterday. We could, first of all, ask for unanimous consent to lift the 3-day rule and proceed to take up the Senate version of the continuing resolution, or if I could reconvene the committee and ask the committee to report the resolution without a report, that would negate the requirement to lift the 3-day rule. Or we could take the supplemental appropriations bill on the water projects that we have already reported out, which is a House vehicle, and use that for the continuing resolution. Or we could take the Treasury-Post Office, which is another House vehicle, and use that for the CR.

I say I only hope that the leadership could help us expedite the handling of the continuing resolution here, on the floor, as quickly as possible. We shall be in touch a little later with the chairman of the House committee to ascertain what their plan is now in picking up the pieces from their action last night.

I would venture a little guess here that they, in all probability, will give us a stripped-down continuing resolution, hoping to get it passed quickly on the House floor and sent over to us. If that occurs, we could still be about the business of handling the resolution here and then shift gears and incorporate our action in the House vehicle whenever it comes over.

I do not know that I have added anything to the leader's solution here or maybe added to the confusion.

Mr. BAKER. No confusion, Mr. President. All of them are good ideas. The bottom line is we have to do the CR as soon as we can. The suggestion

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

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that we might act even in advance of the House acting sounds good to me.

Let me ask the distinguished chairman of the committee if we can confer informally about that in the next few minutes. Maybe both of us could have a further idea of what the House is going to do. Let me say I feel we need to pass the continuing resolution today.

By the way, Mr. President, let me say now that Senators should be on notice that if it is necessary for our legislative program, particularly but not exclusively for the CR, Members should be on notice of the possibility of a late evening. If we need to do that, I hope we will do that. If we do not, all right. But Members should take account of that possibility.

Mr. HATFIELD. If the majority leader will yield further, I am persuaded that the Senate version of the continuing resolution, if we can hold it and made a few modifications on it, is a signable resolution. I think that is important to consider, too. Because one of the reasons, if I may interpret House action, is that they weighted it down with such excessive baggage that they finally realized it was not going to be a signable bill; therefore, they destroyed their own product—self-destruction, so to speak.

I have a feeling now that if we can hold the line pretty close to what the committee has recommended or reported to the Senate floor, we shall not have to do that unnecessary, laborious process of sending to the President—wherever the President is—a CR that we know is going to have to be vetoed, to go through that whole exercise in order to face up to what we are going to have to do; that is, take a fairly stripped down, simple CR. Let us do it now instead of having to go through that second round of action.

Mr. BAKER. Mr. President, I agree. As the Senator knows, the President is in East Asia, and while we shall dispatch this bill when and if we pass it by special courier, it will take the President a while to perform the physical act of signing or vetoing that measure. So it complicates our time problem considerably.

I thank the chairman of the committee, and we will continue to work on this and involve the minority leader, to the extent he is willing to be involved, in our discussions and see where we are going next.

CONGRATULATIONS TO SENATOR EVANS

Mr. BAKER. Mr. President, let me take my remaining moment to say that I wish to extend our greatest congratulations to our newest Member on his election to the U.S. Senate in the State of Washington yesterday.

DAN EVANS performed like the champion he is. He gained about 57 percent of the total vote cast, which is a resounding victory, but most of all it is a vote of confidence in his stature and ability as a U.S. Senator and his performance in the brief period that he has been with us, and is, of course, a stamp of approval on his years of service as the Governor of the State of Washington.

I am sure every Member—I would think on both sides of the aisle—joins me in congratulating Senator EVANS and wishing him well in the next 5 years as a U.S. Senator.

Mr. HATFIELD. Will the Senator yield again for further comment on that?

Mr. BAKER. Yes; I do yield.

Mr. HATFIELD. As a next-door neighbor to the State of Washington, I, too, wish to extend my heartiest congratulations to Senator EVANS and to his wife Nancy. They have been a tremendous team, leading many programs in the State of Washington to try to reach the pinnacle that was set for them by the State of Oregon. I also congratulate the senior Senator from the State of Washington (Mr. GORTON), who is presiding at the moment, for his very outstanding leadership in this victory.

I have known Senator EVANS since we were fellow Governors, in fact, many years ago, and his calm and considered judgment has always been a hallmark of DAN EVANS—did not rush into things, did not panic in crises, but always exercised the most mature judgment and extraordinary wisdom.

I think he enhances the Senate as a body, and certainly as a next-door neighbor I welcome his continued service in this body.

Mr. BAKER. Mr. President, I fear I have used at least all my time. If the minority leader requires additional time, I will be glad to ask the Senate to provide it. I yield the floor, Mr. President.

RECOGNITION OF THE MINORITY LEADER

The PRESIDING OFFICER. Under the previous order, the Democratic leader is recognized.

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

THE CONDITION OF THE EXTENDED BENEFITS PROGRAM IS A DISGRACE

Mr. BYRD. Mr. President, I have been advised by the West Virginia Department of Employment Security and the U.S. Department of Labor that West Virginia next week will become ineligible for the extended benefits unemployment insurance program—the middle "tier" of benefits.

Although I have been aware for several months that my State was likely to lose eligibility for this program some time this fall if the program's eligibility criteria were not altered, and I have tried to prevent this loss of benefits for jobless West Virginians, I nonetheless again am struck by the incomprehensibility of this sad development.

Mr. President, there is no acceptable justification for this situation. How could there be when West Virginia's total unemployment rate computed by the U.S. Bureau of Labor Statistics for the month of August—the last month for which State-by-State data are available—shows our State's total unemployment rate is 16.7 percent, the highest in the Nation? I can assure my colleagues that it is of exceedingly little consolation that not a single State currently is eligible for this unemployment insurance program—the middle "tier" of benefits that Congress established in permanent law to be available to any State experiencing moderate to severe unemployment. However, I know many of them already have experienced the same frustration I feel today when their States, also having high unemployment, became ineligible for the extended benefits program.

I realize that total national unemployment has been falling over the past half year, and fell again for September in the data announced this past Friday. But, regardless of this improvement, as overdue and welcome as it is, the national unemployment rate still is at a severe level by all historical standards. More to my point, 20 States had total unemployment rates above 9 percent in the most recent month for which State-by-State data are available, ranging to West Virginia's high of 16.7 percent.

Equally or more distressing, the national rate of long-term unemployment—counting persons unemployed for 6 months or longer—remains almost as high as it was in December of last year when total unemployment peaked. There were 2.6 million such long-term jobless workers then—the highest level since the Great Depression; there were still 2.25 million in October. These rates show that while the recession is easing for a portion of our Nation's population, there is a sizable group that has yet to feel that improvement. Instead, for them, things continue to get worse and worse.

I defy anyone to provide an adequate explanation to me, or to the unemployed in my State or the other States with high unemployment, as to why the extended benefits program now is unavailable in any State.

What is the justification for that? What merit is there in that situation?

Perhaps we should direct that question first, Mr. President, to President Reagan and his administration. It was the administration that testified

before the House Ways and Means Committee in early September that any changes Congress might make to ease State eligibility criteria in the extended benefits program would be vetoed. We should also remember that it was largely the administration's 1981 budget cuts that resulted in the virtual emasculation of the extended benefits program—leading to the lamentable current circumstances. We should remember that the administration opposed an amendment offered in September by Senator CARL LEVIN of Michigan—which I strongly supported—that would have modified the State eligibility criteria for the extended benefits program in such a way that West Virginia, Michigan, and other States with residual high unemployment would have qualified for at least some weeks of extended benefits if not all 13 weeks normally provided to eligible States under that program.

The inescapable truth, Mr. President, is that there is no acceptable explanation. The only explanation that can be offered is that the President and members of his party are unwilling to acknowledge the pain and suffering caused to working men and women and their families by the recession that began in 1981, and not only are unwilling to provide the same level of unemployment benefits provided to the unemployed in previous, less severe recessions, but also are openly, actively hostile to continuing such benefits. I find that very disconcerting.

I have served over 30 years in the Congress, and I am a realist, Mr. President. Despite the great energy and time I and other Senators and Representatives invested in the effort to salvage the extended benefits program, I expected that the administration's opposition would doom those efforts. Based on that assessment, I concluded that the only way to provide an adequate number of weeks of benefits for the long-term unemployed workers in high unemployment States was to discard the extended benefits program as well as the third and final "tier" of benefits, supplemental compensation, and replace both with a consolidated program of benefit, available on a permanent basis to any State with high unemployment. I introduced such a bill on August 4 of this year, with cosponsors from both parties. For States experiencing West Virginia's current predicament at the time that bill is enacted, as well as those that find themselves in similar situations in the future, my bill will assure that quirks of eligibility criteria will not prevent the long-term unemployed in high unemployment States from receiving all benefits Congress intended to be available to them.

Sadly, but all too predictably, the administration announced its strong opposition to this bill as well. Consequently, we are left for the time being with the flawed UI system that has permitted the travesty of high unemployment States such as West Virginia losing eligibility for extended benefits. I can assure my colleagues—and all West Virginians—that I intend to continue to pursue this reform legislation until the Congress acts to clean up this unforgivable situation.

For the moment, I am relieved to note that most persons now receiving unemployment benefits in West Virginia will not be disadvantaged immediately by the State's loss of eligibility for extended benefits. Those who exhaust the benefits available to them under the State's basic UI program, but still are unable to find work, simply will proceed immediately to the 14 weeks of supplemental compensation benefits available to West Virginia under the third "tier" of benefits. I am glad to have been a major actor in the successful fight to assure that the number of weeks of benefits available to West Virginians under this "tier" at least will not be reduced. Nevertheless, if the State remains ineligible for the extended benefits program long enough, many of West Virginia's unemployed will receive fewer weeks of benefits than have been available for the past year because extended benefits will not be available to them.

I remain committed to doing whatever I can to remedy this distressing situation—for the benefit of the long-term unemployed throughout the Nation, and certainly in my own State of West Virginia, who have been the unwilling victims of the recession that has not yet ended in many places, and who have yet to experience the recovery of which the President speaks in such glowing terms. What they have experienced is an outrage. This administration's unfairness and insensitivity will not forever stand in the way of the reform for which the unemployment insurance system cries out.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of routine morning business to extend not beyond 9:30 a.m. with statements therein limited to 2 minutes each.

REMOVAL OF INJUNCTION OF SECRECY—1983 TAX CONVENTION WITH SWEDEN

Mr. BAKER. Mr. President, I have a request that I will make now as in executive session.

I ask unanimous consent as in executive session that the injunction of secrecy be removed from the 1983 Tax Convention with Sweden, Treaty Document No. 98-11, transmitted to the Senate on November 7, 1983, by the President of the United States. I also ask that the treaty be considered as having been read the first time; that it be referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed, and that the President's message be printed in the RECORD.

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

The message of the President is as follows:

To the Senate of the United States:

I transmit herewith, for Senate advice and consent to ratification, the Convention between the Government of the United States of America and the Government of Sweden for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Estates, Inheritances, and Gifts, signed at Stockholm on June 13, 1983. I also transmit the report of the Department of State on the Convention.

The Convention is the first of its kind to be negotiated between the United States and Sweden. It will apply, in the United States, to the Federal estate tax, the Federal gift tax, and the Federal tax on generation-skipping transfers and, in Sweden, to the inheritance tax and the gift tax.

A principal feature of the Convention is that the country of the transferor's domicile may tax transfers of estates and gifts and generation-skipping transfer on a worldwide basis, but must credit tax paid to the other State on the basis of location or *situs* of specified types of property.

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

RONALD REAGAN.

THE WHITE HOUSE, *November 7, 1983.*

WHY IS THERE OPPOSITION IN CONGRESS TO ENDING THE NUCLEAR ARMS RACE?

Mr. PROXMIRE. Mr. President, highly competent experts on military affairs oppose the negotiations of the end of the nuclear arms race with the Soviet Union. In spite of this the American public has repeatedly and overwhelmingly supported such negotiation. An impressive number of arms control, scientific, intelligence and military experts support this nuclear freeze. In view of the position taken by the leading Democratic candidates for President it seems virtually certain that if this country elects a Democrat as President of the United States, he will promptly start negotiations with the Russians to stop the nuclear arms race. Obviously the prospect that the country could elect a Democratic President in 1984 is a very real possibility. So how should this U.S. Senate

respond if a President sent such a treaty to us for confirmation?

Mr. President, this Senator enthusiastically favors negotiating an end to the nuclear arms race. In fact, I believe that if we do not do so, civilization will not endure and our species may perish.

But I also believe that we must do the following:

First. We must only stop building and improving our nuclear deterrent when both this country and the U.S.S.R. have accepted the treaty. What does that mean? That means that we should continue to build our Trident submarines, our new land-target D5 missiles, our Stealth bomber and other effective new nuclear weapons—right up until both countries have accepted the treaty. Some opponents of the freeze argue that it is flatly contradictory for Senators to favor new nuclear weapons if they also favor the freeze. This is nonsense. Those of us who favor the freeze insist that it must be mutual. We contend that it cannot and will not be mutual until both sides—both superpowers—have accepted it. We renounce any unilateral disarmament. If this country were to cease building up its deterrent before negotiations have started or, indeed, before they have been successfully concluded would not that in effect disarm us unilaterally? Of course it would.

We recognize that the negotiations to enter the nuclear arms race cannot start until a President of the United States supports such negotiations. We know that cannot happen until January 20, 1985, or maybe January 20, 1989 or later. At any rate, negotiations will not start for more than 14 months from now. We know from past arms control negotiations with the U.S.S.R. that these negotiations could consume years. And we know they may finally fail. So we must continue to build our Tridents and D5 missiles and Stealth bombers while we negotiate. Is this inconsistent? Of course not. In fact it is the only policy consistent with an insistence that we make the nuclear freeze mutual and not unilateral.

Second. We must only ratify a nuclear freeze treaty if and when we are convinced that it is reasonably verifiable. Opponents of the freeze have shouted that we cannot verify what the Russians do in their closed society. Expert supporters of the freeze contend that by constant inspection by satellites and by sensitive monitoring to detect any suspect explosions we could discover any significant violation by the Soviet Union of a flat ban on nuclear testing—including underground testing and any production of deployment of nuclear weapons. Nuclear freeze experts appear to be divided on whether we should insist on onsite inspection. This Senator believes we should. I also believe that the inspection should be without notice whenever satellities or testing developments suggest violation.

In summary, Mr. President, I believe that if opponents of the nuclear freeze fully consider the implications of what we freeze advocates mean when we say this treaty must be both mutual and verifiable, they may reconsider their opposition. And I call on them to consider the implications of rejecting the freeze and continuing the nuclear arms race. Where does the greater risk of nuclear annihilation lie? Ask yourself that question. Is there salvation in endlessly building more modernized—that is more devastating nuclear arms? Or should we rely on a mutual and verifiable cessation? For the life of me, Mr. President I cannot understand why the answer is not easy.

AMNESTY INTERNATIONAL REPORTS ON IRAN

Mr. PROXMIRE. Mr. President, as I noted here last Friday, Amnesty International recently released its annual report of human rights activities around the world. Many of the nation-by-nation entries in that report should concern us here in the Senate. Today I wish to comment on the Amnesty International report on Iran.

The current situation in Iran is characterized by frequent abuses and violations of human rights. The Amnesty International account includes details of executions, tortures, and imprisonment without trial of many political prisoners. For certain crimes, whipping and amputation of limbs have been officially sanctioned as punishments. Furthermore, executions of pregnant women and people under the age of 18 reportedly continue. These executions violate the International Covenant on Civil and Political Rights, which Iran has ratified. All these abuses clearly flout internationally accepted standards of morality.

Of particular concern are the accounts of Iranians' repression of the Baha'i religious minority. Amnesty International's concerns include "summary executions, torture, arbitrary arrest and detention, and religious freedom, particularly in connection with the repression of the Baha'is." The report refers to "members of the Baha'i religion, the only substantial religious minority not recognized in the Iranian Constitution, who appear to have been imprisoned and executed for no other reason than their religious belief." As these words from Amnesty International indicate, the Iranian repression of Baha'is very nearly constitutes genocide.

Mr. President, I am not alone in my concern over these events in Iran. I know that many of my colleagues not only are aware of this situation but are also striving to respond appropriately. I strongly suggest that any meaningful response must include ratification of the International Genocide Convention. Ratification of this treaty would strengthen our position against human rights violations such as those occurring in Iran. Furthermore, ratification would signal our official condemnation of the crime of genocide, which is still threatened in Iran and other parts of the world today. I remind my fellow Senators that the need for a genocide ban remains current, and urge their support for the Genocide Convention.

THE PRINCIPLE OF FREE DEBATE IN THE UNITED NATIONS GENERAL ASSEMBLY

Mr. MATHIAS. Mr. President, last week the United Nations General Assembly agreed to a motion proposed by the delegate from South Yemen to prohibit debate on a resolution condemning the United States for its invasion of Grenada. It was an unusual departure from that body's tradition of free and far-reaching debate, and I believe extremely unfortunate.

To take away the right of nations to discuss the Grenada invasion is to strike at the very foundation of the United Nations. Its Charter calls for the peaceful settlement of disputes, international cooperation, and the development of friendly relations among nations, none of which can be achieved without open and extensive discourse.

In recent years both Congress and the administration have increasingly demonstrated an alarming level of frustration with the United Nations. Indicative of this trend was the Kassebaum amendment to this year's State Department authorization bill, which sought to reduce unilaterally the U.S. contribution to the U.N. budget. Though Senator KASSEBAUM assured me that her only intent was to encourage greater budgetary responsibility in the United Nations, the large margin by which the amendment passed the Senate was symbolic of much broader discontent—discontent which will only be aggravated by the unusual cloture motion adopted last week.

We all recognize that the United Nations has its shortcomings. The disturbing frequency with which Israel's rights and privileges in that body have been threatened is ample evidence of this. But in our imperfect and dangerous world it is incumbent on us to use all means at our disposal to manage the problems that beset the international community. As a former Secretary General put it, "If you don't like the United Nations you don't like the world." The United Nations is an important tool for the promotion of international order and the rule of law.

In 1945, when the Senate gave its consent to the treaty which allowed U.S. participation in the United Nations, it did so with the understanding that the General Assembly would provide its members with a forum for free and open discussion of the problems they share.

Senator Arthur H. Vandenberg, the U.S. Representative to the San Francisco Conference where the U.N. Charter was drafted, explained to his colleagues in 1945:

> While article 14 [of the U.N. Charter] carries with it only the power of discussion and recommendation in the Assembly, I think article 14 is the heart and core of the promise of this great adventure in behalf of the disappointed and distressed peoples of the earth.

Mr. President, the action taken by the General Assembly on November 2 is in contravention of the spirit, if not the letter, of the U.N. Charter and sets a dangerous precedent. It is therefore my earnest hope that Ambassador Kirkpatrick will convey these concerns to the Secretary General who will take appropriate action to insure that in the future the principle of free debate in the General Assembly will be respected.

THE OUTLOOK: 1985 MAY BE TOO LATE FOR BUDGET REPAIRS

Mr. MATHIAS. Mr. President, not too long ago a $100 billion deficit seemed impossible—like traveling at the speed of light. Today we find ourselves being pushed back in our seats as we speed toward a deficit twice that large. While the economy has thus far withstood the Federal Government's hypersonic journey into debt, I believe that the time to put on the brakes is now. The Senate's recent action on the debt limit extension bill signaled that the Senate may be prepared to act forcefully to fight the extraordinary deficits we now face.

The bipartisan budget appeal, led by six distinguished former Cabinet members, has sought for some time to educate Congress and the public about the dangers of these astronomical deficits.

The chairman of the Senate Budget Committee (Mr. DOMENICI) has courageously defended the budget and urged the Senate to move now to implement it, although he recognizes that it will involve pain for the Senate and some sacrifice for the country.

Former Secretary of Commerce Peter G. Peterson, one of the leaders of the appeal, recently wrote a thoughtful letter about how we can best cope with the deficit. He concludes that "the long term outlook is bleak" if we do nothing to control the deficit, but suggests a number of ways in which Congress could tackle the problem. I urge my colleagues to study his thesis.

I note in closing that I disagree with Mr. Peterson on one major premise—that decisive action to reduce he deficit is impossible before the 1984 elections. Congress can and should act now to ease the deficit crisis; 1985 may simply be too late.

I ask unanimous consent that Mr. Peterson's letter be printed in the RECORD.

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

OCTOBER 18, 1983.

LETTER SENT TO THE FULL MEMBERSHIP OF THE BIPARTISAN BUDGET APPEAL GROUP

DEAR ——: It has, as you know, been a number of months since we last wrote to the members of the Bipartisan Budget Appeal. They have been months punctuated by a great deal of public discussion, although not much real progress, on the fiscal problems which led to the formation of our group. My founding colleagues—Messrs. Blumenthal, Connally, Dillon, Fowler and Simon—and I have been monitoring both the discussions and the budget outlook itself. This seems like an appropriate time to put some new material before you and, more important, to solicit your views on a number of policy questions and on the role that a group like ours should play in the coming months.

Before turning to the central question—the appropriate strategy for the Bipartisan Budget Appeal in an election year—I'd like to summarize what has been happening on the fiscal front and where we see the situation going. The attached memorandum provides an in-depth look at the present situation and the various projections for what lies ahead. The first point that stands out is that the outlook for the federal budget remains alarming. Even on quite optimistic assumptions, deficits are projected to remain in the range of 5 to 6 percent of GNP through fiscal 1988. Our political system, however, seems to be devoting considerable effort either to pretending that the problem does not exist, or, blaming the Administration more or less exclusively without suggesting responsible steps necessary to reduce the deficits in any significant way. The former view manifests itself in a series of popular if ultimately untenable assertions—that the economy will "grow itself out" of deficits, that deficits don't affect the economy anyway, and that foreign capital flows will, in any event, finance U.S. deficits.

As the attached memorandum suggests, each assertion is critically flawed. As to the first, even with record growth—a repeat of the boom years in the mid-1960's—deficits would remain distressingly large. Assuming growth that is robust, but not widely implausible, deficits will remain intolerable. As to the second, we are aware of no coherent rebuttle to the proposition that continued high deficits will inevitably confront the Federal Reserve with an unacceptable choice—monetize the deficit and stimulate rampant inflation or resist the pressure to accommodate deficits and drive real interest rates, and with them an overvalued dollar and staggering trade deficits, to unacceptable levels. The cost of high deficits, in short, can be manipulated but not avoided: The alternatives are a return to record inflation (the inevitable consequence of a combination of loose monetary policy and loose fiscal policy), or wrenchingly high interest rates and sustained underinvestment in future growth (the inevitable consequence of restrictive monetary policy and loose fiscal policy). As to the third, while substantial foreign capital is flowing into the United States, were it not for these huge budget deficits, this foreign capital could be financing new private investment. In addition, to the extent these flows of foreign savings relieve some of the domestic interest rate pressures from our unprecedented deficits, they do so at a cost of output, profits, and jobs in our export and import competitive industries. This is because these capital inflows are linked to an overvalued dollar which "overprices" our exports aboard and "underprices" foreign imports in this country. Thus, high budget deficits crowd private borrowers out of the financial markets and crowd important sectors of U.S. economy out of the international markets for manufactured goods.

We are not, in short, cassandras when we point with alarm to projected out-year deficits. On the contrary, as the attached memorandum demonstrates, in sector after sector the costs of fiscal extravagance are manifest. While those who assert the contrary can at this moment obviously point with some elation to the present recovery and the booming stock market, the long term outlook remains bleak, and nothing in today's Dow Jones average or next month's inventory or retail trade figures can obscure our current shortage of savings, our apparently uncontrollable penchant for federal spending, our inadequate federal revenue base and the consequences to which the conjunction of these factors is leading. (As to the current recovery, none of us, even those most concerned with the metastasizing long term effects of deficits, believed that big deficits had outlawed the business cycle.)

The second point that stands out from the attached memorandum is that, as ominous as the near term situation is, with continuation on the present course the long term situation is worse—far worse. Future expenditures for interest costs, old age, and health will lead to bottomless future deficits. Even under fairly optimistic assumptions, we are now primed for calamity; by the year 2000, our present course will generate budget deficits in the range of 4.2 to 7.3 percent of GNP, and by the year 2025 the deficits will have doubled—reaching 8.7 to 16.2 percent of GNP. Under somewhat more pessimistic, and unfortunately more realistic, assumptions, we project a fiscal 2000 deficit of 6.3 to 9.9 percent of GNP, and a fiscal 2025 deficit of 16.8 to 25.8 percent of GNP! Unless something is done to change the course we are now following, interest on the national debt alone is scheduled to increase from 2 percent of GNP in 1980 to between 3.6 and 4.5 percent of GNP in fiscal 2000 and to between 6.3 and 11.6 percent of GNP in fiscal 2025 (using, in each case, optimistic assumptions). We need no long term projections to remind us of the explosion in health care costs; Medicare costs increased 18.6% in 1982! We are, in other words, being swept along by a current which becomes harder to resist every year; and there exists a very real danger that we will try a little harder each year to do something about it but will steadily lose ground nonetheless.

The third inescapable message in the attached material is that to date political pressure has skewed efforts to trim federal spending in a manner which has been neither effective nor equitable. The vast edifice of nonmeans tested federal entitlement programs (most of them 100 percent indexed to

CPI) has emerged unscathed from the budget cuts of the early 1980's. Supported by 35 to 40 entitlement organizations which boast 100 million members, these programs account for fully 40 percent of the budget. Their costs are projected to explode as demographic changes drive up the number of recipients and reduce the number of workers who contribute to their support and as changes in the medical sector ratchet the cost of providing medical care to the elderly steadily higher.

A final point that stands out is that even the most vigorous and politically sensible package of spending cuts cannot, standing alone, solve the problem. We are, as George Will has said, "undertaxed" given the outer limits of what is politically possible on the spending side.

In light of these disturbing dynamics, what then is an appropriate role for the Bipartisan Budget Appeal? One element of such a role, we feel, is education. Through work like that underlying the attached memorandum, we can as an organization try to puncture the myths and rationalizations that our political system serves up as an excuse for inaction, to provide our leaders with fair and impartial information about the present situation and the consequences of various policy choices. By educating, we may also be able to help end the current political stalemate. For example, by urging that tax increases be linked to major spending reductions and that any tax increases be based on consumption rather than savings, we can perhaps help build a consensus for doing something intelligent, equitable and consequential on the revenue side. Similarly, it now seems quite clear that positive action on the spending side will require a thoughtful and humane assault on the citadel of federal entitlements for the elderly. That means shifting entitlement programs more in the direction of the needy so that precious resources aren't squandered on those who are more than able to take care of themselves. (It may well be that such an assault can not be launched too directly. Still, some combination of measures—such as putting a cap on COLA indexing, taxing all benefits above contributions, capping benefits to those with higher wage histories, and so forth—can do much toward improving the situation.) It also means providing a bipartisan counterweight to the powerful lobbying groups who have made the citadel impregnable thus far.

Prodding our political system to do something about entitlement programs will, as we have seen time and again, be a monumental task. As the attached paper suggests, we are a long way from making any progress. The message coming from Washington today is either that the Social Security problem has been resolved or that Social Security is in any event now "sacred" because it has been blessed by the Bipartisan Commission's "solution". The tag line to that message is that growth in non-Social Security entitlement programs (in particular, federal, civilian and military pensions) can on the grounds of "fairness" be reduced no further than growth in Social Security—essentially one six month delay in indexing, for a relatively trivial $1 billion or less in savings. Together, these thoughts are a prescription for inaction, and only through education can we hope to create a consensus for stronger medicine.

Beyond education, a number of suggestions have been advanced for addressing our fiscal problems. Realistically, it is not likely that significant action will be taken until after the 1984 election—on the contrary, the combination of economic recovery, a strong stock market and a presidential race can be relied upon to assure that difficult questions will be tabled for the next 12 to 18 months. Only a demonstrable crisis would be likely to accelerate this process. In a sense, then, perhaps the immediate challenge is to ensure that the President-elect be in a position to move to resolve the fiscal crisis as soon as possible after the inauguration. In this spirit, a number of suggestions have been advanced. One is to hold an "economic summit" consisting of the leadership from the executive and legislative branches. Another is to create a Bipartisan Deficit Commission similar to the Social Security Commission which was of course created to tackle another problem that was also unusually sensitive from a political point of view. A third option would be the formation of a Bipartisan Private Sector Commission on the deficit which could operate in tandem with or separate from a formal Bipartisan Commission in the public sector.

Such suggestions raise a number of important considerations. First, would a formal Bipartisan Deficit Commission be productive or counterproductive in the midst of a presidential election campaign? There are obviously a number of risks. The formation of a Bipartisan Commission might permit public candidates to ignore the deficit issue entirely on grounds it is being handled by the Bipartisan Commission. Similarly, if the commission made its report in the course of the campaign, the report itself could distort the political process and give candidates an opportunity and even an incentive to pledge not to take steps that are politically unpopular, though fiscally imperative. One response to both considerations might be to restrict such a commission to fact finding until after the November 1984 election.

Similarly, a Bipartisan Private Sector Commission would have to tread gingerly in an election year. While such a group would have the advantage of being able to meet more privately and discuss realistic, if painful, options, both the timing and tenor of its discussions would inevitably be skewed by the various members' reading of the political climate and the progress of the campaign.

While the foregoing considerations suggest that action during the election campaign would have its risks, the risks associated with doing nothing until after the election seem equally grave, if not more so. Whatever, the danger that candidates would use any bipartisan commission—whether public or private—as a target for avoiding difficult choices or as a political stalking horse, the offsetting danger is one of delaying any action for as much as two more years. In light of all of our urgent concerns with the fiscal situation, it seems that at the very least the basic analytical work and the definition of options for the President-elect has got to begin before November of 1984.

From a tactical viewpoint, the question which faces our Bipartisan Budget Appeal is quite simply this: What should we do to encourage the candidates to face the deficit issues forthrightly and to commit to take meaningful action upon election? Should we press for the formation of either a private sector commission or an official commission to begin work early in 1984? If such a commission extends its efforts beyond fact finding, should a report be made before the election, or only thereafter? To what extent, setting aside the commission issue, can the Bipartisan Budget Appeal attempt to influence all the presidential candidates, to urge them, for example, to set up official bipartisan commissions after the election and otherwise to address promptly the fiscal crisis? The goal, it seems to us, must be to cause the President-elect to deal with the problem in this very first budget message—in March of 1985.

I urge you to write and let us have your views on these and other options. All of us would prefer that the regular political process function as intended, but seasoned observers in and outside the government tell us time and again that the process is paralyzed by the combination of enormous deficits and an array of vested interests which move to block every viable alternative.

Whatever the tactical choice, the founding members believe that the basic outline of our program remains valid—that cost of living indexation must be retarded, nonmeans tested entitlements and other subsidies reduced and reformed, real defense growth made more gradual and efficient, and revenues increased. We need to hear from you concerning the various elements of this program, those you now feel require greater emphasis, and any new elements you would like to add.

On a more personal note, you may know that I will be retiring from the chairmanship of Lehman Brothers at the end of this year to go into the merchant banking business. I hope, with your help, to continue to devote time, energy and resources to our bipartisan effort, as do our founding members.

I trust we will be hearing from you as we have so often and usefully in the past.

Warmest regards,

Peter G. Peterson.

P.S. I am tempted to apologize for the length of the attached document. Yet the political forces that continue to insist that there is no problem are so formidable that we have no choice but to be thorough in our research, analytical in our reasoning and, in consequence, voluminous in our output. Nonetheless, I am sorry because I know something of the magnitude of your reading burdens.

1983 VETERANS DAY

Mr. THURMOND. Mr. President, as they do each year at this time, Americans have begun to turn their thoughts to our national day of Thanksgiving. It is, of course, a time for giving thanks to God for the many blessings that He has bestowed upon us as individuals, and as a nation.

However, Mr. President, several weeks before Thanksgiving Day, on November 11, this Nation will express its special thankfulness for one of our greatest blessings—our veterans. I believe most Americans will agree that if it were not for the extreme sacrifice and dedicated service of the brave citizens who have defended our Nation, Thanksgiving Day, and indeed, our country—as we know it—would not exist today.

Throughout the history of the United States, citizens have been called upon to step forward and to participate in the protection of the freedoms and great principles that we hold sacred. Our citizens have overwhelm-

ingly answered this call with loyalty, courage, and dedication.

During this turbulent century alone, Americans have been called upon to serve in four wars: World War I, World War II, Korea, and Vietnam. As a matter of fact, the Veterans' Administration reports that out of the 39 million men and women who have served during wartime in the U.S. Armed Forces throughout our 207-year history, approximately 24 million are living today. In recent weeks, in Beirut, Lebanon, and in Grenada, many more Americans have served with honor and have sacrificed—some with their lives—for our country.

Mr. President, with the memory of sacrifice so fresh in the minds of our people, I believe that Veterans Day, 1983, will have special meaning. As we remember those who have served us in Beirut and Grenada and throughout our history in all parts of this world, we should be reminded that Veterans Day too, is a day for thanksgiving.

HARVEY GANTT: CHARLOTTE'S FIRST BLACK MAYOR

Mr. HOLLINGS. Mr. President, a 40-year-old architect was elected last night mayor of Charlotte, N.C. There are some unique features to this American that this country should know about.

First, he was born and raised in my hometown of Charleston, S.C., right around the corner on Cannon Street while I grew up on Ashley Avenue. I could share in equal opportunity; Harvey Gantt could not. There is a second feature of distinction. He is black. But his spirit is proud. He presented himself in January of 1963 as the first black to be admitted to Clemson University.

Unlike James Meredith in Mississippi and others in the South during that time, Harvey Gantt's admission was peaceful. Much of that peaceful admission was due to the calm and dignity of Harvey Gantt's personality. While some were rabble rousing and name calling, Harvey maintained a posture above it all, and his wit and wisdom were the reason that he could go through not only peacefully, but with distinction academically. He started first with an architectural firm in Charlotte. He built respect and has now been selected its first citizen. Not because he was from Clemson University, or was black. But rather because of his character. If you are around him for just a brief moment you would know what I mean. He is an inspiration.

I was just asked by the media if this occurred in Charlotte because of the Voting Rights Act, or because of the improved state of race relations. I said that it was because of both, and one other reason—Harvey Gantt had proven himself as a leader already in civic and political activities. He inspired all those around him to attend to their civic duties.

No one was more qualified than he to be mayor of Charlotte. In 1975 he set up his own architectural firm—Gantt, Huberman, and Associates—and was elected to the Charlotte City Council, winning with the largest number of votes of any candidate in the Charlotte Democratic primary.

In that same year he was voted the NAACP Citizen of the Year and won the Distinguished Service Award from the Charlotte Jaycees. In 1979 he was awarded the Outstanding Service Award by the North Carolina League of Municipalities.

In 1982 he became mayor pro tem of Charlotte, and finally, yesterday, was elected mayor.

He was elected not because he was black, but because he was best. He drew 40 percent of the white vote because he stood and called for responsible government. Gantt pushed for a coalition of government, business, and neighborhoods to move Charlotte forward and manage its growth in a responsible fashion.

He called for fiscal responsibility and won the election on the issues, not his race. For that, we in the South, and indeed the Nation as a whole, can be proud.

In Charleston, we pride ourselves on historical firsts. They say there are 123 firsts from the first municipal college to the first theater to the first Chamber of Commerce. Now we have 124—Harvey Gantt, the mayor of the largest city in the two Carolinas. We wish Mayor Gantt well.

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

The PRESIDING OFFICER. The clerk will call the roll.

The Assistant Secretary of the Senate 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.

CONCLUSION OF ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Morning business is declared closed.

NATURAL GAS POLICY ACT AMENDMENTS OF 1983

The PRESIDING OFFICER. Under the previous order the hour of 9:30 a.m. having arrived, the Senate will now resume consideration of the unfinished business, S. 1715, which the clerk will state.

The legislative clerk read as follows:

A bill (S. 1715) to amend the Natural Gas Policy Act of 1978, to protect consumers from those price increases that would occur because of market distortions as a consequence of current regulation of natural gas prices, to permit natural gas contracts to reflect free market prices, to provide for a phased deregulation of natural gas prices in order to achieve a free market by a date certain, to eliminate incremental pricing requirements for natural gas, to eliminate certain restrictions on the use of natural gas and petroleum, and for other purposes.

The Senate resumed consideration of S. 1715.

AMENDMENT NO. 2485

Mr. McCLURE. Mr. President, I withdraw my amendment (No. 2485), and send an amendment to the desk.

Mr. METZENBAUM. Mr. President, before the Chair acts on that withdrawal, the Senator from Ohio wishes to be heard as to the right of the Senator from Idaho to withdraw the amendment.

The PRESIDING OFFICER. The Senator from Idaho has not lost the floor.

Mr. METZENBAUM. I am sorry. I did not hear the Chair.

The PRESIDING OFFICER. The Senator from Idaho has not lost the floor by withdrawing his amendment.

Mr. METZENBAUM. The Senator from Ohio is aware of the fact that the Senator from Idaho has not lost the floor. The Senator from Ohio is asking for recognition before the Chair permits any action with respect to the withdrawal of the amendment.

I believe the Senator from Ohio is entitled to recognition for that purpose.

Mr. McCLURE addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio will not take the floor from the Senator from Idaho. The Senator from Idaho has a right to withdraw his amendment.

The amendment is withdrawn.

Mr. METZENBAUM. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. Does the Senator from Idaho yield for a parliamentary inquiry?

Mr. McCLURE. Mr. President, I understand what the Senator is trying to do, and if I understand correctly, what he really wishes to do is to question the right of the Senator from Idaho to withdraw the amendment, and I think he will also at some appropriate time wish to test that right. I do not wish to deny him that opportunity to do so.

The other side of that, however, is that if I can yield to the Senator for a parliamentary inquiry without losing my right to the floor, I will ask unanimous consent that I may and for no other purpose but the parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Idaho has the right to yield for a parliamentary inquiry and for no other purpose and ask unanimous consent to do so.

Mr. McCLURE. I so ask such unanimous consent.

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

The Senator from Ohio is recognized for the purpose of a parliamentary inquiry.

Mr. METZENBAUM. Mr. President, I appreciate the courtesy of the manager of the bill, my friend from Idaho, and I rise for the purpose of a parliamentary inquiry as to whether or not a Member of the Senate has a right to withdraw an amendment after the Senate has taken some action on the amendment.

The rules specifically provide that, when the Senate has taken some action on an amendment, unanimous consent is required to withdraw the amendment.

The question then arises as to whether or not any action has been taken.

As the Chair knows, there was a unanimous-consent request made by the majority leader on November 3 and that speaks for itself at S. 15319 in which the majority leader asked for unanimous consent to set aside the pending measure with the understanding that we would return to consideration of the Metzenbaum amendment to the McClure amendment.

On June 22, 1971, Senator JAVITS was required by the Chair to obtain unanimous consent to withdraw an amendment because of the above-cited rule. The action that the Senate had taken was a unanimous-consent request that certain amendments to the Selective Service Act be considered at a certain time. The amendment was called up and debated and then withdrawn, but only with unanimous consent.

Now I should point out that there is a great similarity between that situation and the present situation because in that instance the unanimous-consent request had dealt with certain amendments to the Selective Service Act not with respect to the specific and in this case the Senate has acted to set aside my amendment to the McClure amendment and, therefore, the issue is very similar, not identifical but very similar.

I might say to the Senate that the record on that point indicates that the Presiding Officer ruled, on page 21278 of the RECORD of June 22, 1971:

> When the Senate has taken some action on the amendment unanimous consent is required to withdraw the amendment.

That is not the only instance in which we have had a situation of this kind because on September 29, 1971, Senator SAXBE, my predecessor, as a matter of fact, wanted to withdraw an amendment and he said:

> Mr. President, I wish to advise the Members of the Senate that it is my intention very shortly to ask unanimous consent to withdraw this amendment and that there will not be a vote before I do so.

And he was then cut off. But then at a later point he had recognized that rule. At a later point he said.

> I ask unanimous consent I might add because due to the time limitations previously agreed upon I believe it requires unanimous consent to do so.

Under those circumstances I think the situation is very similar to that which we are facing in this instance. But I think that there is more to what we are talking about than just the unanimous-consent request and the withdrawal of an amendment.

What we are talking about is the right of the Senate to proceed to the business at hand and the Senator from Ohio is prepared to go to a vote on my amendment now, a half-hour from now, an hour from now, any time.

Or, in the alternative, if the Senator from Idaho and the Senator from Louisiana prefer it that way, I am willing to lay aside my amendment and permit them to take the pending piece of legislation and make it a second-degree amendment setting mine aside temporarily. I think this Senate ought to move forward on the subject of natural gas.

Now the facts are that it is well known that I had said that, before S. 1715 passes, I would be prepared to debate the issue at length. But that is not the issue. What we now have is a filibuster taking place by the managers of the bill who do not want a Senator to be able to call up his amendment or her amendment until they get control of the floor and put in place an amendment in the first degree and an amendment in the second degree, so that no other amendments will be in order.

Now I want to make it clear on that subject. I do not object if they offer an amendment in the first degree and if the Chair rules against me to their doing that. Then I would say let us go ahead and vote on the second-degree amendment of theirs. Let us vote. Let us quit stalling. You wanted to bring this bill to the floor. Let us go.

I yield the floor.

I thank the Senator from Idaho.

The PRESIDING OFFICER. In answer to the parliamentary inquiry, there is no precedent under which temporarily laying aside the bill constitutes action on amendments to that bill. Therefore, the Senator from Idaho has the right to withdraw his amendment. The amendment is declared withdrawn.

AMENDMENT NO. 2524

(Purpose: Local Distribution Company Automatic Purchased Gas Cost Savings Passthrough Requirements)

The PRESIDING OFFICER. The clerk will report the Senator's amendment.

The bill clerk read as follows:

> The Senator from Idaho (Mr. MCCLURE) proposes an amendment numbered 2524.

Mr. McCLURE. Mr. President, I understand the statement of the Senator from Ohio, and I understand the feeling with which he has expressed himself with respect to the——

The PRESIDING OFFICER. Excuse me. The Senator from Idaho does not have the right to recognition until the amendment has been read or unanimous consent has been granted to waive its reading.

Mr. McCLURE. I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

> On page 38 following line 18 insert the following:
>
> "SEC. 302. The Natural Gas Policy Act of 1978 is amended by adding the following new section:
>
> " 'SEC. 603.—LOCAL DISTRIBUTION COMPANY AUTOMATIC PURCHASED GAS COST SAVINGS PASSTHROUGH REQUIREMENTS.
>
> " 'GENERAL RULE.—Any purchased gas cost savings received by any local distribution company shall be automatically and immediately passed through by such local distribution company to all gas consumers on a volumetric basis.' ".

AMENDMENT NO. 2525

(Purpose: Local Distribution Company Automatic Purchased Gas Cost Savings Passthrough Requirements)

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

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

> The Senator from Louisiana (Mr. JOHNSTON) proposes an amendment numbered 2525 to amendment numbered 2524.

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

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

The amendment is as follows:

> Add at the end of amendment number 2524 (Mr. MCCLURE) the following:
>
> " '(a) PURCHASED GAS COST SAVINGS SUBJECT TO AUTOMATIC PASSTHROUGH.—For the purposes of this section, any reduction in the amounts paid by a local distribution company for the purchase of natural gas from any interstate pipeline as a result of section 601(c)(3)(G), or any other reductions in amounts paid for natural gas by a local distribution company, shall be deemed a purchased gas cost savings.
>
> " '(b) COMMISSION RULES.—Within sixty days of the enactment of this section, the Commission shall promulgate such rules as may be necessary to provide for the automatic passthrough to customers of local distribution companies of the purchased gas cost savings specified in subsection (b).
>
> " '(c) PROHIBITION ON OFFSETTING MODIFICATIONS IN RATES AND CHARGES.—Any modification of the method of allocating costs to the rates and charges in effect on the date of enactment of this section of such local distribution company, which has the effect of creating any offset in the rates and charges for natural gas to any customer served by such company for the amount of any purchased gas cost savings received by

such local distribution company, is prohibited.

"'(d) ADDITIONAL ENFORCEMENT AUTHORITY.—In addition to such enforcement authority as may be available pursuant to section 504(b)(1), the Secretary, the Commission, or, on the request of the Secretary of Energy or the Commission, the Attorney General, may institute a civil action for injunctive or other equitable relief as may be appropriate to assure compliance with the provisions of this section requiring the passthrough of purchased gas cost savings received by any local distribution company. Such action may be instituted in any district court of the United States in the State in which such local distribution company conducts business or in the District Court of the United States for the District of Columbia.

"'(e) PREEMPTION OF STATE OR LOCAL LAW.—The requirements of this section shall preempt and supersede any provision of State or local law to the extent such provision of law would preclude the passthrough of any purchased gas cost savings pursuant to the provisions of this section, or prevent the applicaiton of the requirements of this section.'"

"SEC. 303. The Natural Gas Policy Act of 1978 is amended by inserting in Sec. 504(b)(1) after "Except as provided in paragraphs (2) and (3)," the phrase "and section 603(e),"."

Mr. JOHNSTON. Mr. President, let me say, in response to my distinguished friend from Ohio, that I would have opposed the amendment which he had pending before it was withdrawn because that amendment was not a good test vote. That amendment was very flawed in my judgment, and I think demonstrably so.

I believe, Mr. President, at an appropriate time that the distinguished Senator from Ohio may wish to put in S. 1715 and get a test vote on that amendment. But I would say to my distinguished friend that I would hope that he would allow a reasonable period of time to go by before he does that. What I mean by reasonable period of time is, for example, time enough for people to read the latest CBO report which compares S. 1715 and the so-called Gephardt bill. I am sure the Senator is familiar with the Gephardt bill over in the House of Representatives, which in turn is similar to S. 996, the Kassebaum bill, S. 996, pending here in the Senate.

What the Gephardt bill does, of course, is to roll back prices to August 1982 levels, and to keep them under controls through 1987, and thus not to ramp up or ramp down old and deep gas prices.

Now, that study—and this is not a study run by the oil companies, as the Natural Gas Supply Association study was—what this study indicates is that S. 1715 is in many ways, better for consumers than the Gephardt bill.

I do not want to be at all confrontational with the distinguished Senator from Ohio because I know that, first of all, he is exceedingly bright and, second of all, in this heart of hearts he is fair in his analysis. So I do not want to confront him with this in an adversary sort of way. I simply would ask him to let a reasonable period of time go by and analyze that CBO report.

If I may also tell the distinguished Senator from Ohio, I had a visit just the day before yesterday with one of the attorneys for the Columbia Gas System, which serves I believe the entire Sate of Ohio.

Mr. METZENBAUM. Part of it.

Mr. JOHNSTON. Or at least a major part of it.

And that attorney said that S. 1715 was a good deal for Ohio, but that the various pending measures, including a measure being considered by the Senator from Ohio, was not as good for the consumers of Ohio and thus Columbia Gas would have to oppose those alternatives.

I invite his analysis, his own independent analysis of the effects of S. 1715. That is why I say before we have the test votes on S. 1715, he ought to take a look at the effects of that bill. I know, as I say, he is bright and he is fair; if he will allow that time, I think maybe there may be a little mellowing of his attitude. Maybe the Senator from Louisiana and the Senator from Ohio will change places on the issue after this period of time. But, as of right now, I think the Senator ought to allow time for some study.

We are not trying to conduct any monkey business and filibuster this bill. I think the Senator knows better than that. I mean, it was brought up by the distinguished Senator from Idaho, who is the floor manager of the bill, so obviously he did not bring a bill up for the purpose of filibustering it. But at the same time, I think it is important that enough time go by—and I am not talking about days or weeks—but enough time to read some of these reports and let the word get out as to what S. 1715 does.

Mr. METZENBAUM. Will the Senator from Louisiana indicate what he means by "enough time"? We all know we are running up into November and it will soon be November 18 and we go to the 2 coldest months of the year until we get to January 23, I think it is, when we return. The Senator from Ohio feels that some legislation should be enacted.

Now, it is fair to say that if it is S. 1715, I do not think that "some" legislation is good. I am familiar with the CBO report and am prepared to discuss that but will not discuss it at this point just by the reason of lack of time. But the facts are that if you think S. 1715 is good, if you want a vote on it tomorrow at 2 o'clock as an amendment to this bill in the second degree, I am perfectly willing to cooperate with respect to the parliamentary procedures. I feel that those who think S. 1715 has merit ought to be given a chance to vote for it, without it being a final conclusive vote of this body. By offering it as a second-degree amendment, we would put the Senate in that position.

It is my feeling, my understanding, that vote counts have indicated—and I have not taken one, I am frank to say—that S. 1715 has very little support in this body. And whether you take 1 day or 2 days, it does not take staffers around here long to take a look at a CBO report once they make up their minds the issue is coming to a head.

So I would like to say, let us get on about our business. The matter of the time for consideration and review and analysis I think is behind us. The heating season is upon us. I think there is a sense of emergency that we ought to try and enact some legislation.

So I am saying let us go with my amendment, or go with the Senator's amendment. If the Senator wants to attach some amendment in the second degree without even looking at it I say go ahead and attach it. I do not think the bill is going anywhere unless we come to an agreement that the consumers in this country will be protected. So offer the second-degree amendment and then let me offer my second-degree amendment. If there is no opposition to your second-degree amendment, and I have not read it, go ahead and offer it.

Mr. JOHNSTON. Let me say to my distinguished friend, Mr. President, I know the Senator reads fast and is up on this issue, but this CBO report was not issued until 5 o'clock last evening and it is not yet even 10 o'clock. Most Senators have not even come to work yet, except those of us who are very, very hard workers.

Mr. METZENBAUM. The Senator from Louisiana is well aware of the fact that there have been draft reports of that CBO report that have been around. I do not think there are any great surprises in it. If the Senator feels that at 2 o'clock this afternoon the late risers will have had an opportunity to read it, let us agree that we will vote on S. 1715 with a second-degree amendment at 2 o'clock this afternoon, at 3 o'clock, at 4 o'clock.

Mr. JOHNSTON. The Senator will have his right to put on S. 1715 a second-degree amendment at an appropriate point. However, I expect we will be on the continuing resolution in short order.

Mr. McCLURE. Will the Senator yield to the Senator from Idaho without losing his right on the floor?

Mr. JOHNSTON. Yes.

Mr. METZENBAUM. I do not want to object to that procedure but I think both of my friends know I have the right to object and I think they will see to it that my rights are protected.

Mr. McCLURE. Mr. President, I thank the Senator from Louisiana for

yielding without losing his right to the floor, and I thank the Senator from Ohio for not objecting to that. I think we have started well this morning, in regard to the tolerance of people on both sides, the Senator from Ohio making his parliamentary inquiry, going a little beyond a parliamentary inquiry, and making a speech on the merits as well as strategy. I did not object to that. I thought it might be useful to permit that discussion to go forward. I have not objected to the colloquy that went forth between the Senator from Ohio and the Senator from Louisiana. But that colloquy is the reason I asked the Senator to yield to me. It deals with when are we going to vote, how are we going to vote, and on what are we going to vote.

I would say to the Senator from Ohio as I tried to say before, one of my purposes has been to attempt to get a time agreement on the amendment to be offered by the Senator from Kansas (Mrs. KASSEBAUM). As the Senator knows, that is a bill which has been introduced and has several cosponsors. It has been around for quite awhile in one form or another. It was kind of a leadoff to this debate about what we ought to be doing on this matter in a legislative way. Since it is a kind of fundamental question, a fundamental approach, that has both a historic background and the support of a number of Members, it struck me as manager of the bill that that is a good departure point for the discussion and the determination of the issues before this body.

I am also advised by the Senator from Kansas that she does not believe that that matter can be disposed of in much less than 4 hours, if it can be debated and disposed of in 4 hours.

With no expectation that we are going to be permitted to stay on this bill for an uninterrupted 4-hour period today, I doubt that we will be in a position to move beyond that point today. That is the only reason I asked for this time from the Senator from Louisiana.

Mr. METZENBAUM. Will the Senator yield?

Mr. JOHNSTON. I yield to my friend without losing my right to the floor.

Mr. METZENBAUM. I am a cosponsor of the Kassebaum amendment and will support it, but I am also a strong advocate of getting on with the business of the natural gas bill. We know that 4 hours of debate with respect to the Kassebaum measure will preclude any vote. I, for one, feel that that is not the real issue. The real issue has to do with whether we have decontrol or we do not have decontrol. The real issue has to do with whether or not S. 1715 is a viable piece of legislation that has any support on the floor of the Senate.

I do not want anyone in this body to be able to say that those who are concerned about the consumers of this country are in any way responsible for delay. Therefore, I would like to say to my good friend from Kansas that I am not certain that taking that amendment up first is the right route to go. But if she wants to do that, I will not stand in her way. I am a cosponsor and I yield to her judgment.

However, if she does do that, I would not be in favor of 4 hours of debate because that will mean there will be no vote on this particular measure today.

I do not believe there are enough votes to pass the Kassebaum amendment. I think there are enough votes or close to enough, I think there are enough, to pass my amendment. I am positive there are not enough votes to pass S. 1715 as a second-degree amendment.

I would strongly urge upon the Senator from Kansas, who is my cosponsor and with whom I do have the privilege of working—I am her cosponsor, as a matter of fact, and she is mine as well—that if we are going to go to the Kassebaum amendment that there be a time shorter than 4 hours so that we may vote on it yet this morning before we get to the continuing resolution, and then get on with some other business that is pending.

I, for one, am as interested as anyone in the Senate on the whole subject of natural gas legislation. I would say I am willing to take some time to speak or yield my time, but I do not think we need anything like that amount of time in order to know how people are going to vote on the Kassebaum amendment.

Mrs. KASSEBAUM. Will the Senator from Louisiana yield without losing his right to the floor?

Mr. JOHNSTON. Yes.

Mrs. KASSEBAUM. If the Senator from Ohio will let me speak on my own amendment for a minute, I was prepared to say that, as a matter of fact, events have changed in the last couple of days since we first started this debate. While I have 17 cosponsors and many of them wish to speak, this was one of the reasons early on when we were talking about time that it was felt that it would be best to think in terms of 4 hours equally divided.

I would certainly think today, given the continuing resolution coming up and the desire of all parties to see us move ahead on this issue, we could certainly agree to a much shorter period of time. I think with the strong support that S. 996 has, it would be a good starting vehicle and enable us to talk about some of the issues, some of which have already been discussed.

Mr. McCLURE. Will the Senator from Louisiana yield without losing his right to the floor?

Mr. JOHNSTON. Yes.

Mr. McCLURE. I thank the Senator for yielding. I thank the Senator from Kansas for her statement. As far as I am concerned, a shorter period of time would be desirable. In view of the expressions of the Senator from Kansas and the Senator from Ohio, I will undertake to see what we might be able to get done with respect to a time limitation on the Kassebaum amendment, and see if we can get a unanimous-consent agreement that could be entered that would make it possible for us to dispose of the pending amendments and the Kassebaum amendment, if we can get a time agreement on the Kassebaum amendment, and perhaps vote on the Kassebaum amendment.

Mr. METZENBAUM. Since we are getting along so well, I wonder if we might also agree to permit the Senator, or one of the Senators, or me, whatever be the pleasure, to then offer S. 1715 as a second-degree amendment with a 1-hour debate limitation or a half hour debate limitation and go to a vote on that immediately after the Kassebaum amendment.

Mr. McCLURE. Will the Senator yield without losing his right to the floor?

Mr. JOHNSTON. Yes.

Mr. McCLURE. I will explore that possibility as well. We share the same goal the Senator from Ohio is seeking. I appreciate the fact that before, when it came to the motion to proceed to the consideration of the legislation, he and I were working on the same side trying to get this legislation before the Senate so we could vote on it. I cannot tell the Senator that I know what will happen if we seek these time agreements, but I will say to the Senator I will see what I can do.

Mr. JOHNSTON. Mr. President, let me momentarily reclaim my right to the floor and state that I think the Senator from Ohio has a good suggestion, but I would make this change: I do not believe we have enough time today, either under a 1-hour or 4-hour time agreement, to consider these amendments. I think it is the intention of the leadership to move the continuing resolution.

I do not think the Senate ought to be rushed into trying to finish natural gas in order to deal with must-pass legislation. I believe, however, that we will have time, probably a full day, next week sometime, to deal with natural gas.

If we do in fact have that full day, I think it might be appropriate to consider these two amendments in under 4 hours or 2 hours, whatever the distinguished Senator from Kansas wishes on her amendment. I would think we would need more than 30 minutes or an hour on S. 1715—maybe 2 hours. Certainly, to dispose of those two amendments in a day, I think, would be a day very well spent.

Mr. METZENBAUM. Mr. President, I think the important point is that we start to vote and indicate how the Senate feels. I believe that my amendment, which would have eliminated any old gas decontrol, is an issue that ought to be placed before the Senate. I do not care how much time we debate, no mind is going to be changed. Senator KASSEBAUM's amendment is an issue that ought to be placed before the Senate. I do not care how much time we debate that, because I doubt that any minds will be changed.

S. 1715—I think everybody in this body pretty much knows where he or she stands. With all the reports that may be coming up, that is not going to change them at all.

As far as I am concerned, Mr. President, I would like to go ahead and vote on all three of those issues—the Kassebaum amendment having to do with the issue of old gas decontrol. I am prepared to move immediately.

It is my understanding that the continuing resolution is not ready to come to the floor. Therefore, as far as I am concerned, why do we not get on with the Kassebaum amendment? If that is what the Senator wants to do now, let us do it within a short period of time and let us vote. Then I shall put up S. 1715, or the Senator can put up S. 1715, then my old gas decontrol issue. Let us go. The continuing resolution is not ready to be voted on on this floor. I think we ought to get on about our business and quit talking. Let us start voting.

Mr. JOHNSTON. Mr. President, I say to my distinguished friend that I was advised as of last night that the CR would be ready this morning. I am advised now that that may not be the case. The Senator from Idaho is checking on that at this time.

If we have time, I surely say it would be appropriate to go ahead as the Senator from Ohio suggests. No one that I know of disagrees with the idea of test votes on S. 996, then S. 1715, with an appropriate amount of time for debate.

I agree with the Senator from Ohio that it does not need a lot of exposure, but it ought to have some. This is very, very important legislation.

On the idea of a test vote, if the Senator wants to get a good test, he ought to have enough debate so those who are proponents will say, "We have had enough chance to make our case and were voted down." Otherwise, it is not an appropriate test. That is why I think we need an appropriate amount of time to expose Senators to the issue. The Senator and I are very, very familiar with this legislation but there are a number of other Senators who are not up on issues such as take or pay, market out, and all of these very complicated matters.

Mr. METZENBAUM. I say to my friend from Louisiana it is now 10:05. We have been on it for a half hour. In 1 hour, or however long the Senator from Kansas agrees, we can dispose of the Kassebaum amendment, get a time certain on it for a vote; we can dispose of the Metzenbaum or McClure or Johnston amendment, whoever offers S. 1715 as the next amendment, get a vote up or down on that. As far as I am concerned, I am willing to agree to a half-hour debate on that issue.

I think the Senator from Louisiana would agree, we will not change one single vote, no matter how much oratory he or I or anyone of the other 98 Members of this body offers on that issue. Members of this body know where they stand. They are not going to worry about ramp up or ramp down, market out or some of those phrases. They are going to know that at this moment, frankly, in many instances, they are on the side of the consumers or on the side of the oil companies.

In other instances, there are other factors equally in play. I read in the paper the other day where the banks and the insurance companies are now against S. 1715. I never knew I was going to get such support as that. Some of the independent gas producers are against it. So let us get on with the ball game. Let us vote.

Mr. JOHNSTON. Mr. President, I yield the floor to the distinguished Senator from Kansas.

Mrs. KASSEBAUM. Mr. President, let me suggest to my colleagues that we think in terms of working out a 4-hour time agreement equally divided on S. 996 and S. 1715. It seems to me that would give us ample time to take care of both bills.

I concur, I think everybody does know what the issues are. Probably not many minds will be changed on the basic elements of both of those pieces of legislation. It seems to me in that period of time, we can deal with both of the bills and see, indeed, where sentiment does lie.

(Mr. COHEN assumed the chair.)

Mr. JOHNSTON. Mr. President, I think—I am not in a position, obviously to make a time agreement. The distinguished Senator from Idaho is talking to the majority leader at this time. I think the question is how much time is available today and when this issue is going to come back up. Until that happens, we really cannot agree to a time agreement.

Mr. President, I hope that Senators will not take the view that because the big oil companies, happen to be for this bill or against that bill, or small oil companies happen to be for or against, or the insurance companies or the banks, that therefore it has to be good or bad. I really invite my colleagues in the Senate to look at that CBO report. I have never heard CBO identified with big oil or little oil or as anticonsumer. Indeed, I think CBO has done an excellent job of preserving its nonpartisan objective image. I hope they always have the image that they have today.

What does CBO say in their report issued just at 5 o'clock last night? The report begins with a statement which I have been trying to get across on the floor of the Senate, which is as follows—and this is a key point in natural gas. It says:

> Today, substantial evidence exists that the average price of gas has already risen to the level it would reach if gas competed freely with oil. Thus, the major issue in gas pricing policy today may be how to improve the efficiency and competitiveness of the gas market, rather than the redistribution of income from consumers to gas producers.

That is page xiii of the CBO statement.

What does that mean, Mr. President? That means that natural gas on the open market has already risen to the price the market would bear and that, on the average, decontrol of natural gas would not result in the rise of the price of natural gas. So says CBO. So, of course, said the Natural Gas Supply Committee, which also issued a report.

Mr. McCLURE. Mr. President, will the Senator from Louisiana yield without losing his right to the floor?

Mr. JOHNSTON. Yes, Mr. President, I yield.

Mr. McCLURE. I have been consulting with the leadership, Mr. President, with Senator BAKER in particular and with Senator HATFIELD, chairman of the Appropriations Committee, to determine if we can what time we might be able to devote to this matter today. I am advised that they will attempt to move either to the Treasury-Post Office appropriations bill or to the continuing resolution very soon, with the possibility that either the extended employment benefits bill or the Civil Rights Commission legislation—one or the other of those—might be the legislation that will be brought to the floor by the majority leader very soon. So it appears unlikely that we shall have the time that is necessary to dispose of the pending amendments and move to the Kassebaum amendment and dispose of it this morning or by early afternoon.

Mrs. KASSEBAUM. Mr. President, will the chairman yield for just a moment, or the Senator from Louisiana?

Mr. JOHNSTON. Yes, Mr. President, I yield.

Mrs. KASSEBAUM. I wish to say to the distinguished chairman of the Energy Committee that I am disappointed, because by 2 o'clock, really, if we could enter into this time agreement, we would be dealing with a major piece of legislation of vital importance to this country.

We can take all sorts of different reasons why we are not dealing with it when we are so close. In recognition of how important this is, to try and say, "Well, these other things may come along and we are going to have to do this," I think is most unfortunate.

Mr. McCLURE. Will the Senator from Louisiana yield further without losing his right to the floor?

Mr. JOHNSTON. Yes.

Mr. McCLURE. I appreciate the statement the Senator from Kansas has made. I hope everyone knows I have been pressing this matter for weeks to get it resolved, and it is still my intention to get it resolved before we adjourn—the sooner the better as far as I am concerned. But the majority leader does have other problems that he has to deal with. While this is primary to the Senator and to me at this particular time, the majority leader has other things that he must be concerned with, and I have to yield to that from time to time. If we are not able to get to the resolution of this matter today, I will be pressing him continuously, as I have been for weeks now, to make it an urgent priority in the list of things that must be done before we adjourn this session of the Congress. I still will make every effort toward that end.

Mr. METZENBAUM. Will the Senator from Idaho yield for a question, recognizing full well that the Senator from Louisiana still holds the floor?

Mr. McCLURE. If the Senator from Lousiana will yield for that purpose without losing his right to the floor, I would be happy to.

Mr. METZENBAUM. Is there any reason why we could not enter into an agreement with time limits with respect to, as the Senator from Kansas has suggested, a 4-hour time limit, with respect to votes on both 996 and 1715, both as second-degree amendments, and enter into the agreement without actually locking in place when that 4 hours would expire or even necessarily when the vote would take place? At least we would have provided that conclusion.

I might say parenthetically that I cannot see that the world is going to fall apart, nor even the country, if the Treasury appropriations bill does not come to the floor. As a matter of fact, I am told that there are two highly controversial amendments that are being talked about for that measure which would make passage of it utterly impossible. So I would think that when we are on this bill which means so much to the country and is so important to those who want to heat their homes this winter and the industries that operate thereunder, we ought to come to an agreement now, and then we can decide where we find the timeslot and also the time when we vote.

Mr. McCLURE. Mr. President, I would be pleased to respond to that, if the Senator from Louisiana will yield without losing his right to the floor.

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

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. McCLURE. Mr. President, I am happy to respond to the Senator from Ohio. I just look around. While there are six Members of the Senate within sight, maybe more within sound, that means there are 94 who are not, and a unanimous-consent agreement requires unanimous consent. That means that every Member of the Senate has to have the opportunity to be contacted. There have to be clearance procedures on both sides of the aisle.

Mr. METZENBAUM. If we come to an agreement, then we will see to it that there are hotlines put out of that effect on both sides. But I think we can come to an agreement on the floor subject to it being cleared all around.

Mr. McCLURE. As I indicated earlier, I will attempt to do what I can to see what we can do. I am prepared right now to enter into a unanimous-consent agreement on the Kassebaum amendment. I am not at the present time prepared to enter into a unanimous-consent agreement with respect to a vote on S. 1715 as a second-degree amendment. However, I am not foreclosing that possibility. I think that is a possibility. But as I say, if everyone within view and within earshot of what we are discussing is willing to enter into such an agreement with respect to the Kassebaum amendment, I am ready. I have been seeking that for some days now. I think every Member of the Senate has been on notice that we are trying to get that done, and I hope that we can, before we move off this bill, get a unanimous-consent agreement with respect to the Kassebaum amendment.

Mr. METZENBAUM. We are talking also about S. 1715, because I think it would only be fair to say that a vote on the Kassebaum amendment alone, of which I am a cosponsor, would not really indicate where the Senate stands.

Mr. McCLURE. I understand that a vote on the Kassebaum amendment, unless it is adopted, is not the final word. I suspect that even if it were adopted, there would be efforts made to further amend it. I do not seek to foreclose that possibility by whatever agreement we might enter into.

Mrs. KASSEBAUM. Will the Senator from Idaho yield?

Mr. McCLURE. I would be happy to yield without losing my right to the floor.

Mrs. KASSEBAUM. I fully appreciate how the Senator from Idaho, the chairman of the committee, is trying to move this legislation. He has given extraordinary effort, not only to the hearings and the markup but to push the legislation on the floor. I say, though, if we are able to work out a unanimous-consent agreement for a shortened period of time, I wish the committee would feel that they could do the same on 1715, because much debate has already occurred on 1715 in the earlier debate regarding the motion to proceed.

Mr. McCLURE. I understand what the Senator from Kansas is saying. As I said before, we have discussed the question of bringing the Kassebaum amendment to the floor under a time agreement openly and publicly for days. It was about the first comment I made when I took the floor, as the motion to proceed to the consideration of this matter became the pending business, indicating that that was my intention, and that intention has been widely disseminated. I think everyone knows what that issue is.

The Senator from Ohio some time ago raised the possibility of S. 1715 being offered as a second-degree amendment, and while that was done, I do not believe, at least within my knowledge, it has been as widely discussed as a procedural possibility as has the desire of the committee, of myself at least, to move to the consideration of the Kassebaum amendment at an early time. However, I have not foreclosed the possibility of S. 1715 being offered as a second-degree amendment, and I am actively exploring that possibility. But I am not in a position to say right now that I am able to enter into a unanimous consent agreement on that matter.

Mrs. KASSEBAUM. One of the things that changed, however, is that our time has been somewhat constricted.

Mr. McCLURE. Yes.

Mrs. KASSEBAUM. If we had the leisure of the whole week—and we can talk about moving this to next week—we all know that our plate is very full as far as what we have to handle next week before we go out.

Mr. McCLURE. That is correct.

Mrs. KASSEBAUM. And so I think we should be under no illusions that time is going to be better next week than it is right at this moment when I do think we have a window of 4 hours.

Mr. McCLURE. I do not think we have a window of 4 hours.

Mr. METZENBAUM. Would the Senator be willing if we had a window of 3 hours, 2 hours, 1½ hours? What did we come here for today? Just to withdraw the Senator's amendment? Let us get the show on the road. Let us vote.

Mr. McCLURE. The Senator, in all candor, put his finger on it. One of the major purposes was to do what has been done, but that is not the sole purpose.

Mr. METZENBAUM. That is fun and games, but it does not solve the problems of the country. We are wasting time. It is 10:20. We have been here for 50 minutes. Let us go ahead and use this time to debate the Kassebaum amendment and 1715 and let us vote.

Mr. McCLURE. I appreciate the concern of the Senator. I am as anxious to get this matter resolved as is the Senator from Ohio.

Mr. President, in sending the unprinted amendment to the desk as I did, and there has now been offered a second-degree amendment by the Senator from Louisiana, Members of the Senate will be given the opportunity to vote on these amendments. I hope they will approve them.

The purpose of the amendment I sent to the desk is to insure that customers of local distribution companies are guaranteed an automatic and immediate passthrough of natural gas price savings that will be generated as a result of the enactment of S. 1715.

Mr. President, there is no doubt that enactment of S. 1715 will create substantial and immediate savings in natural gas prices. One of the key provisions of S. 1715 that will generate these benefits is its so-called take-or-pay relief provision. Under this provision, natural gas pipelines would be relieved from the obligation to pay for billions of dollars of natural gas for which there is no market at the present time. In the absence of S. 1715, these expenditures will be passed on to gas consumers in the form of higher gas prices.

S. 1715 enables pipelines, at their option, to reduce the take-or-pay obligation on existing contracts down to 50 percent of contracted amounts during the first year, 60 percent during the second year, and 70 percent during the third year. As a result, this provision of S. 1715 will enable pipelines to refrain from paying for gas that they would otherwise be contractually obligated to pay for, but unable to accept immediate delivery of.

I want to emphasize that: Take-or-pay does not require pipelines to pay for volumes of gas which they will never get. It simply requires them to pay now for gas which they can not accept in their delivery system now, but will take delivery of sometime in the future.

It has been estimated by the Interstate Natural Gas Association of America that this provision of S. 1715 would reduce pipeline prepayment liabilities by $4.2 billion over a 3-year period.

The ramping and market-out provisions of S. 1715—and there I want to get back again to the definition for people who may be less familiar with this legislation—the ramping provision is that which changes the price path under current law and under current contracts of high cost gas moved down over a relatively short period of time and the price for low cost, old gas that has been under contract and regulation for a long period of time, moving it up over a somewhat longer period of time.

The market-out provisions in the bill permit the parties to the contract to exercise an option to avoid the consequences of their contracts at the end of a longer period of time. This will permit further price relief within the foreseeable future for the consumers of natural gas in this country.

The ramping and market-out provisions of S. 1715 will also generate billions of dollars of additional natural gas price savings. S. 1715 contains a 12-month ramp-down of high-priced gas and a 36-month ramp-up of below market priced gas.

Those periods, incidentally, need to be put in the context of a 60-day period at the beginning and a 6-month period at the end. So you would have to add 8 months to the periods I have given, which is then an effective time between the enactment of the bill and market-out provisions of 20 months on high-cost gas and 44 months on low-cost gas.

Mr. METZENBAUM. Mr. President, will the Senator yield for a question, without losing his right to the floor?

Mr. McCLURE. I yield.

Mr. METZENBAUM. The Senator from Idaho is pretty much talking about the merits of S. 1715, as such. But I wonder if the Senator from Idaho and the Senator from Louisiana would be prepared to adopt the second-degree amendment and the first-degree amendment at this moment because, to the best of my knowledge, there is no opposition to those amendments, and then we could really get into some substantive issues.

I, for one, am prepared to say that I do not have any objection to the second-degree amendment or the first-degree amendment, and if it is the regular order—and I do not have the right to call for the regular order because I do not have the floor—but if that is the case, I say go ahead and adopt the two amendments and then get on to something else.

Mr. McCLURE. I thank the Senator for his suggestion, and I welcome his support for these amendments, but these amendments are not just pro forma. They are of substance.

There are people who do not like them, as well as the majority of people here who do like them.

As is often the case when we reach the end of a price control period, or find a method by which you can offer some relief from price controls, there are those who are involved in the industry who seek that particular window of opportunity as price adjustment is taking place, to adjust the price for other reasons. They adjust the price to recapture what they might think are deferred costs, to adjust the price to catch up with what they believe the market will bear.

Whatever the motivation might be, there are those who would like to increase the price, and they would perhaps seek to do so as price relief for consumers under the passage of this legislation. It would become evident as they try to capture that price relief for their benefit, rather than pass it on to consumers.

That question is one in which local distribution companies, the utilities at the end of the pipeline, might be in a position to attempt to exercise. I am not saying they would, but because of that possibility, I think it is important that we adopt the amendments which are now pending in order to make certain that that does not occur. Then we can honestly guarantee to the consumers of this country that the price reductions that are possible under this legislation would be passed on and made available to the consumers of this country and not absorbed by someone else.

Mr. President, the market-out provisions of S. 1715—and that also is a matter of controversy, as to whether or not there will be a market-out provision, and that is not universally accepted—the market-out provisions of S. 1715 would generate gas price savings. They would do so by providing parties to producer-pipeline contracts with both an opportunity and an incentive to renegotiate existing contracts, particularly those having onerous pricing provisions. The freedom to renegotiate gas contracts will undoubtedly be the most direct and effective means for alining gas prices with the current state of the marketplace, and for guaranteeing long-term price stability in the marketplace.

The prudency provisions of S. 1715 will materially reduce gas purchase prices by inducing pipelines to purchase gas at the least cost. The prudency provisions are also matters of some contention, because those who are in favor of the prudency provisions can argue that there needs to be some review of what happens in the free market as we go through this period of transition, but there are others who do not like the review of free market decisions.

Mr. President, this is but a brief outline of some of the major provisions of S. 1715 that will generate gas price savings that my amendment is intended to insure will be automatically and immediately passed on to natural gas consumers served by local distribution companies. Recall that section 301 of S. 1715 contains a parallel provision that requires interstate pipelines to automatically pass through such savings. We took care of that at the producer level and the pipeline level, but

the bill did not take care of it for the local distribution company level.

The provisions of the amendment I am offering today would provide that any purchased gas cost savings received by any local distribution company be automatically and immediately passed through by such local distribution company to all gas consumers on a volumetric basis. The Federal Energy Regulatory Commission would be given the responsibility for promulgating the necessary rules to insure that this does in fact occur.

The amendment prohibits any modification of the method of allocating costs to the rates and charges of the local distribution company in effect on the date of enactment, if such change would create any offset in the rates and charges to any customer for the amount of the purchased gas cost savings created by S. 1715. In other words, any cost savings must be fully passed through by local distribution companies to their customers.

The amendment also creates additional authorities, paralleling the enforcement authority already contained in the Natural Gas Policy Act of 1978, to insure that the provisions of this section are complied with.

In addition, the amendment preempts State and local law only to the extent that such law would preclude the passthrough of any purchased gas cost savings in accordance with the provisions of this section.

Mr. President, the Department of Energy has estimated that the enactment of S. 1715 would generate a total of $23 billion in consumer benefits. Without the adoption of this amendment, there is no guarantee that all gas consumers will immediately and fully receive the benefits of S. 1715.

Mr. President, the administration supports this amendment and has indicated their support in a letter which I ask unanimous consent to have printed in the RECORD at this point.

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

THE SECRETARY OF ENERGY,
Washington, D.C., November 1, 1983.

Hon. JAMES A. MCCLURE,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This responds to your request for our views on your local distribution company (LDC) passthrough amendment to S. 1715. This amendment would require LDCs to passthrough to natural gas consumers any savings the LDC realizes in the cost of purchased gas from any source.

In our view, S. 1715 will result in a reduction in the wellhead price of natural gas. It is only fair that the benefits of these reductions go to those who have been paying the price for a regulated market: the American gas consumer. S. 1715 already has a provision requiring gas cost savings to be passed through by pipelines. This amendment will insure these savings are realized by the consumer at the burner tip.

The Administration supports this amendment.

The Office of Management and Budget advises that, from the standpoint of the President's program, there is no objection to the presentation of this report.

Sincerely,

DONALD PAUL HODEL.

Mr. MCCLURE. Mr. President, it is for these reasons that I urge other Senators to join with me in adopting this amendment.

Mr. President, last week we spent 3 days proceeding to consideration of comprehensive natural gas legislation. Our inability to proceed faster delayed a much-needed debate on the various legislative proposals to provide essential short-term, as well as long-term, benefits to all American consumers.

The committee reported bill, S. 1715, is the most comprehensive measure before us. Other proposals, each with its own merits, are more narrow in scope.

Our goal must be to obtain an adequate supply of natural gas at reasonable prices, not just this winter, but for the next decade and beyond. Legislation that is so narrow in scope as to deny American consumers achievement of long-term supply benefits is not up to the standard that should govern us when legislating on natural gas.

Consumers are being poorly served by the existing regulatory framework under the National Gas Policy Act, commonly referred to as NGPA. Comprehensive legislation is needed, and extended debate on narrow "quick-fix" legislation not only is an inefficient use of the limited time remaining to the Senate this year but it jeopardizes the successful passage of natural gas legislation before adjournment. If we fail to take constructive action on natural gas, our constituents will be poorly served this winter.

Passage of a comprehensive proposal such as S. 1715 will bring down the average price of natural gas compared to current law. In addition its passage will send a signal to consumers, to producers, and to gas transporters and distributors, that starting now prices of natural gas will be determined by the marketplace—not by misdirected Government regulations. In the process consumers will benefit as the marketplace straightens itself out and prices come down, as happened following oil price decontrol.

Following crude oil decontrol domestic oil production increased and there was a reduction of the U.S. dependence on costly oil imports. Our stepped-up domestic oil production helped to restrain world oil prices. Crude oil prices, which peaked in early 1981, have declined ever since. Consequently, the price of gasoline has fallen by nearly 20 percent, adjusted for inflation, over the past 2½ years. Similar effects can be expected following natural gas price decontrol, unless the public failed to note, because they sometimes do not see all that amount of savings ending up in the price at the gasoline pump. Congress and oftentimes the States have increased taxation on gasoline during that same period of time and so the reduction in the price of gasoline has been offset by the increased burden of taxation on that product during that period of time. But the decline in price for gasoline has been real and it has been dramatic since 1981.

I would urge the Senate to keep in mind the lessons of the 1970's regarding crude oil price controls, and the beneficial consequences of decontrol so far in the 1980's. When Government controls were in place our oil related problems were worsened. When controls were removed the dramatic results were: Record high drilling rates, more domestic production, substantially reduced dependence on foreign oil, and substantially lower gasoline and crude oil prices. These benefits accrued to all Americans, and I think one of the things we need to look at as we recognize the presence of that increased burden of taxation is that that has contributed substantially to the cost of gasoline but it has concomitantly reduced the pressure for other forms of taxation that flow to the construction activities on our Interstate Highway System.

Similarly, S. 1715 would place reliance on the marketplace. Enactment of such comprehensive legislation would be a long-overdue step toward increased domestic production, increased natural gas reserves, and decreased natural gas imports.

Let us compare this bill to the alternatives, particularly the Dingell-Sharp bill in the House, which is close in effect to several potential pending substitutes in the Senate. And to do that comparison let me quote from a letter from Texas Gov. Mark White to Congressman JACK FIELDS, dated November 4, 1983.

DEAR JACK: Last week, I received a synopsis of the natural gas proposal which your colleagues John Dingell and Phil Sharp intend to offer for consideration by the full House Energy and Commerce Committee. As Governor of Texas, I am concerned that this bill would be a disaster for consumers in Texas and across the country and for the natural gas industry. While there are a few good provisions in the proposal, such as equal access for intrastate pipelines to additional gas supplies and the repeal of both incremental pricing and the Fuel Use Act, my initial conclusion is that the merits of these positive provisions are not sufficient to justify passage of this legislation.

Though it is my feeling that final judgment on the Dingell/Sharp proposal should be reserved until it has been formally submitted and we have had an opportunity to review the legislative language of each provision, I cannot now and do not anticipate that in the future I will be able to support

this legislation. The ills of this overregulated industry will not be cured through more regulation. Rolling back gas prices and extending the NGPA price controls is a step backward from the status quo. If the federal regulations on the gas industry are removed and the free market is allowed to operate, our consumers will be relieved from the burden of rising gas prices and the gas industry will have the opportunity to operate in the marketplace. The marketplace and its encumbent forces will effectively allocate gas supplies at reasonable prices.

In Texas and around the country, a healthy gas industry means tens of thousands of jobs, some of which have been temporarily lost due to the perverse regulatory scheme of federal wellhead pricing provisions of the Natural Gas Policy Act. The industry is now showing some signs of recovery. I am concerned that this bill, which would increase federal intervention in the gas industry, will be a depressing signal that could stop the progress toward recovery that is being made. I am concerned that the more stringent requirements this bill would place on the natural gas industry which is now aggressively moving toward a decontrolled environment after decades of strict federal controls, would be a disaster for this nation's gas consumers and the gas industry as a whole.

I am also concerned that this bill has the potential to alter an individual state's "ratable take" regulations that govern allowable gas production. Ratable take and prorationing policy is difficult to conceive and difficult to administer. However, in Texas the Railroad Commission is fulfilling the obligation in a considered and even-handed manner. Texas' prorationing policy has evolved over 55 years of hard work, study and practical experience. Texas' "ratable take" system is designed to prevent waste, encourage exploration in times of surplus, and protect the rights of royalty owners and producers. In my judgment, it is inappropriate for the federal government to interfere with the State's obligation and authority to manage its own resources.

It is not wise policy to extend price controls and heap additional regulatory requirements on an industry that is presently moving forward to a less regulated environment which will provide an opportunity to react in a timely and effective manner to market forces. A wiser policy would be to hasten the step toward a deregulated environment. Federal regulations, however well-intentioned, have been the most significant contributor to the current chaos in the gas industry that has resulted in rising gas prices to consumers while available gas supplies are in surplus. There is no indication that additional regulations will solve the problem.

I do not intend for this letter to be simply an expression of discontent. I am also taking this opportunity today to offer my support for key concepts around which the ultimate compromise should be forged.

(1) Any legislation enacted by Congress must be comprehensive in scope. It would be shortsighted to address only "new" high-priced gas, "old" gas, or contract provisions in isolation. Our problems are the inevitable byproduct of one theory underlining the NGPA, that the government can more efficiently allocate and price a major energy resource than can a free, competitive market.

(2) Deregulation of wellhead natural gas prices must be the ultimate and the fundamental goal of any legislation. The concern that deregulation works only in favor of the producer at the expense of the consumer is belied by the current state of oil prices subsequent to decontrol of that commodity. The current surplus of natural gas provides the optimum environment in which to allow the marketplace to reduce the overall price and enable more supplies to move to more customers at a fair and reasonable commodity value.

(3) The so-called "contracts problem" should be fixed fairly and equitably in conjunction with permitting all gas to flow in volumes equal to market demand at a unitary market established price.

(4) Congress must avoid any temptation to assess a "windfall profits" tax in conjunction with deregulation of natural gas. Such a tax would do nothing to reduce the price of gas, would decrease its marketability, and would seriously hinder incentives to explore and produce.

(5) The remaining vestiges of the dual market between interstate and intrastate gas must be eliminated. Intrastate consumers in Texas continue to pay weighted average prices higher than the customers of the fifteen largest interstate pipelines purchasing gas in Texas. Any legislation enacted must allow equal access by intrastate pipelines to interstate supply and to outer-continental shelf gas, without subjecting these local systems to federal jurisdiction.

(6) The Fuel Use Act and the Incremental Pricing Sections of the NGPA must be repealed. These provisions are further examples of the federal government's unsuccessful attempts to direct the use and allocation of natural gas in place of the free market.

I believe that a comprehensive legislative package embodying these six principles would have several salutary effects. Of initial importance is the fact that because the statutorily-driven price of gas is now too high to meet the market, deregulation would result in lower weighted average prices for all consumers. Price set by the marketplace would eliminate the distortions caused by present law and regain those customers lost because of higher-than-market prices. Real market demand for natural gas, unfettered by federal controls, is critical to this nation's economic health and energy security. If these intrusive regulations are removed and the gas market is allowed to balance, additional sales spurred by demand for a competitively priced fuel will stimulate the exploration and development so necessary for a continued supply of this vital energy resource. Without a balance brought about through deregulation, prices will continue to rise and gas sales will continue to decline, further depressing the exploration and development we need to avoid the shortages experienced in the last decade.

I realize that the dynamics and politics of the U.S. Congress may not allow a bill that embodies all of these principles to become law. But I also realized that a law that does not seek to allow the natural gas industry to function in the free market is doomed to return to Congress for more stop-gap attempts to mitigate the disastrous effects it will most certainly have on the economy of this nation.

The problems we now face in the natural gas market are not just problems for Texas, nor merely problems for New York, Ohio, or California. They are American problems, and they require an American solution. The free enterprise for profit system has not been tried and failed in the natural gas industry; it has not yet been allowed to be tried. I strongly urge Congress to embody the American principles of freedom of the marketplace in the legislation it is now considering.

Any federal natural gas legislation enacted by Congress should move toward less government intervention. The Dingell/Sharp proposal would increase government regulation. When it is considered by the House Energy and Commerce Committee, I urge you to oppose those provisions that will extend or increase government intervention and regulation of the gas industry. I also urge you to oppose any provisions which will diminish or interfere with the State's authority to manage its own resources and to oppose the measure as a whole if it slows the progress of the natural gas industry toward a deregulated operating environment where gas can be made available to the consumer at a reasonable price. I believe that both consumers and producers alike will fare better with less, not more regulation.

The letter is signed by Mark White, Governor of the State of Texas.

Mr. President, it may appear to some that my remarks, particularly quoting that of the Governor of the State of Texas, a producing State, simply reflect producer bias. That is the reason that I took the time to put this in the RECORD. I would note that somebody from Texas or one of the producing States would quote with approval what the Governor of a producing State said.

Mr. President, I do not come from an oil producing State. Idaho is a consuming State. And in spite of the fact of the interests of my consumers in Idaho, of the interests of my constituents in Idaho, as that of a consumer, I endorse what the Governor of Texas has said with respect to this legislation that is before us today, and the necessary elements of legislation that should be encompassed in any bill that we pass.

I believe just as firmly as he does that the interests of consumers are at stake in this legislation. So-called quick-fix solutions, by way of extending price controls, extended Government regulation over an industry that has not yet been free to show what it can do free of regulation.

I, therefore, commend to all Members of the Senate the remarks of the Governor of Texas.

Mr. NICKLES. Will the chairman yield for a question?

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

Mr. NICKLES. I appreciate the chairman's outstanding leadership in this issue. I was listening to the earlier comments of the Senator from Ohio and also the Senator from Kansas regarding procedure and how we could move this bill.

I will just make a couple of comments. I hope we will move as quickly as possible on the pending amendment and the second-degree amendment and then take up the Kassebaum amendment. I think everybody has agreed to this procedurally, regardless of wheth-

er or not we could or could not get a time agreement. Certainly, S. 996 is going to have to be voted on and addressed.

The Senator from Ohio had an amendment, which was withdrawn, but I expect we may have to vote on it sometime. I would hope the sooner the better.

We have talk about there now being a window of opportunity for deregulation of natural gas because we have an abundance of natural gas. Prices, if we deregulate, will go down. The marketplace will prove that.

We have a window of opportunity of just a few days to legislate. I think the sooner we can vote on the Kassebaum amendment, the sooner we can vote on the amendment of the Senator from Ohio, the sooner that myself and others who may have amendments on S. 1715 can offer those, the better it would be. I would hope that as soon as possible we could get on to taking up some amendments or substitutes to the bill and find out where the votes are. The sand is running out and I think that it is necessary for us to go forward.

I understand the dilemma with the Treasury appropriations coming up, but my real concern with the Treasury bill is that, quite frankly, if we are going to get on the Treasury bill, we are going to end up in a filibuster on Treasury. If we get tied up in a filibuster on Treasury dealing with abortion or whatever it may be, we may lose the 1 day we possibly can be working. We do not know when the continued resolution will come over from the House, but it may be that it will be some time before the continued resolution arrives. That would then give us an opportunity to deal with some of these amendments.

Mr. McCLURE. Mr. President, if there is any prospect at all to stay on this bill and dispose of amendments, I am all for it. I have tried to get that done for weeks. I did not want to proceed on a motion to consider this bill, but we were forced by a filibuster to do that.

With respect to the Treasury-Post Office, the majority leader indicates, as does the chairman of the Appropriations Committee, that they desire to act on that bill, if possible, before proceeding to the continuing resolution. Otherwise, the Treasury legislation would have to be included in the continuing resolution.

Although the House did not act on the continuing resolution yesterday, or perhaps I should say they acted negatively, they killed it and did not pass one over to us, it will be before us soon. As a matter of fact, there was discussion between the Senator from Oregon and the majority leader that they may ask us to proceed on it, pending action by the House. That is a matter that has to be done before November 10 because that will fund the operations of this Government, before we recess for the Veterans Day holiday.

While I do not necessarily like the fact that we will be displaced by other legislation, we may well be displaced by other legislation. I have been notified that the majority leader intends to attempt to do that.

I also understand what the Senator from Oklahoma has said with respect to the possibility of a filibuster in regard to that bill. I guess the majority leader wants to try.

Certainly, I do not want to pass this opportunity to once again commend the Senator from Oklahoma for his diligence. He has been pushing this legislation. There has been no one more faithful in the weeks and months that we have been sitting in the committee than the distinguished Senator from Oklahoma. I appreciate that help just as I appreciate his actions here on the floor today.

Mr. BAKER addressed the Chair.

The PRESIDING OFFICER. The majority leader.

ORDER OF PROCEDURE

Mr. BAKER. Mr. President, I have consulted with the distinguished manager of this bill and the distinguished minority leader indirectly—I have sent a message to him—and have indicated to the Senator from Ohio what I am prepared to do. As soon as the minority leader can reach the floor or send a message to me that he is prepared to do so, I intend to ask unanimous consent that the Senate temporarily lay aside the present measure and proceed to the consideration of the Treasury-Postal Service appropriations bill. I do not wish to do that until the minority leader is available. Therefore, Mr. President, at this moment 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. JEPSEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. JEPSEN. Mr. President, the issue of natural gas regulation is of great importance to the people of my State of Iowa, as well as all the rest of the States. The rapid increase in natural gas prices in recent years in my State has imposed great hardship upon Iowans in all walks of life. The elderly, the low income and the infirmed have been especially hard hit by the unconscionable and incredible rise in natural gas prices in the last few years. Some of my constituents are now forced to choose between food and fuel. I find this state of affairs totally unacceptable.

Mr. President, as I did the other day when the distinguished Senator from Montana and the distinguished Senator from Ohio were discussing this issue, I rise to my feet in this Chamber to urge that we not block action on the natural gas legislation.

Regardless of what position we may have in the spectrum of decontrol versus moderate decontrol versus no decontrol to changing the deregulation, or whatever it may be, it seems that we should, in this Chamber, recognize that there is a very major problem in this country today. That problem primarily stems from the Natural Gas Policy Act of 1978 which, as it now exists, provides for complete chaos and complete discrimination against those who are the elderly, the low income, and users at the burner tip and small business and industrial users.

So in all good faith we ought to move ahead and get some vehicle before this body so that we can get some action, some votes, and some amendments, whatever it may be. We ought to work the will of this Senate. In so doing we can provide the action that the people of this country deserve with regard to natural gas legislation.

Mr. President, I have been working with the Senator from Missouri, Senator DANFORTH, and others. Many people have been working, I understand from staff reports, on all aspects of this. I urge that the managers of the bill who now have their bill before the Senate proceed in order that we might get the legislative process working its way.

I cannot emphasize too strongly the fact that in this particular instance in the deregulating area there is a need for some action.

As I have indicated in the past, I think we all could have a sign hanging in all of our offices with big letters that states "Don't fix it if it isn't broken." But in this particular case with the natural gas problems that we have, there is a need to very carefully work out natural gas legislation that will provide for the marketplace, that will provide both the adequate supply and ultimately set a fair price for consumers for natural gas.

I suggest that we go ahead with the debate and vote on whatever bills we have before us, vote on both Kassebaum and S. 1715 in order to show clearly where the feeling and the sentiment of the Senate lie. In my opinion, neither has the votes to pass, but we need to see where the votes lie so that we can make constructive progress to bring this thing to a point where we get legislative action.

I thank the Chair for his kind attention. I urge the managers of this bill to clear the air, open up the gates, and let the debate flow freely, whatever need be to get some action on this.

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

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 (Mr. KASTEN). Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. BAKER. Mr. President, so Members will know what is going on or at least know as much as I know about what is going on, I thought I would give an interim report.

For the last 2 hours we have been trying to work out a unanimous-consent agreement to get to the Treasury-Postal appropriations bill on an appropriate basis.

I do not think that is going to work. There is still some hope that we can do that, but I doubt it.

There is a possibility, Mr. President, that we will go instead to the continuing resolution. That has not yet been cleared on both sides, but it is being cleared on this side. I understand the minority leader may be inquiring of the possibility of reaching that bill by unanimous consent.

Also, there is a possibility that we will get the Civil Rights Commission bill, and that is cleared, I believe, on this side, and I will consult further with the minority leader. I have some reason to believe, based on our informal conversations, that is may be cleared on his side.

Also today, Mr. President, I intend to try to reach the executive calendar and to do matters that have been cleared on both sides as well as routine business. There may be other matters we can deal with as well.

I wish to give a further report to the Senate on the probable action of the House of Representatives on the continuing resolution, but I am not in a position to do that at the moment. I am still hopeful that we will get a CR from the House of Representatives today or tomorrow and that we can finish action on it by tomorrow night and go out for the weekend. But that is not certain.

Mr. President, I will make a further report as and when I have more information when we are in position to clear another bill for action at this time.

Mr. BYRD. Mr. President, will the majority leader yield?

Mr. BAKER. I yield.

Mr. BYRD. Mr. President, as I have indicated to the majority leader, I called the Speaker and asked him what the chances were of their taking our Treasury-Post Office bill with a CR on it. He said no, no chance, and he indicated that the chairman of the Appropriations Committee over there was opposed to that procedure.

Then I asked when they would be likely to get us a continuing resolution.

He said, "Today or tomorrow." I said, "What are the chances, good, fair, or poor, for getting it over today?" He said, "Well, they are fair."

On the Civil Rights Commission, I think we are ready to go. We are canvassing our people to see if they are willing to go with the CR standing alone.

Mr. BAKER. I thank the Senator.

Mr. President, it would be our intention then, depending on how these matters clear, to temporarily go off the natural gas bill and take up one of the other two measures, but we are not ready to do that yet. So, while these matters are maturing, I suggest the absence of a quorum.

Mr. HATFIELD. Will the Senator withhold on that?

Mr. BAKER. Yes.

Mr. HATFIELD. Will the majority leader yield?

Mr. BAKER. Yes.

Mr. HATFIELD. I would only like to just underscore some problems that we have here.

Frequently, the Senate is put in a position of having to take action on some pending matter because of a deadline. I think everyone realizes that we have until midnight Thursday, which is tomorrow night, to take action on this CR.

The Senate Appropriations Committee has acted on the CR, which is our right and prerogative to do under the Constitution. We reported it yesterday.

Now whatever vehicle or however this finally gets in to a conference with the House, because the House situation has bogged down as of last night when they defeated the CR that they reported from their committee, notwithstanding that action, the Senate is going to have to have some opportunity to debate some controversial items that are in the Senate CR—IMF, for one thing; low-income fuel subsidy is another thing. So consequently, we are going to have to be about the business of getting this vehicle up here, this CR, the Senate version, in order to get that debate underway.

I am hopeful the leadership can provide us the opportunity so that we are not facing all of these issues at 11:30 tomorrow night with a half hour remaining to make a major decision. Because even after the Senate acts and the House acts, we have to go to conference and still meet that midnight deadline on Thursday and stand the chance, if that does not work out to the satisfaction of the President, that in transmitting this by courier to Korea, getting the President's response on our action, and if it is a veto, then we have to go back to square one.

I only wanted to reiterate. I know the leadership has this very clearly in mind. The leadership has been very supportive of the appropriations process.

This year we have eight bills signed into law and we have reported every appropriation bill from the Senate. I would hate to see the appropriations process, for the first time in my memory really on track, get sidetracked off here into the marshland because it got fouled up temporarily over on the House side.

I am not being critical of the House, except to say I do not think there problems should impinge upon our ability to proceed in every expeditious manner, protecting everyone's rights, but in so doing we are really guaranteeing better rights of everybody to discuss and debate these issues than if we prolong this hiatus that we have been in for the last 2 hours and deny people the opportunity to have the time adequate to debate the issues within the Senate CR.

I thank the leadership.

Mr. BAKER. Mr. President, I thank the chairman of the Appropriations Committee. What the Appropriations Committee has done this year is remarkable. It is more than remarkable. It is fantastic to have eight bills signed into law. That is eight more than we got last year. And to be within striking distances of getting all of them is something I never dreamed possible at the beginning of the year.

I agree with the Senator. I hope we can work this out. I would still like to pass Treasury-Post Office, but it does not look like we can get to that at this moment and, finally, after 2 hours of deliberations, I guess it is about time we went to something else.

So, when I can clear it, I will reluctantly, but necessarily, ask us to go either to the CR itself or to the Civil Rights Commission bill.

Mr. HATFIELD. Will the Senator yield for one brief addendum?

Mr. BAKER. Yes.

Mr. HATFIELD. I think one of the phenomenal things in this whole process up to this point in trying to get a unanimous-consent agreement is that the most controversial, the most emotionally charged issue that we have faced in the Senate in my lifetime in the Senate has been abortion. Yet we have been able to go to both sides of this issue today and work out a reasonable procedure by which the Senate would not get bogged down on abortion under the present circumstances for the first time in my memory. That is part of this unanimous-consent agreement.

So not only would it get the CR moving but for the first time we would have a reasonable time to consider the

abortion question, bring it to a vote and get on with the business of the Senate. So that is riding on this as well. I think Members of the Senate ought to know that.

Mr. BYRD. Will the majority leader yield?

Mr. BAKER. I yield the floor.

Mr. BYRD. Mr. President, I know of no objection to proceeding to the Treasury-Post Office bill on this side. There is no objection to going to the Civil Rights Commission on this side. We are attempting to ascertain whether or not we can go to the Senate CR on this side. We may very well be able to report back to the majority leader in the affirmative.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. ANDREWS. Mr. President, I ask unanimous consent to proceed as in morning business.

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

Mr. ANDREWS. Mr. President, many of our colleagues have experienced criticism, sometimes of themselves and sometimes of certain projects or programs which are important to them, at the hands of various columnists.

No Member of the Senate is unaware of my strong support, dating back 30 years or more, of North Dakota's Garrison Diversion project. I am sure my colleagues will recall that, earlier this year we had a pretty vigorous floor debate over the merits of Garrison Diversion, and the appropriation enabling the project to go ahead was approved by a substantial margin, 62 to 35, a vote which was very gratifying to me and the people of North Dakota.

On October 7, in a column by Jack Anderson which was printed in hundreds of newspapers around the country, including some in North Dakota, we see the same old tired arguments of the National Audubon Society, many other environmental organizations and some of our mistaken friends in Canada, to the extent that the project is a boondoggle.

Mr. President, frankly, I tire of answering charges such as those contained in the Jack Anderson column. I think my colleagues are also weary of these constant exchanges which take place when various projects are subjected to abuse that is based on wild and undocumented claims. Former Gov. William L. Guy, who was Governor of North Dakota from 1961-73, and is from the other side of the political aisle, showing the bipartisan support this project enjoys in North Dakota, chose to respond to grossly inaccurate column. Governor Guy has done an excellent job of pointing out to Jack Anderson just how far off-base his article was.

Mr. President, I ask unanimous consent to have Governor Guy's letter be printed in the RECORD accompanying my remarks.

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

BASIN ELECTRIC
POWER COOPERATIVE,
Bismarck, N. Dak., October 12, 1983.

Mr. JACK ANDERSON,
United Features Syndicate,
New York, N.Y.

DEAR JACK: I am glad that you are interested in the Garrison Diversion Project. I will send two 1983 publications which will assist you and your aides in putting the project in perspective.

As a former Governor of North Dakota, 1961-1973, I have been deeply interested in all the state's natural resources including water and the environment.

The Garrison Diversion story started in the Flood Control Act of 1944. Congress said to North Dakota, "Let the 10-state Pick-Sloan Plan permanently flood 550,000 acres of your Missouri River bottomland to prevent flood damage and enhance navigation in downstream states, and we will offset your permanent loss by increasing farm production on one million North Dakota acres by irrigating them with Missouri River water."

North Dakota reluctantly agreed to give up forever nearly all of its more than a half million acres of irrigable Missouri River bottomland. Congress did not keep its word, but cut the project down to 250,000 when they funded the startup in 1965. None of these acres are on the Canadian border. The project cost at that time was less than $500 million.

Downstream interests have always openly and covertly opposed upstream Missouri River water diversion. When they were unable to prevent the 1965 funding of the Garrison Project's start by Congress, they resorted to a whole array of covert attacks to undermind the public confidence in the project.

Their activity enlisted environmentalists, out-of-state duck hunters, Canadian politicians, and local farmers who would lose some farm land to ditches. They have now come out in the open and the states of Missouri, Iowa, and Nebraska are challenging in court South Dakota's right to sell 50,000 acre feet of Missouri River water to the ETSI Pipeline Company.

Well meaning news people have been taken in by the shrill rhetoric—mostly from outside North Dakota, that oppose the project.

If downstream states will go to court to prevent 50,000 acre feet of Missouri River water from being diverted, then you can readily grasp what they will do to prevent the diversion of 871,000 acre feet for the 250,000 acre Garrison Diversion Project in North Dakota.

But to comment on your article. North Dakota politicians do not support the project "to please their rural constituency" of 1200 irrigation farmers. Over the years and very recently polls tell us that more than 75 percent of all North Dakotans continue to support the project.

Secretary Watt did not "quietly award the first contract for an irrigation project known as the Garrison Diversion Unit." Actually, Stuart Udall awarded the first contracts in 1966 and contracts have been awarded continuously since. The recent awarding by Watt was done after tense Congressional lobbying by opponents and proponents and after several noisy lawsuits.

The Phase I of the Garrison Diversion Project does not move Missouri water to "irrigate farm land near the Canadian border," nor does any water escape to Canadian drainage.

The "average cost of $1 million per farm" is misleading. The real cost is not to irrigate farms, but is to replace some of the $96 million of annual income lost to the state from permanently flooding 550,000 acres of North Dakota's irrigable land. To be fair and honest, much of the project cost must be levied against the flood control and navigation benefits downstream—not against North Dakota irrigated acres. They would never have achieved downstream benefits from North Dakota impoundment of the Missouri if North Dakota did not get some benefit to offset its annual loss.

The project does not cause Canadian fisheries "to face irreversible damage." Like the snail darter controversy, the Canadians already have the biota and fish species they object to. How could it be otherwise when for hundreds of years, Missouri River water and Canadian drainage waters have intermingled at flood stage, and millions of mud-carrying wild waterfowl annually waddle and migrate a few feet between the two drainages. Why do you deplore a claimed possible degree of loss to a $10 million Canadian fishing industry but shrug off North Dakota's proven annual permanently flooded land loss of $96 million in 1983 dollars?

If you believe the Canadian "problem" is measured by their vocalizing and trips to Washington, then you don't understand the David and Goliath posture of Canadian political parties. By out-condemning the United States, one party hopes to be more of a hero than the opposing party. The Garrison Diversion Project is made to order for them and gives them a chance to massage a deep inferiority complex.

The destruction of "130,000 acres of wetlands and grasslands" by the project is not borne out by the facts. Let me assure you that farm drainage will continue as before in this state whether there is a project or not. I firmly believe that when you bring Missouri River water into other parts of the state, you create opportunities for maintaining aquifers and wetlands far in excess of the losses claimed by opponents.

The Department of Interior has not ignored scientific data concerning the project. But the International Joint Commission did ignore its Technical Committee's scientific recommendations and instead turned to a political finding to placate Canadian objections.

How can three unidentified Department of Interior biologists describe a plan using words like "bogus, suspect, reality, and ludicrous" when they "hadn't even seen the data" supporting the plan? I can assure you that many other unidentified environmentalists who have seen the data support the plan.

In defense of the memo supposedly written by Governor Olson's aide, it is true that downstream and out-of-state interests have "sandbagged" the plan at every opportunity.

In contrast to the complaint about the cost of the Garrison Diversion Project, the anti-ballistic missile facility was built in North Dakota over my strong written objections at a cost of $5.2 billion. It was never even plugged in to see if it worked. The federal funds spent on the ABM project would have built ten Garrison Diversions at the time. I am not immune to cost benefit ratios, but please know that the Garrison Project costs are reimbursable to the federal government, whereas ABM costs are not.

The flood control and navigation benefits downstream, the hydroelectric sales from the six mainstem dams, and water user fees from irrigators, industrial water users, and municipal water systems are the benefits of the Pick-Sloan Plan that must be applied to the costs of the Garrison Diversion Project—not the irrigation of 1200 farms. (And where did you get 1200?)

Except for the subsidy of the low interest rates that existed in 1965, the federal government will be paid back its irrigation investment in a few decades. These reimbursements to the federal government do not include the increased federal income from increased economic activity caused by managing the Missouri River water.

You should note that the opponents downstream get their flood control and navigation benefits for nothing! No user fees, no local government cost sharing, no nothing!

I am sorry to disagree with you, Jack. I know that writing a daily column does not permit time to check facts or get "the rest of the story"—hence my letter to you.

With warm regards.

Sincerely,

WILLIAM L. GUY.

Mr. ANDREWS. 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 unnaimous consent that the order for the quorum call be rescinded.

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

CONTINUING APPROPRIATIONS

Mr. BAKER. Mr. President, we have spent a good part of the day trying to get to the Treasury-Postal Service bill, with the hope that we might be able to do something about the CR. That came to nothing; it is clear that that is not going to be possible at this moment.

I have consulted with the chairman of the Appropriations Committee, the minority leader, and others, and I am convinced that what we should do now is to try to go to the continuing resolution which is on the calendar and which was reported by the Senate Appropriations on November 8. That is Calendar Order No. 546, Senate Joint Resolution 194.

Mr. President, I ask unanimous consent that the pending measure be temporarily laid aside and that the Senate proceed to the consideration of Calendar Order 546.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. Mr. President, reserving the right to object, I will not object. This side is agreeable to waiving the 1-day rule and the 3-day rule on this matter. I have no objection, and I have canvassed via the cloakroom. There may be one Senator (Mr. MELCHER) who is now on the floor, who might want to raise a question.

Mr. MELCHER. Reserving the right to object, Mr. President, I am very hesitant to even mention this matter, but it is very significant.

A section of this continuing resolution makes reference to the Commerce, State, Justice appropriations bill which has been acted upon by both bodies but on which the conference report has not been agreed to yet.

That particular bill has a section in it which appropriates approximately $450,000 to pay some legal fees to be paid out of Justice Department funds, to pay the legal fees for some litigants in a case in New Mexico.

As far as I can determine, there is no authorization for such an expenditure of funds. It is a very unusual step, without precedent. The Justice Department has trust responsibility for the Indian pueblos involved in this case on the other side. It requires that the Justice Department defend their interests as part of the trust responsibility.

If the continuing resolution did not fold that in, I would have no objection to taking it up immediately and disposing of it. But it does fold that in and I think the proper time to address that matter would be in a conference report on Commerce, State, Justice when the appropriations comes before us.

Mr. HATFIELD. Will the Senator yield?

Mr. MELCHER. Yes.

Mr. HATFIELD. The Senator is referring to page 20 of our report, the $450,000 which has been set up in the Commerce bill, which has been folded into this, relating to the legal fees in New Mexico. Is that correct?

Mr. MELCHER. That is correct.

Mr. HATFIELD. I will say to the Senator that, as the Senator knows, his rights under this procedure outlined by the majority leader would protect his right to move to strike that as one avenue or approach.

The second is that this afternoon in the House of Representatives they are taking up the Commerce appropriations measure. So we have that on track, and at which time, again, in the normal flow of these regular appropriations bills, the Senator from Montana would have another crack at the whole thing because once that bill is acted upon by the House and the Senate then it drops out from under the continuing resolution.

So the Senator really retains the right to have two approaches or two shots at this and in no way, by taking up the CR at this time, does he compromise his rights.

I would only say to the Senator that before midnight tomorrow night we are going to have to act on this and we cannot ignore the Commerce appropriations. That is part of the unfinished business that creates a requirement for this second CR. I really do not have any option but to put the Senate into a situation where then we are talking about 5 minutes to midnight tomorrow night trying to resolve the whole question, to go to conference with the House and get back before midnight. That is impossible. This is Wednesday. Tomorrow night at midnight is the end of the line for us to take action. We have to do that knowing the President is either going to sign it or veto it.

I will say further to the Senator, with all the persuasion I have at my command, that because of the House getting into that difficulty last night and shooting down its own CR, we cannot wait until the House acts. The chairman of the House Appropriations Committee understands this. I have conferred with him this morning. We have many controversial issues in this CR. The International Monetary Fund, low-cost fuel subsidy, There are many issues that Senators will want to talk about. We can talk about those issues and get this up to third reading and wait for the House vehicle.

But I say to the Senator from Montana, do not prevent us from getting into these issues, from debating them. Otherwise, how are we going to complete our work by tomorrow night?

Mr. MELCHER. I understand.

Mr. HATFIELD. I happen to support the Senator's position on this issue, as he knows, Mr. President. I voted with him.

Mr. MELCHER. I understand the chairman's concern. It is a concern I personally share. I said at the outset that I hesitated even to mention it because I know of the time constraints this body has in which to act. I do not believe, however, that I am making a very significant request for the supporters of the amendment to delay judgment on it by dropping it out of the continuing resolution for this short period of time until that conference report on Commerce-State-Justice is over here.

Furthermore, Mr. President, I must point out that we have not, as of this time, received a legal opinion from the Department of Justice which is, indeed, in a unique position here. This is involved in this appropriation bill, it is legislation on that appropriation bill as far as I can determine, without authorization.

The Justice Department is instructed to spend money out of their funds for that very purpose of paying these attorneys, and they also have the dis-

tinct trust responsibility that is called upon by the Constitution, statutes, and State law.

I yield to the Senator from Oregon.

Mr. HATFIELD. Mr. President, let me respond that I shall work with the Senator, as I say, since I am in total agreement with him on this amendment, to set up a way to delay the implementation of this particular point that he objects to. But I say to the Senator that I have no choice, as chairman of the Appropriations Committee. By law, I have to bring to this floor a CR that incorporates those bills that have not been signed into law. I have no choice to say to the Senator from Montana that I can delete Commerce from this CR, because the Commerce bill has not been signed into law.

I say further of the unanimous-consent agreement the leader has requested at this point, please do not force us into this situation. If we cannot get the unanimous-consent agreement, I have to call an immediate meeting of the Appropriations Committee. We shall meet downstairs and what we shall then have to do is report this same CR back to the floor without a report. Then there is no 3-day rule that we have to waive.

That just delays the thing, but we are going to have to push ahead with this CR—not by my choice, but by the choice of the calendar.

I give my full assurance to the Senator that I shall work with him in any way possible to get that isolated, get that out for consideration, for his debate, for discussion. But I ask him please to let us proceed at this point with the total responsibility we have of getting the CR acted upon before midnight tomorrow night.

With that assurance, would the Senator then be willing to let us bring it up at this point? All we are going to have to do is delay by about an hour to get a quorum of the Committee on Appropriations, to then report this same thing back without a report. Then we would not have to ask for unanimous consent as we are now, but to get to that objective is just another hour's delay.

Mr. MELCHER. I thank the chairman of the Appropriations Committee, my friend, for his very pertinent description of the time constraints and the extra work it would require. I also very much appreciate his assurance that he will work with me on an arrangement for such a deletion when the continuing resolution is before us.

Therefore, Mr. President, I shall not object.

Mr. HATFIELD. I thank the Senator from Montana for his great deference.

The PRESIDING OFFICER. Is there objection? Without objection, the request is granted.

Mr. BAKER. Mr. President, I thank the Chair. I especially thank the Senator from Montana. I understand his concern. I am sure all of us are grateful that he did not object so we can proceed with the business of the Senate.

FURTHER CONTINUING APPROPRIATIONS, 1984

Mr. BAKER. Mr. President, will the Chair now state the pending business?

The PRESIDING OFFICER. The clerk will state the joint resolution by title.

The assistant legislative clerk read as follows:

A Senate Joint Resolution (S.J. Res. 194) making further continuing appropriations for 1984, and for other purposes.

The Senate proceeded to consider the resolution.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. HATFIELD. Mr. President, this further continuing resolution is necessary—I think we all understand—to maintain programs and activities within the jurisdiction of regular appropriations bills for fiscal year 1984 not yet enacted into law. The first continuing resolution will expire on November 10—tomorrow—at midnight. That measure was needed to provide funding for the 9 of the 13 regular appropriations which had not been enacted into law as of October 1. Since that date, four additional bills have been enacted and of the five remaining bills, two have cleared committees of conference and one is awaiting conference. The other two bills have been reported by the committee and are eligible for floor consideration; that is, the Senate Appropriations Committee.

It remains the committee's intent to have enacted into law as many regular appropriations bills as possible before adjournment of this session of the Congress. However, until the remaining bills are actually signed into law, further continuing spending authority must be provided.

The bills and funding levels for the five appropriations bills covered by this recommended continuing resolution are as follows:

First, Agriculture. We have the rate established in the conference agreement on the regular fiscal year 1984 appropriation bill;

Second, the Commerce-Justice-State bill, the rate established in the conference agreement on the 1984 appropriation;

Third, the Defense bill maintains the spending rate at $247 billion established in the first continuing resolution;

Fourth, foreign operations. We adopted the rate and terms established in the Senate-reported fiscal year 1984 appropriations bill;

Fifth, the Treasury-Postal Service. That maintains basic funding levels at the current rates with the specific exceptions at Senate-reported level.

So, in effect, we have two Senate-reported levels of reference and we have one reference to the continuing resolution and two references to the conference reports.

Mr. President, the committee also recommends that the duration of this continuing resolution be for the balance of the fiscal year 1984. While the committee intends to pursue further action on the remaining unenacted fiscal year 1984 appropriations bills, the recommendation reflects the practical difficulties in attempting to take action on these bills, if any, in the next session of Congress. At that time, both the executive and legislative branches will be occupied with consideration of the budget for the 1985 fiscal year. Furthermore, the significance of holdover fiscal year 1984 appropriations bills will be diminished by the shortened coverage of these measures. It is, therefore, prudent to permit funding of the balance of this fiscal year to be provided under the terms of this measure, subject to congressional action on subsequent supplemental appropriation measures.

Mr. President, that is a brief outline of what we have before us and the problems we have in trying to get this acted upon before the deadline tomorrow night.

Let me also, at this moment, make a brief reference to what the status is in the House, to the best knowledge that we have at this time. The House defeated its measure by a 203-206 vote margin last night. I understand the House Committee on Appropriations is meeting and may possibly be considering one or two CR's.

I do not know what they will be, but, at the same time, they have the procedural problem of going to the Rules Committee, of getting a rule, at which time they will have to face a possible three-fifths vote, which, in all likelihood, comes down to a bottom line. That is the bottom line, that we probably will not get a House CR over here before noon tomorrow. That is why I implored the Senator from Montana and others to let us proceed at this time, because we could not afford to let the time between now and noontime tomorrow elapse without taking action on our own version of the CR.

So at this point the best assessment we can make is that we will probably get a CR from the House by tomorrow noon. That is perhaps being optimistic. So what my intent would be at this time—and I have discussed this with the ranking Member, Senator STENNIS—is that we proceed with the Senate version of the CR; that we move it right up to third reading, and at that time, if we have completed it,

say, today by some miracle, or early in the morning, then we hold it until we receive the vehicle sent over by the House.

Then we can proceed from that point to either amend the House bill or substitute our own Senate bill, or whatever procedure we may use. But I am very desirous, Mr. President, to push this right on through to third reading. I do not think Senators should be lulled into any kind of feeling that this is going to be a pro forma action this afternoon, and we are not going to get down to business maybe until tomorrow.

We are in business now. We are in business to stay on this CR and complete it straight through whatever hour. I have received leadership permission to say if we can finish tonight in a reasonable period of time, we will finish tonight. That is our expectation.

I would like at this time to yield to the Senator from Mississippi, the ranking minority Member.

Mr. STENNIS. Mr. President, the chairman and I have been discussing these points. I am in total accord with what he says. We can get through if we start now and work fast enough.

Mr. BAKER. Mr. President, if I might have the attention of the distinguished floor manager of the bill, Mr. HATFIELD. The report of the Senate Appropriations Committee on the continuing resolution addresses an issue which has been of particular concern to me. It has come to my attention that a very serious problem exists in regard to the ability of American trademark owners to enforce those trademarks against so-called "gray market" goods.

I understand that the Customs Service has had pending before the Treasury Department newly drafted regulations to address this concern and that Treasury has delayed for at least 8 months in publishing them. The committee report addresses this concern as follows:

> The Committee directs the Department of the Treasury to publish forthwith the proposed Customs Regulations drafted by the Customs Service amending 19 C.F.R. § 133.21 affecting the rights of trademark owners so that a timely process of public comment can commence.
>
> The Committee believes that a very serious problem involving the rights of trademark owners exists and that the Customs Service should no longer delay the publishing of these Regulations which are designed to address these critical matters.

I am supportive of the new position as proposed by the Customs Service. Trademarks, which represent the quality and integrity of a manufacturer's product, should not be jeopardized. Therefore, I would like to lend my strong support to the position taken by the Appropriations Committee and urge that these proposed regulatory changes be published forthwith. This will allow for full and complete comment on the public record as to whether or not they should be finally issued and in what form.

I thank my distinguished colleague, the chairman of the Appropriations Committee, for recognizing this concern and I am glad to be able to support his committee in this regard. I appreciate the support evidenced by the remarks of my colleague, the distinguished majority leader. The committee hopes that by its action the Treasury Department will understand that we are very serious when we ask that these proposed regulations be published in the near future and made available for public comment.

Mr. HUDDLESTON. Mr. President, H.R. 3959, the so-called first supplemental appropriations bill, includes a provision limiting the interest rate charged on loans under the section 202 housing for the elderly and handicapped program to 9.25 percent. Without the limitation, interest rates would rise to 10.5 percent, a number of projects would not be viable, and we would be likely to build fewer section 202 units than anticipated.

I do not intend to offer this provision as an amendment to the continuing resolution, but I know that applicants are currently developing project applications for fiscal 1984 and I believe they need some guidance.

I believe the 9.25-interest limitation will be enacted at some point, and I believe HUD should proceed in such a way as to take account of that.

I know this is of interest to the chairman of the subcommittee, and I hope we might give some direction to HUD on this matter.

Mr. GARN. I do expect the 9.25-percent limitation to be enacted at some point. Pending that, I believe HUD should advise applicants to prepare applications based on both potential rates. That should protect HUD, the applicants, and congressional intent that 14,000 section 202 units be built in fiscal 1984.

Mr. HUDDLESTON. I thank the chairman of the subcommittee.

Mr. JEPSEN. Mr. President, Senator COCHRAN and I would like to take a moment of the Senate's time to clarify a matter contained in the agricultural portion of the continuing resolution.

The Agriculture Appropriations Subcommittee and, as a matter of fact, the full Appropriations Committee in conference with the House, has appropriated $800,000 for planning and engineering costs associated with the construction of a soil tilth facility at Iowa State University at Ames, Iowa.

I just wanted to make it clear that the appropriations listed herein will allow USDA to contract with Iowa State University for the planning and engineering associated with the construction of this facility.

It is my understanding that this colloquy will satisfy the Department of Agriculture and allow them to contract with Iowa State University at Ames, Iowa.

Mr. COCHRAN. The Senator from Iowa is correct. This was the intention and I concur with his remarks.

Mr. CHILES. I would like to compliment Senators ABDNOR and DECONCINI for their vigilance with regard to the administration proposal to consolidate and streamline U.S. Customs Service and INS border responsibilities. These responsibilities are currently shared by the two agencies, and the administration has proposed to give the Customs Service full responsibility for airports and seaports and INS full responsibility for land entry points.

Language included in the Senate report accompanying Senate Joint Resolution 194, the continuing resolution, directs that this consolidation plan not be implemented until the Congress has had a chance to review and approve it. While I agree with the general thrust of this language, I have long felt that great benefits could result in the consolidation of inspection activities to end the bureaucratic confusion and inefficiency of shared inspection responsibilities. For example, at the Miami International Airport during a one-stop test period, we learned that with the U.S. Customs Service and the INS cross trained and working together as one agency the entry of passengers through the airport was substantially speeded. It would be my hope that the administration's proposal could be approved perhaps with changes and not get mired down by endless and multiple congressional reviews.

I have initiated this colloquy to confirm something I believe to be true. Senator ABDNOR, do you believe that substantial improvements could result from a proper consolidation of Customs and INS border inspection functions?

Mr. ABDNOR. I would like to thank Senator CHILES in helping us make this important clarification. I recognize that important benefits could result from a proper consolidation of INS and Customs inspection activities. Our only purpose in requiring prior congressional approval is to get a number of important questions answered prior to letting these consolidations go into effect. I could not, for example, support a consolidation that weakened border management functions and other important INS and Customs programs.

Mr. DECONCINI. I would like to echo the comments of Senator ABDNOR and also thank Senator CHILES for making this point of clarification.

Mr. ABDNOR. Mr. President, I would like to make a short statement regarding the effect this continuing

resolution will have on the agencies included in the Treasury, Postal Service and general government appropriations bill. I have asked the chairman to include only, and I stress only those accounts I believe require essential consideration. All of the agencies in the bill are affected, but the Department of Treasury enforcement functions face serious problems; if we do not approve totals included in the continuing resolution. I want to note that at the chairman's request the continuing resolution has been kept as clean and condensed as possible. I would have liked to place the entire Treasury bill in this continuing resolution. I did not because of the time problem we face. I must say that the agencies not specifically cited in this continuing resolution will remain funded at the fiscal year 1983 level. This will cause severe hardship if the Treasury bill is not passed prior to adjournment. I trust I can ask the entire Senate to assist me in that effort.

As one final note, I would like to add that funds for the customs air interdiction program included in this continuing resolution has $2 million for the acquisition of 20 modified AN/SQR—17 DMED's to perform the digitizer function at a price not to exceed $100,000 per unit, including the support for each unit. I note this only to reemphasize the committee report accompanying S. 1646.

Mr. ANDREWS. Mr. President, Senator COCHRAN and I would like to take a moment of the Senate's time to clarify a matter contained in the agricultural portion of the continuing resolution.

The Agriculture Appropriations Subcommittee and, as a matter of fact, the full Appropriations Committee in conference with the House, has recommended $800,000 for planning and engineering costs associated with the construction of a facility to house the Metabolism and Radiation Research Laboratory at North Dakota State University in Fargo, N. Dak.

Under a broad memorandum of understanding, the Department of Agriculture operates a closely integrated cooperative agricultural research program with the North Dakota State University. We have done so in the past with the greenhouses that we built at the college.

I just wanted to make it clear that the appropriations recommended herein will allow USDA to contract with NDSU for the planning and engineering associated with the construction of this facility.

It is my understanding that this colloquy will satisfy the Department of Agriculture and allow them to contract with NDSU.

Mr. COCHRAN. The Senator from North Dakota is correct. This was the intention and I concur with his remarks.

VISIT TO THE SENATE BY MEMBERS OF THE BRITISH PARLIAMENT

Mr. MATHIAS addressed the Chair.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

Mr. MATHIAS. Mr. President, I am happy to join with the Senator from Rhode Island (Mr. PELL) in announcing to the Senate that we are honored by the presence of a distinguished delegation of our colleagues from the British Parliament, a delegation which is led by Mr. Michael Jopling, the Minister of Agriculture, and Mr. Peter Shore. I move that we stand in recess for 2 minutes so that Members can welcome our colleagues from Britain.

[Applause.]

The motion was agreed to, and the Senate, at 2:12 p.m., recessed until 2:18 p.m. whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. QUAYLE).

FURTHER CONTINUING APPROPRIATIONS, 1984

(The Senate continued with the consideration of the joint resolution.)

The PRESIDING OFFICER. The Senator from Oregon is recognized.

Mr. HATFIELD. Mr. President, the bill is now open for amendment. I am aware that there will be an abortion amendment offered by the Senator from Alabama. I also understand there may be an amendment relating to the IMF, a low-income energy subsidy amendment, and others. I urge Senators to come to the floor to propose their amendments in order to expedite the handling of the measure.

Mr. President, since there are apparently no amendments, what would be the next parliamentary action?

The PRESIDING OFFICER. The Senator could ask for third reading.

Mr. HATFIELD. It is within my power to ask?

The PRESIDING OFFICER. The Senator is absolutely correct. Does the Senator desire to do so?

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

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

AMENDMENT NO. 2526

Mr. ARMSTRONG. Mr. President, I have an amendment at the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Colorado (Mr. ARMSTRONG) proposes an amendment numbered 2526.

At the end of the joint resolution add the following language.

Mr. ARMSTRONG. Mr. President, may I interrupt the reading?

Mr. STENNIS. Mr. President, may we have conditions here where we can hear the Senator? This is an important matter.

The PRESIDING OFFICER. The Senator from Mississippi is entirely correct. The Senate will come to order. Those and others desiring discussion please cease conversation. The Senate will be in order and stay in order.

The Senator from Colorado.

Mr. ARMSTRONG. Mr. President, if I may interrupt the reading clerk to simply say it is not my intention to ask unanimous consent that we dispense with the reading of the proposed amendment because I think it will be useful to read it. It is self-explanatory and it will actually facilitate the business of the Senate to permit the reading clerk to read it in full. It is fairly brief.

The PRESIDING OFFICER. The clerk will continue.

The assistant legislative clerk read further as follows:

At the end of the joint resolution, add the following language:

Since it is contrary to the laws of the United States to import into the United States "all goods, wares, articles and merchandise mined, produced or manufactured wholly or in part in any foreign country by convict labor or/and forced labor; and

Since the Department of State, in its Report to the Congress on Forced Labor in the USSR (February, 1983) stated that forced labor is used "to produce large amounts of primary and manufactured goods for both domestic and Western export markets; and

Since the provisions of 19 U.S.C. 1307 have not been enforced with respect to goods entering the United States from the Soviet Union;

Therefore it is the sense of the Senate that the officials responsible for the enforcement of 19 U.S.C. 1307 should:

(a) Use existing statutory authority to prevent the import of any product or material produced in the Soviet Union unless it was produced without the use of forced labor, and

(b) The Secretary of the Treasury should submit a report to Congress of the articles from the Soviet Union for which entry documents have been filed and the disposition of such request.

Mr. ARMSTRONG. Mr. President, I thank the reading clerk. I rarely ask the clerk to read amendments but in this case it actually speaks for itself and I am not going to attempt to debate the matter at any length.

I would like to recall, however, for the benefit of Senators, that approximately a year ago I proposed, and the Senate adopted, a resolution asking the State Department to give to the Senate a report on the use of forced labor in the Soviet Union. There had come to my attention, and to the attention of committees of the Senate,

widespread allegations in the public press, here and abroad, in fact, both in the Orient and in Europe, stories of abuses of human rights on a scale and of a barbarous nature which have not been seen in decades around the world, and which really were reminiscent of the kind of tactics for which the Nazis were infamous 40 years ago.

Mr. President, with those kind of reports seeping out around the world, it seemed to me that we ought to have some official statement of what was known here in the West about the labor practices in the Soviet Union.

I will not attempt to summarize at this moment the details of that report, but Senators will recall that early this year, in fact, we did receive such a report. And in the State Department's February 1983 report, which at the time, I inserted in the CONGRESSIONAL RECORD, the State Department pointed out that forced labor is used to "produce large amounts of primary and manufactured goods for domestic and Western export markets."

In that report and others which I have submitted to the Senate, there emerges a devastating story of a human rights abuse on a truly tragic and vast scale. I have, myself, interviewed and held hearings for persons who have been behind the barbed wire in gulags, hearings held here in the Senate and also in West Germany. I have read extensively on the subject. I have talked not only to persons who have been behind the barbed wire but their families, journalists, and others who are expert in this matter.

The long and the short of it is this: Within the Soviet Union there are between 4 and 17 million persons in gulags; many of them, according to published, unofficial sources and official sources, as well, prisoners of conscience, religious dissidents, and political prisoners; persons who have been put in these gulags without any semblance, in many cases, of the kind of standards of civil rights or concern for jurisprudence which would be the characteristic of any civilized nation.

These persons, in turn, are kept, in many instances, according to testimony received by committees of the Senate, under almost unspeakable conditions—under conditons of malnutrition, of extreme hardship, of ill housing, of complete lack of proper clothing working in severe climates, and of psychological and physical torture.

Mr. President, there is not much we can do about that. There are limits on what our Nation can do about the civil rights and human rights abuses of other countries. But, at the same time, there are some things we can do. We can focus public opinion on it—and we have succeeded, to some extent, in doing so—and we can enforce our own legal processes.

That is what this resolution refers to. It has been, for a number of years, against the law, under the Tariff Act of 1930, to bring into this country goods produced or manufactured in whole or in part through the use of forced labor.

So all this resolution says is that the Senate would like to see this statute enforced and, as a matter of fact, it amounts to an encouragement of the process which is already underway.

I brought this matter to the attention of the Commissioner of Customs, and he has been good enough to institute proceedings to enforce this statute. There remain some regulations to be worked out. The Treasury Department is working on it.

But I think it appropriate, particularly in light of recent international developments, for the Senate itself to be on record that we do not condone such practices. And while we do not assert any kind of improper jurisdiction and we do not overestimate or exaggerate the effect that we can have on the practices, the penal practices and the police practices, of another country, least of all the Soviet Union, that we are not indifferent to these abuses of human rights.

So the resolution simply calls upon our Government to use its regular and normal processes to forbid the entry in this country of goods produced in this way.

Senators may wonder what are some of these goods. I have previously put into the CONGRESSIONAL RECORD a recitation of the kinds of merchandise that we are talking about. But simply to refresh the memories of Senators, we are talking about all kinds of things—wood products; certain kinds of manufactured goods; a number of metal products, some of which, as a matter of fact, for those who may be interested, I have in my office, merchandise which we believe to have been manufactured under conditions of forced labor which were purchased recently in this country.

Mr. President, unless there is other discussion, I would simply urge my colleagues to adopt this amendment.

Mrs. KASSEBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mrs. KASSEBAUM. Mr. President, I will speak for just a moment. Senator PERCY, who chairs the Foreign Relations Committee, is out of town, but I know that the Foreign Relations Committee was prepared to accept this on the State Department Authorization bill when that was before the Senate, and it was not offered at that time. So I think it would be certainly only appropriate to say at this time that I am sure, if the chairman were here, that Senator PERCY would in fact think this was a very appropriate measure to introduce.

Mr. ARMSTRONG. Mr. President, if the Senator from Kansas will yield, I would just like to thank her for her observations and for her encouragement and also indirectly the encouragement of the Senator from Illinois, the chairman of the Foreign Relations Committee. I thank her very much for bringing this to our attention.

The PRESIDING OFFICER. The question is on the amendment.

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

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

Mr. HATFIELD. Mr. President, I would suggest putting the amendment to a vote.

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

The amendment (No. 2526) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. ARMSTRONG. Mr. President, I thank all Senators. I trust this action by the Senate will be an encouragement to those in the Customs Commissioner's office and in the Treasury Department who are working on this matter and at an early date we will see the fruits of their labor. I thank all Members.

Mr. STENNIS. Mr. President, we move along so much better when we have good attendance. I join with the chairman in saying that we have nothing to do except to go to third reading, unless we have some amendments offered. I will keep on encouraging him that way. I do not want to cut anyone off but, after all, there has to be an end to things.

AMENDMENT NO. 2527

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

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Kansas (Mrs. KASSEBAUM) proposes an amendment numbered 2527.

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

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

The amendment is as follows:

At the appropriate place in the joint resolution, add the following new section:

SEC. . Funds appropriated or otherwise made available for fiscal year 1984 by this joint resolution or any other law shall be available notwithstanding section 15(a) of the State Department Basic Authorities Act of 1956 and section 701 of the United States Information and Exchange Act of 1948, as amended until November 18, 1983.

Mrs. KASSEBAUM. Mr. President, this is essentially a technical amendment that I would like to place on the continuing resolution. I believe it is agreeable to both sides.

The intent of this is to allow the conferees on the State Department-USIA to finish their conference, which they anticipate doing tomorrow afternoon. But because it is so stated in the legislation that that authorization has to be completed before appropriations are enacted, we would need this amendment in place at this time.

I can only say to those who wonder why the authorization has not been completed that the conferees have had to deal with a wide number of issues—as a matter of fact, 91 have already been handled—but there are only 6 remaining in conference. It will be completed by tomorrow afternoon.

Mr. HATFIELD. Mr. President, we are ready to accept this amendment of the Senator from Kansas. I understand the circumstance.

Mr. STENNIS. If the Senator will yield, there is no objection on this side of the aisle that I know of.

Mr. HATFIELD. I thank the Senator.

Mr. President, we have a difficulty which the Senator from Kansas has very clearly outlined. May I take this occasion to make an observation?

Essentially, this is a State Department authorization amendment. Our Committee on Appropriations has frequently been criticized, especially by the Committee on Foreign Relations, for appropriating moneys that have not been authorized or to authorize appropriations on the appropriations bill. And rightly so, on occasion—perhaps not so much so on other occasions. But I think this represents again one of those interesting dilemmas we find ourselves in when we do violate the basic concept of authorizing committees handling authorizing legislation and appropriations committees handling appropriations legislation.

Having just made that brief observation, I am willing to accept the amendment. I hope the Senator from Kansas will communicate my observation to the chairman of the committee, our mutual friend (Mr. PERCY), that we are happy to accommodate the Committee on Foreign Relations at this time, since it finds itself in this very difficult situation, through the appropriations process. We are just happy to accommodate him.

Mrs. KASSEBAUM. Mr. President, I certainly thank the distinguished chairman of the Committee on Appropriations. I shall convey his concern to the chairman of the Committee on Foreign Relations. I am sure he understands, as I do, and appreciates the Senator's acceptance of this amendment.

Mr. President, I ask that it be adopted.

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

The amendment (No. 2527) was agreed to.

Mrs. KASSEBAUM. I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

Mr. HATFIELD. Mr. President, we are at that point again where we are looking for Senators to offer amendments. I am just about at the point of asking for third reading.

Mr. DOLE. Good, I shall second it.

Mr. HATFIELD. Mr. President, I ask that the leadership be notified that we are ready to go to third reading.

Mr. BAKER. Will the Senator yield to me, Mr. President?

Mr. HATFIELD. I am happy to yield.

Mr. BAKER. Mr. President, I share the Senator's hope that we are at the point where we can ask for third reading. I ask my cloakroom if they will ask if there are any notifications. I hope that we shall have a further announcement to make.

Mr. MOYNIHAN. Mr. President, will the majority leader yield?

Mr. BAKER. Yes, Mr. President.

Mr. MOYNIHAN. I do not believe this has been cleared on this side. May we have just a moment?

Mr. BAKER. Yes; that is the reason for the delay right now, that the majority leader may know as soon as possible.

The PRESIDING OFFICER. Does the Senator from Oregon seek recognition?

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

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

AMENDMENT NO. 2528

(Purpose: To prohibit the use of funds made available by this joint resolution to make payments relating to any abortion)

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

The PRESIDING OFFICER (Mr. SYMMS). The amendment will be stated.

The legislative clerk read as follows:

The Senator from Alabama (Mr. DENTON) proposes an amendment numbered 2528.

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

Mr. STENNIS and Mr. PACKWOOD addressed the Chair.

The PRESIDING OFFICER. Is there objection?

Mr. PACKWOOD. I object.

The PRESIDING OFFICER. Objection is heard. The clerk will report the amendment.

Mr. PACKWOOD. Mr. President, I believe it is a short amendment, and I want to hear the wording of it exactly.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

At the end of the joint resolution, add the following:

SEC. 111. None of the funds appropriated by this Act shall be available to pay for an abortion or to pay, after the last day of the current contract term applicable in the case of any Federal employees health benefits plan, for the administrative expenses in connection with any Federal employees health benefits plan which provides any benefits or coverage for abortions.

Mr. DENTON. 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.

AMENDMENT NO. 2529

(Purpose: To limit the use of funds made available by this joint resolution to make payments relating to an abortion)

Mr. DENTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. DENTON. I send a perfecting amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Alabama (Mr. DENTON) proposes an amendment numbered 2529 to amend No. 2528:

On line 3, beginning with "to pay for", strike out all through line 8, and insert in lieu thereof the following: ", (1) to pay for an abortion, except where the life of the mother would be endangered if the fetus were carried to term, or (2) to pay, after the last day of the current contract term applicable in the case of any Federal employees health benefits plan, for the administrative expenses in connection with any Federal employees health benefits plan which provides any benefits or coverage for abortions, except any such plan which provides benefits or coverage for an abortion only in the case of a mother whose life would be endangered if the fetus were carried to term.".

Mr. DENTON. 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. DENTON. Mr. President, let me explain to you and my colleagues the

purpose of introducing the amendment in different sections. My first-degree amendment would prohibit funding for abortion under all circumstances and that amendment was the original amendment passed by the House in H.R. 4139. The House then added an exception to the general policy, allowing for funding when the life of a mother will be endangered if the fetus were carried to term, and my perfecting amendment has also accepted that exception. Therefore, if the perfecting amendment is adopted and the basic amendment as perfected is adopted, we will have the same text in the Senate bill that appears in the House Treasury-Postal appropriations bill.

Mr. President, during the last several years, our colleagues in the House have repeatedly included in their version of the Treasury-Postal appropriations bill the so-called Ashbrook amendment, which would ban the use of Federal funds for abortion under the Federal employees health benefits program.

On October 27, the House once again approved the amendment by a vote of 229 to 193. The Congress has enacted, and the Supreme Court has upheld, the Hyde amendment restriction on medicaid-funded abortions. The Federal Government, however, has continued to assume partial financial responsibility for abortions obtained by Federal employees. I believe that the Members of the House have displayed extraordinary courage in attempting to eliminate the one glaring inconsistency in our Federal policy on abortion.

Public opinion polls have consistently shown that the American people do not want their tax dollars used to finance abortions. More often than not, the questions that have revealed that view have inquired only whether Federal or State funds should be used to pay for medicaid-funded abortions. Perhaps, because the pollsters have been unaware of the fact that the Federal Government continues to finance abortions for its employees, the public has never been polled on the narrower question of whether or not the Government should subsidize abortions for that relatively affluent segment of the population. I have no doubt that the public would overwhelmingly oppose that subsidy.

Abortions for Federal employees have been paid for under the Federal employees health insurance program, which is financed through a 60-percent contribution by the Federal Government. In 1981, the last year for which figures are available, the Federal Government subsidized about 20,000 abortions at a cost of over $9 million.

Notwithstanding the fact that they support the thrust of the Ashbrook amendment, there are some Members of this body who believe that Federal health employee benefits are a form of compensation that should not be changed. We must remember, however, that participation in the program is not mandatory for Federal employees, and that it is not an entitlement program. The Federal Government offers health insurance to its employees as a way of enabling them to protect themselves against high and unpredictable costs of medical care.

The specific benefits offered by any particular health plan are not now fixed, nor have they ever been. The Office of Personnel Management is authorized to exclude or include any benefit that it considers unnecessary. Currently, some of the major carriers exclude payment for such things as eyeglasses, dental care, and even routine pap smears to detect cervical cancer. Moreover, the CHAMPUS health program for military personnel and their dependents abides by the provisions of the Ashbrook amendment by only providing abortions when the life of the mother is threatened.

On the subject of whether or not the Ashbrook amendment interferes with Federal labor-management relations, the General Counsel of the Office of Personnel Management said the following in a letter to Congress last year:

> The law simply does not permit the Federal Government to engage in negotiations with employee representatives regarding health benefits. Federal employees have certain rights to engage in collective bargaining with respect to conditions of employment, but not health insurance.
>
> While it is true that the Office of Personnel Management contracts with certain employee organization plans for the provision of health benefits, the plans participate in those contracts as insurance carriers and not as labor unions. OPM is, by law, the sole representative of Federal employees in all negotiations for health benefits.
>
> Accordingly, there is no connection whatsoever between the Federal-sector labor relations program, on the one hand, and the Federal Employees Health Benefits Program and the Ashbrook Amendment, on the other.

Mr. President, I have a letter from the Office of Personnel Management, dated November 1, 1983, signed by Donald J. Devine, Director of the Office of Personnel Management. I wrote and asked him if the administration supported the Ashbrook amendment, and this is his response:

> DEAR SENATOR DENTON: This is in response to your staff's inquiry concerning OPM's position on the provision (Section 618) in the Treasury, Postal Service, and General Government Appropriations Bill for fiscal year 1984 (H.R. 4139). As we understand it, the so-called "Ashbrook" Amendment offered by Congressman Chris Smith would ban the use of Federal funds for abortion under the Federal Employees Health Benefits (FEHB) Program. The Amendment is in accord with the Administration's position on abortion.

Mr. President, the essential point to be made is that the Federal Government, as an employer should not, by any rationale, be construed to be obligated to finance abortions in situations in which the life of the mother is not in jeopardy. We must realize the character of nontherapeutic abortion. As the Supreme Court said in the McRae against Harris case, upholding the constitutionality of the Hyde amendment:

> Abortion is inherently different from other medical procedures because no other procedure involves the purposeful termination of a potential human life.

In closing, I stress that the amendment would permit payment for abortions in cases where the life of the mother would be in danger if the fetus were carried to term. Moreover, the amendment in no way would deny Federal employees the right to obtain or contract for coverage of abortions at their own expense through their insurance carriers. It merely withdraws the Federal financial contribution to medical insurance that pays for nontherapeutic abortions.

Nor are we taking away any earned benefits. The Government's share of the cost of medical insurance would remain constant for any contract offered in the future.

It is time, therefore, for Congress to act to end a patent inconsistency in Federal policy. I urge my colleagues to support the Ashbrook amendment so that the 1984 health insurance contracts will be free of the inconsistency of federally subsidized abortion.

In addition, I ask unanimous consent that a compendium of opinion polls showing the consistent public opposition to using tax money to finance abortion be printed in the RECORD following my remarks.

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

PUBLIC OPINION REGARDING THE USE OF TAX MONEY TO FINANCE ABORTION

Questions, poll date, and responses:

1. "Are you in favor of a law which permits a woman to have an abortion even if it has to be at government expense?" April 1975; yes, 35; no, 57.

Source: Gallup poll as reported in Blake (1977a:56-57).

2. "Do you think the government should help a poor woman with her medical bills if she wants an abortion?" July 1977; yes, 38; no, 55.

Source: New York Times/CBS News poll, *New York Times*, July 29, 1977, p. A2.

3. "Until recently, because the U.S. Supreme Court has ruled that abortions up to three months of pregnancy are legal, the federal government has allowed Medicaid money to be used to pay for abortions for women who are poor and cannot afford to pay them. * * * Do you favor or oppose a ban on the use of federal Medicaid funds for abortions * * *" July 1977; oppose ban, 44; favor ban, 47.

Source: *The Harris Survey*, "Abortion Debate Continues," August 18, 1977. Because of its length, the full question wording could not be included here.

4. "Do you think the government should or should not help a poor woman with her bills if she wants an abortion?" October, 1977; should, 47; shouldn't 44.

Source: CBS News/New York Times poll as reported by NARAL (Jan. 1978).

5. Do you "agree with President Carter's view that government funds should not be used to finance elective abortions for the poor?" November 1977; disagree, (na); agree, 58.

Source: Yankelovich, Skelly and White poll as reported by NARAL (Jan. 1978).

6. "Now I'd like you to tell me if you agree or disagree with the following statements: The government should help a poor woman with her medical bills if she wants an abortion." January 1978; should 46; shouldn't 54.

Source: CBS News/New York Times poll as reported in *Public Opinion* (1978) 1:35.

7. "Abortion is something that government should not pay for even if a woman seeking an abortion is very poor." May 1981; disagree, 40; agree, 54.

Source: ABC News/Washington Post poll, Survey #0034, June 8, 1981.

8. "Should federal or state funds be used to pay for abortions for women who are eligible for Medicaid?" November 1981; should, 38; shouldn't, 53.

9. "Should federal or state funds be used to pay for abortions for women who are eligible for Medicaid and become pregnant by rape or incest?" November 1981; should, 73; shouldn't 22.

Source for questions 8 and 9: Yankelovich, Skelly and White poll of American women for *Life*, November 1981.

Mr. PACKWOOD. Mr. President, we are once more back on a battle of familiar turf and territory. This is one more effort of the right-to-life process to nibble away at some of the civil liberties in this country.

Prior to coming to the U.S. Senate, I practiced labor law for a number of years. I represented employers—for example, trade associations. It was very clear to us and to the unions, when we bargained, that when we were talking about a total package of fringe benefits and wages, there was a certain amount of money that we were willing to pay to the employees. Beyond that, we would accept a strike or they would accept the package. How they chose to divide the package with respect to fringe benefits and wages was left to their determination. This adheres in private industry today; it is the same situation that exists in public employment today.

The package we provide for Federal employees should be a total package: The less they get in fringe benefits, the more they get in wages. They know that; we know that; their unions know that; and the different bargaining entities know that.

Consequently, to say that the Federal Government is paying for abortions is fallacious. The employees pay for abortions. They are the ones who choose to bargain for and to receive health insurance, and in generous quantities. Health insurance is a tax-free fringe benefit and wages are not. The Federal Government will pay the same amount with respect to its employee's health insurance, regardless of what we do here today. We are attempting once more to interfere with employee-employer relations in the Government. We have no business to do so.

I expect that very soon there will be a motion to table this amendment. We have been over this issue before in the Senate, and I hope that when the motion to table is made, the Senate will overwhelmingly, once and for all, reject this amendment.

The PRESIDING OFFICER. The Senator from Connecticut.

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

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

Mr. WEICKER. Mr. President, I rise in opposition to the pending amendment which seeks to add the so-called Ashbrook language to this continuing resolution. Considering its content and the circumstances in which it has been offered, this can accurately be described as a killer amendment.

I have the greatest respect for the Senator from Oregon, the chairman of this committee, for the course he has set our committee on. The almost insurmountable burden placed on the work of the committee by social issue riders over the last several years threatens to permanently bog down the appropriations process. His courageous leadership in attempting to fend off every legislative gimmick which is aimed at committee bills has greatly expedited our vital work. This amendment is the latest in a series of attempts to take the short-cut through Congress to the President's desk. Mr. President, regardless of the policy merits or demerits of this proposal, this is the worst way to accomplish its ends.

In case there is any misunderstanding among my colleagues, the Ashbrook language is not—underline "not"—current law. This language is not in the current Senate Treasury-Post Office bill on the calendar, nor was it in the resolution that the House defeated last night. The only time Congress has actually approved this language was in a short-term continuing resolution in 1982. We are not in the situation of Hyde abortion language or other perennial riders which are now carried along each year. This is a new policy which the Senator from Alabama is attempting to establish and I hope the Senate will have the sense to say "no."

Mr. President, at some point Congress must find a way to avoid these cliff-hanger finishes. The current continuing resolution expires at midnight tomorrow night. The House failed to pass a bill last night by a 3-vote margin. The debt limit extension is still hanging out there unresolved. We are due to leave here on November 18, 6 working days from now. If ever there was an argument for keeping what should be a simple continuing resolution clean, we have one now.

Mr. President, the significance of this amendment and the strength of our opposition to it are not lost on the leadership. The majority leader's comments this morning about opposing all amendments should be taken to heart by Members as they vote on a motion to table this amendment. If this body is ever to avoid its annual episodes of brinksmanship, we must have the courage to clear away amendments of this kind when they are offered. I urge my colleagues to do just that.

I would hope that we would not get into a full-fledged debate on this matter at this time. There is much pressing business that sits before the body and indeed the funding of the Government depends on our passage of this resolution.

Mr. DENTON. Mr. President, will the Senator yield for a statement which I think he will welcome?

Mr. WEICKER. Does the Senator have a question?

Mr. DENTON. Would the Senator be pleased if I were to say that I do not want to participate in this debate at all?

Mr. WEICKER. I beg the Senator's pardon.

Mr. DENTON. Would the Senator be pleased if I would indicate my affirmation with him that I desire no further debate or any debate?

Mr. WEICKER. I understand that full well. Is the Senator suggesting he is going to withdraw his amendment? I do not desire, and I know the Senator does not desire debate, but this is by no means to impute he was not involved in the debate. It is just that I would hope as to not only in regard to this amendment, but indeed any other amendment dealing with extraneous matters that they do not go on these appropriations bills.

That is really what we are fighting for, not zeroing in on the Senator from Alabama and this particular amendment.

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

Mr. WEICKER. I yield to the Senator from Oregon.

Mr. HATFIELD. Mr. President, I am in one of those unfortunate situations where all of us face the subject with a great deal of concern and seriousness.

Perhaps the most difficult issue with which we, in Congress, have had to deal is the question of the use of Federal funds to pay for abortions. Year after year the issue is raised, and while

it does not get any easier, we somehow have managed to develop a consensus policy with which many Members have been able to live. The so-called Hyde amendment prohibits the use of Federal funds to pay for abortions except in those cases where the life of the mother would be endangered. Mr. President, my own position on abortion is one which I have spent a great deal of time in search of the appropriate Government response. I have come to the conclusion that we should oppose the use of Government funds for the direct payment of abortion except in the case specified by the Hyde amendment. I will continue to oppose abortion for reasons which I have made clear throughout the past several years.

The issue before us today, however, is quite a different matter. Just as I opposed direct Federal funding of abortions for most cases, I also opposed the efforts to restrict the use of a Federal worker's earnings as it relates to established medical benefit plans. As I have stated in the past, I do not believe the Federal Government should be in the business, even indirectly, of dictating to insurance companies whether or not they can make certain procedures available in their health plans if those procedures are both legal and part of a negotiated comprehensive compensation package. Health insurance is a form of compensation for work, as is salary, and has so been declared by the courts.

By adopting such restrictions as are being discussed here, we would be in effect telling Federal employees that their compensation, which has been earned, cannot be utilized for a specific legal purpose under a negotiated health benefit plan which provides for that coverage. We would be denying Federal employees the same health care options to which private sector employees are entitled, simply because Congress can exercise control over Federal employees.

There are those who will argue, as many of my friends have who share my opposition to abortion, that Congress can change any law affecting Federal employees' salaries and compensation. But by doing so, I believe we would be guilty of invading the privacy of individuals who contribute a significant amount of their earnings to the costs of their health plan. I also believe that such antiabortion restrictions in Federal health programs pose a threat to the collective bargaining rights of unions.

Congress should not be in the position of determining what specific benefits may be offered or denied under the Federal employees health benefits program. If we provide this particular restriction against abortion, where do we draw the line in relation to other medical procedures over which Members of Congress may have objections?

Let me reiterate, Mr. President, that I believe the destruction of innocent human life, either born or unborn, is one of the greatest crimes against all humanity, whether it be selectively through abortion, or indiscriminately through the use of military firepower which is unable to distinguish between children and armed soldiers or as in the case of the electrocution of our convicts or other capital punishment forms—I am opposed to all of them.

The great evil we face today is our blatant disregard for the value of all human life and our denial of rights, privileges, and dignity for all our citizens. The answer, however, is not in selective Government instrusion into the lives of Federal workers to deny a legal, medical procedure—no matter how objectionable to many of us that procedure may be—which is available to non-Federal workers.

I also say, Mr. President, in closing that I appreciate the wonderful cooperation of the people on this subject because I am very hopeful we can move to some kind of a conclusion on it and get on with this CR.

Mr. GRASSLEY. Mr. President, I urge passage of this amendment. Some have posited the argument that this should be strictly a private matter. But when 60 percent or more of the cost of these health benefits comes out of the Federal Treasury, that argument is tenuous at best.

The Denton-Ashbrook amendment presents exactly the same issue as the Helms-Hyde amendment voted upon last May—should the Federal Government be paying for abortions that in no way are needed to preserve the life of the mother? It would certainly be an inconsistency for us to continue to fund nonlifesaving abortions for our own employees and other Federal workers, long after ending such payments for low-income women through the Helms-Hyde amendment.

In 1981 the Federal employees health benefits program paid for approximately 17,000 abortions. I believe that we are taking the appropriate steps to prohibit Federal funding of abortions.

● Mr. LEVIN. Mr. President, I shall vote to table the Denton amendment to prohibit abortion coverage under Federal health insurance plans unless the mother's life is endangered because it would put Congress in the position of determining bargaining rights of Federal employees. Federal health insurance coverage for employees of the Government is part of an employee's compensation. Whether or to what extent Federal employee health insurance plans provide coverage for abortion has been determined by negotiations between OPM and insurance providers, rather than congressional directive. Furthermore, Senator DENTON's second degree amendment would permit coverage only where the mother's life is in danger, thereby excluding those Federal employees who seek an abortion because they have been the victim of rape or incest.●

Mr. WEICKER. Mr. President, I think we have fully gone over the merits and demerits of what is being proposed here. I think that little purpose is to be served by continuation of the debate by this Senator and I think others on our particular side of the issue.

I would hope that my colleagues would go ahead and vote to table the amendment and keep the CR relatively clean so we do not get into a long hassle as we go into the late hours of tomorrow night.

Mr. President, I move to table the underlying amendment of the distinguished Senator from Alabama and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

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

The legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Washington (Mr. EVANS), the Senator from Alaska (Mr. MURKOWSKI), and the Senator from Illinois (Mr. PERCY) are necessarily absent.

Mr. BYRD. I announce that the Senator from California (Mr. CRANSTON) and the Senator from South Carolina (Mr. HOLLINGS) are necessarily absent.

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

The PRESIDING OFFICER (Mr. SPECTER). Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 44, nays 51, as follows:

[Rollcall Vote No. 345 Leg.]

YEAS—44

Andrews	Hart	Pryor
Baker	Hatfield	Riegle
Baucus	Heinz	Roth
Bentsen	Inouye	Rudman
Bingaman	Kassebaum	Sarbanes
Bradley	Kennedy	Sasser
Bumpers	Lautenberg	Simpson
Burdick	Leahy	Specter
Byrd	Levin	Stafford
Chafee	Mathias	Stevens
Chiles	Matsunaga	Tower
Cohen	Metzenbaum	Tsongas
Dodd	Moynihan	Wallop
Glenn	Packwood	Weicker
Gorton	Pell	

NAYS—51

Abdnor	Danforth	Eagleton
Armstrong	DeConcini	East
Biden	Denton	Exon
Boren	Dixon	Ford
Boschwitz	Dole	Garn
Cochran	Domenici	Goldwater
D'Amato	Durenberger	Grassley

Hatch	Laxalt	Proxmire
Hawkins	Long	Quayle
Hecht	Lugar	Randolph
Heflin	Mattingly	Stennis
Helms	McClure	Symms
Huddleston	Melcher	Thurmond
Humphrey	Mitchell	Trible
Jepsen	Nickles	Warner
Johnston	Nunn	Wilson
Kasten	Pressler	Zorinsky

NOT VOTING—5

Cranston	Hollings	Percy
Evans	Murkowski	

So the motion to lay on the table amendment No. 2528 was rejected.

Mr. WEICKER. Mr. President, I make the point of order against the pending second-degree amendment that it constitutes legislation on an appropriations bill.

Mr. BYRD. Mr. President, will the Senator allow me to make an inquiry?

Mr. WEICKER. Yes, Mr. President.

Mr. BYRD. While we have a large turnout, I ask the distinguished majority leader what the rest of the day of the Senate will be like.

The PRESIDING OFFICER. The Senate will be in order. The Senator from Connecticut holds the floor.

Mr. WEICKER. Mr. President, I yield.

The PRESIDING OFFICER. The majority leader is recognized.

The Senate will be in order. The majority leader wishes to address the body.

Mr. BAKER. Mr. President, I thank the Chair. If I may have the attention of my colleagues for a moment, I shall try my best to answer the question of the minority leader.

First, Mr. President, barring unforeseen circumstances, I do not expect us to be in late tonight. I hope that we can finish the necessary work before the Senate by 6:30 p.m. or thereabouts.

Between now and 6:30 p.m., there are two things I feel we must do. First, we must try to make as much progress on this bill as possible. What I mean by that, very frankly, is that we shall go on as long as we are making progress. I do not now think we shall finish this bill today. But as soon as it appears that it would profit the Senate more to move on to something else, it will be the intention of the leadership on this side to ask the Senate to turn to consideration of the Civil Rights Commission reauthorization bill, which was sent us by the House of Representatives and is now on the calendar.

Those two things, Mr. President, will well occupy us for the balance of this day. I say to my friend, the minority leader, that I expect that we shall be able to do those or a substantial part of them and recess at 6:30 p.m. or thereabouts until 9 a.m. tomorrow.

Tomorrow, Mr. President, our first order of business, of course, will be to deal with the continuing resolution problem. It is my understanding now that the House of Representatives will not have a continuing resolution for us until sometime tomorrow. I do not know what shape that is going to be in and I do not know how much problem there will be in trying to meet the House in conference or in sending this bill or another bill to the House of Representatives or sending them back their bill with amendments. One way or another, we have to deal with the CR before midnight tomorrow night.

Mr. President, it is going to be a tight squeeze. We are going to have to not only deal with it here and in the House, but we are going to have to deal with a conference if there is a conference, and surely there will be. Then we shall have to have an expression by the President whether the bill is acceptable to him or whether he plans to veto it.

Mr. President, I hope we can do all these things between now and midnight tomorrow night. But I guess the summary is this. I do not think we will be in late tonight, but I think we had better watch out for tomorrow.

Mr. DENTON. Mr. President, will the majority leader yield for a procedural question?

Mr. BAKER. Yes, I will, Mr. President. But let me continue with this. The minority leader then asked about Friday.

The announced intention of the leadership on this side is to finish Thursday night. But in all fairness, as I have said before in this place, if we cannot deal with the CR problem and if it does appear to be a serious problem for the orderly operation of the Government, and especially if the House feels they must continue to work on this bill on Friday and on Saturday, I think we have nothing we can do otherwise. Let me say before the lynch party forms, I have every intention to try to finish by tomorrow night and not be in on Friday or Saturday and return on Monday.

Mr. BYRD. What does the majority leader see for Monday or can he see that far ahead through the maze of his responsibilities?

Mr. BAKER. Not very well. We have reconciliation to do, debt limit to do, we have Export Administration, we have natural gas, which will recur as the unfinished business, we have math-science, we have women's pension equity, and the distinguished chairman of the conference on this side says that ought to do until Monday night.

Mr. BYRD. Will my colleagues indulge me for one further question?

Does the majority leader still feel that we are likely to adjourn sine die on the 18th, whether it is possible or probable or improbable? And if we cannot do that, when would he propose to come back—1 or 2 days during the following week or after Thanksgiving?

Mr. BAKER. Mr. President, I wish to reiterate, it is the desire of the leadership on this side to finish our work and to adjourn sine die on November 18. I admit that there is a possibility that we cannot do all the work, but I think we can and should. I believe we ought to focus our effort and attention on that possibility.

I would rather not speculate now on what we would do if we have not finished our work on the 18th. That is a Friday. It is the weekend before Thanksgiving.

Our opinions are, if that unhappy event were to transpire, to come back on the first 2 days of the following week, which will be the 21st and 22d, and try then or, in the alternative, to come back on the 29th, which is the time we reconvene after the published recess period for Thanksgiving. If we come back on the November 29, Mr. President, I am very much afraid we shall be here until Christmas eve.

Mr. President, if the minority leader will permit me to do so, let me wait before I speculate on that.

Mr. BYRD. I thank the majority leader. I know he will do the best he can with what he has to work with. I thank him for his response.

Mr. STENNIS. Will the Senator yield to me?

Mr. BAKER. Yes, Mr. President, let me yield to the Senator from Mississippi and then to the Senator from Alabama.

Mr. STENNIS. Mr. President, the majority leader has outlined a very fine plan. Based on what I guess about the amendments to be offered, it may be that we are almost through this bill.

For 4 days, we were here on a very comprehensive bill, as the Senator will remember. Nearly all the appropriations bills have already passed. We have had some amendments today. If the majority leader would call for any amendments expected to be offered, we might find just a very few of them settle right down on it and be through in time to take up the other bills the Senator mentioned.

Mr. BAKER. Mr. President, I thank the Senator from Mississippi. I devoutly wish for that. I hope, indeed, that turns out to be the case.

I yield to the Senator from Mississippi.

Mr. DENTON. Mr. Leader, I imagine you heard, but I did not, on the last vote on the motion to table, was there a motion to reconsider?

Mr. BAKER. I do not believe so. If the Senator wishes to make that, I will yield now so he may do so.

Mr. DENTON. Mr. President, I make a motion to reconsider the vote by which the motion to table was not 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. Now, Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. WEICKER. I believe I made a point of order.

The PRESIDING OFFICER. The Senator had withheld his point of order. Will the Senator now please repeat his point of order?

Mr. WEICKER. I made the point of order against the second-degree amendment, that it was legislation on an appropriations bill.

The PRESIDING OFFICER. The amendment by the Senator from Alabama contains a contingency, and therefore it is legislation, so the point of order is sustained.

Mr. DENTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. DENTON. I appeal the ruling of the Chair, and I ask for the yeas and nays.

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

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is, Shall the ruling of the Chair stand? The yeas and nays have been ordered. The clerk will call the roll.

Mr. DENTON. Mr. President, parliamentary inquiry. Will you clarify what the meaning of the yeas and nays is?

The PRESIDING OFFICER. The vote is in progress.

The assistant legislative clerk called the roll.

Mr. McCLURE (when his name was called). Mr. President, on this vote I have a pair with the distinguished Senator from Washington (Mr. EVANS). If he were present and voting, he would vote "yea." If I were permitted to vote I would vote "nay." Therefore, I withhold my vote.

Mr. LONG (when his name was called). Mr. President, on this vote I have a pair with the distinguished Senator from California (Mr. CRANSTON). If he were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." Therefore, I withhold my vote.

Mr. STEVENS. I announce that the Senator from Washington (Mr. EVANS), the Senator from Oregon (Mr. HATFIELD), the Senator from Alaska (Mr. MURKOWSKI), and the Senator from Illinois (Mr. PERCY) are necessarily absent.

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

Mr. BYRD. I announce that the Senator from California (Mr. CRANSTON) and the Senator from South Carolina (Mr. HOLLINGS), are necessarily absent.

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

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

[Rollcall Vote No. 346 Leg.]

YEAS—46

Andrews	Hart	Riegle
Baker	Heinz	Roth
Baucus	Inouye	Rudman
Bentsen	Kassebaum	Sarbanes
Bingaman	Kennedy	Sasser
Bradley	Lautenberg	Simpson
Bumpers	Leahy	Specter
Burdick	Levin	Stafford
Byrd	Mathias	Stennis
Chafee	Matsunaga	Stevens
Chiles	Metzenbaum	Tower
Cohen	Moynihan	Tsongas
Dodd	Nunn	Wallop
Glenn	Packwood	Weicker
Goldwater	Pell	
Gorton	Pryor	

NAYS—46

Abdnor	Exon	Mattingly
Armstrong	Ford	Melcher
Biden	Garn	Mitchell
Boren	Grassley	Nickles
Boschwitz	Hatch	Pressler
Cochran	Hawkins	Proxmire
D'Amato	Hecht	Quayle
Danforth	Heflin	Randolph
DeConcini	Helms	Symms
Denton	Huddleston	Thurmond
Dixon	Humphrey	Trible
Dole	Jepsen	Warner
Domenici	Johnston	Wilson
Durenberger	Kasten	Zorinsky
Eagleton	Laxalt	
East	Lugar	

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—2

Long, against.
McClure, against.

NOT VOTING—6

Cranston	Hatfield	Murkowski
Evans	Hollings	Percy

The PRESIDING OFFICER. On this vote, the yeas are 46, the nays are 46.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Has the Chair announced the vote?

The PRESIDING OFFICER. The Chair has announced the vote. The vote is 46 to 46.

Mr. BUMPERS. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. I am advised that the ruling of the Chair is not the judgment of the Senate on a tie vote.

Mr. BUMPERS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BUMPERS. What is now the pending business?

The PRESIDING OFFICER. The pending question is the second-degree amendment offered by the Senator from Alabama (Mr. DENTON).

Mr. BUMPERS. Mr. President, I withdraw my amendment without prejudice to its being offered later.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that we temporarily lay aside the pending business in order to consider an amendment which I have cleared with the distinguished manager of the bill as well as the Commerce Committee.

Mr. BAKER. Mr. President, reserving the right to object, I do not believe the Senator means to make it the pending business.

Mr. JOHNSTON. I mean the pending amendment.

Mr. BAKER. The pending question.

Mr. JOHNSTON. The pending question.

Mr. METZENBAUM. Mr. President, reserving the right to object, may we be informed what it is?

Mr. JOHNSTON. Yes.

The PRESIDING OFFICER. It is the proposition to lay aside both the pending amendments proposed by the Senator from Alabama (Mr. DENTON).

Mr. METZENBAUM. Mr. President, reserving the right to object, may I ask the Senator from Louisiana what the business is and how long it will take?

Mr. JOHNSTON. It will not take long.

Mr. PACKWOOD. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. DENTON. Mr. President, I move to reconsider the vote by which the ruling of the Chair was not upheld.

Mr. McCLURE. Mr. President, 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 agreeing to the amendment of the Senator from Alabama.

On this question, the yeas and nays have been ordered.

Mr. WEICKER addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

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

The PRESIDING OFFICER. The Senate will be in order.

Mr. PACKWOOD addressed the Chair.

Mr. WEICKER. Mr. President, I am perfectly delighted to yield to the distinguished Senator from Oregon.

The PRESIDING OFFICER. The Senator from Oregon is recognized.

Mr. PACKWOOD. Parliamentary inquiry: The Chair was not sustained on the point of order, is that correct?

The PRESIDING OFFICER. Correct.

Mr. PACKWOOD. And was there a motion to table and to reconsider the vote? I could not hear.

The PRESIDING OFFICER. There was a motion to reconsider by the Senator from Alabama, Mr. DENTON, and a motion to table by the Senator from

Idaho, Mr. McCLURE, and by agreement, the motion to table was agreed to.

Mr. PACKWOOD. Mr. President, I think at this stage, we are going to have to have some long discussion on the continuing resolution. For those who are in the Chamber, I plan to speak for, I would judge, an hour to an hour and a half tonight. I would be happy to talk with the majority leader about what his plans are, because I do not want to delay him in turning to other matters. But for now, I will simply go on reading from the book "Abortion in America." When I left off a year and a half ago, I had gotten to 1842:

Van de Warker added that he was always astounded at "the cool effrontery of young girls and women" in discussing sexual matters with their local druggists. Throughout the 1860s and early 1870s local apothecaries wrote their national trade journal for the latest emmenagogic recipes and the "Druggists' Circular" complied by publishing several for their readers to try.

Along with the suddenly striking public visibility of abortion and the existence of a booming business in abortifacient preparations, a third source of indirect evidence for the likelihood of increased abortion rates in the United States after 1840 was the accelerated proliferation of materials that allowed American women an ever widening access to possible methods of aborting themselves. While popular health manuals continued to supply some of this information, as they had earlier in the century, the number of specific tracts directed at women and their sexuality increased dramatically in the middle decades of the nineteenth century as well. Some of the latter had begun to appear in the 1830s, when the first serious public discussions of contraception and family limitation were published in the United States.

Richard Reece's "Lady's Medical Guide," published in 1833, was a harbinger of later developments.

May we have order, Mr. President?

The PRESIDING OFFICER. The Senator from Oregon is correct. The Senate is not in order. The Senate will be in order. For those who desire to converse, please retire to the cloakrooms.

Mr. PACKWOOD. I thank the Chair.

Reece advanced autoabortive techniques by recommending for suppressions of menstrual flow, in addition to the ingesting of aloes, black hellebore, or savin, the use of a syringe to administer vaginally solutions of pennyroyal, the favorite folk emmenagogue of the British Isles. Reece had patented a female syringe himself and urged readers to send for one. These syringes were doubtless ineffective as uterine probes and hence not directly abortive instruments, but their availability to the public beginning in the 1830s must have accustomed many women to the idea that instruments could be used safely and effectively to control their reproductive functions. In a similar vein, private clinics for women, like the one which opened at the corner of Lynde and Cambridge Streets in Boston in 1834, began to advertise pointedly during the 1830s their willingness to treat any and all female complaints. Although these early private clinics probably catered primarily to women concerned about venereal disease, such businesses were the forerunners of what would become a substantial number of private abortion clinics by the 1840s and 1850s.

The PRESIDING OFFICER. The Senate will be in order. The Senate will be in order.

Mr. PACKWOOD. I thank the Chair.

In 1835 a leading Thomsonian writer, recommended in "the Midwife's Practical Directory" a mixture of tansy syrup and rum for women who had missed a period. The Thomsonians were among the regulars' most serious rivals during the 1830s and 1840s. Also among the enemies of the regulars were the so-called botanics, a sect that favored natural herbs over artificial drugs and chemicals. Professor Curtis of the Botanico-Medical College of Ohio, roasted the regulars in 1836 not only for their roughshod surgical techniques but for their enforced caution in cases of pregnancy. "The regulars," he wrote, were "afraid to give their Samsons [their most powerful drugs] in cases of gestation" and as a result often did a woman "an injury instead of giving her relief." Botanics, Curtis noted in a telling comparison, were able to forge ahead "always in favor of health and comfort, be the condition of the patient what it may." At the end of his volume Curtis appended recipes for supposedly natural emmenagogues.

Alfred G. Hall, another botanic physician, was trying to compete for a livelihood in a city overcrowded with physicians: Rochester, New York.

The PRESIDING OFFICER. The Senate will be in order. Will the staff kindly cease all conversation? All conversations should be carried on in the cloakroom.

Mr. PACKWOOD. I thank the Chair.

In 1843 Hall turned to publication to boost his income and attract some new patients. His "Mother's Own Book" listed in the table of contents under "secret information" a number of emmenagogic and abortifacient recipes. Most favored was a mixture of savin, gin, honey, and cayenne pepper, which Hall termed "very powerful in removing obstructions and perfectly safe."

The PRESIDING OFFICER. The Senate will be in order. Will the staff kindly cease conversations?

Mr. PACKWOOD. Again, I thank the Chair for maintaining order.

He also confirmed——

The PRESIDING OFFICER. The Senate will be in order. Staff who continue to converse will be ejected from the Chamber. No conversations while the Senator from Oregon is speaking.

Mr. PACKWOOD. Again, I thank the Chair very much.

He also confirmed, "Savin may be had at any of our apothecaries, in the shrub or leaves. It is an evergreen growing in this country, and it acts freely on the uterus in promoting Menstruation." After savin he liked bloodroot, black cohosh, hemlock, pennyroyal, tansy, and featherfew, each also taken with gin, honey, and cayenne. Laxatives and hot baths were recommended as supplements to these concoctions.

A man calling himself A. M. Mauriceau and claiming to be a "Professor of Diseases of Women" published in 1847 "The Married Woman's Private Medical Companion." Mauriceau was actually Charles R. Lohman, Madame Restell's husband, though contemporary readers could hardly have known that. His book openly advocated abortion. In the introduction Mauriceau claimed that it was time for physiology to keep pace with the march of science, technology, and civilization. Women now could, and therefore now should, be spared from an early grave through excessive childbearing.

He dismissed the argument that the kind of knowledge his volume conveyed might "perhaps . . . lead to immorality and vice." After all, his book addressed honorable, moral, married women. Mauriceau mentioned as emmenagogues the usual external causes of abortion, such as jumping and straining, plus several medicinal preparations. The latter depended upon thyme, pennyroyal, tansy, aloes, wild cherry bark, ash bark, or seneca snakeroot in various combinations with gin. His biggest pitch, however, was reserved for his own version of "Portuguese Female Pills," which he distributed by mail order. The pills "would undoubtedly, even produce miscarriage, if exhibited during pregnancy" and "their efficacy and certainty [were] such that they [were] sometimes administered in cases of malformation of the pelvis, when the female [was] incompetent to give birth at maturity." The pills were $5 per box, $3 per half box, and a New York City address was listed for mail orders.

The "Married Woman's Private Medical Companion" discussed at length what Mauriceau believed to be the perfectly legitimate desire of many American women in the 1840s to limit the sizes of their families. Female health and happiness justified family limitation, and so might a desire to prevent the continuation of undesirable hereditary traits. Moreover, the social advantage of smaller families was, for Mauriceau, a compelling reason as well. He noted that poor women in the United States frequently nursed their infants over two years "to protect themselves, as they imagine, from becoming pregnant," but that this method was unreliable. The best method was an early abortion, the earlier the better, on the pretext of preventing a life-and-death crisis at full term. "It would seem more humane," he wrote, "to sacrifice, before the period of viability, an embryo whose existence is so uncertain, in order to protect the mother from the perilous chances of symphyscotomy [sic] and the Caesarean section. The abuse and criminal extention of such a resource," he added disingenuously, "is reprehensible, but not its proper and authorized employment. This operation should always be undertaken with great care, and all necessary precaution used to satisfy the public mind of its necessity." Perhaps most important of all, the volume continued to reassure women that abortions were, relative to childbirth, safe procedures in the 1840s. "As is well known by those versed in obstetrics," claimed Mauriceau, whenever an intentional abortion seemed medically necessary, "it [was] attended with no danger, especially in the earlier stages of pregnancy." In a footnote he mentioned that the process he used himself was perfectly safe, led to miscarriage in about three days, and would "impart no pain."

Buel Eastman published his "Practical Treatise on Diseases Peculiar to Women and Girls" in Ohio in 1845, and by 1848 it was al-

ready in its third edition. Eastman unambiguously endorsed the quickening doctrine, arguing that it was "hardly possible" to diagnose pregnancy prior to that sign. Consequently, women could and should treat themselves for stoppages until they actually quickened. Eastman's special pleading was on behalf of an herb known as biting smartweed, upon which he had written his dissertation. "This is the most active agent we possess to re-establish the monthly discharge," he asserted, and went into detail about its preparation and dosage. His appendix identified fifteen other substances as abortifacients or emmenagogues, and gave for each the recommended dosage in cases of suppression.

Another characteristic tract of the 1840s was M. K. Hard's "Woman's Medical Guide." Testifying indirectly to the increased frequency of instrumental abortion, Hard penned what amounted to a little treatise on the advantages of herbal and botanical emmenagogues over surgery. The book castigated the many physicians "whose only motive is gain," and urged women to use emmenagogic pills rather than become victims of the new corps of abortion performers. Hard favored herbal preparations and discussed in great detail the use of aloes, jalap, the varieties of cohosh, squawroot, black snakeroot, madder, smartweed, and motherwort.

Frederick Hollick brought out his "Diseases of Women in 1849. In it he mentioned mild emmenagogues, but refused to detail "stronger remedies" because he realized that American women were putting them to what he personally regarded as criminal usages as abortifacients. He likewise warned other physicians that patients often intentionally deceived medical men in cases of stoppage for the purpose of getting them to terminate suspected but unwanted pregnancies. Notwithstanding these attempts to separate himself from those writers who were making abortifacient information available to American women on a wide scale, Hollick did discuss two recently popularized methods of unblocking menstrual obstruction that had just come to his attention. By midcentury even the nation's inventors seemed intrigued by the potentialities of abortion as a widespread social phenomenon.

The first of the two devices Hollick claimed had recently become popular was a primitive suction system. Developed by a Dr. Sunot, the apparatus consisted of an airtight cup "from which the air may be drawn by an air pump." It could be used on what Hollick euphemistically labeled the "lower body" to restore bleeding. According to Hollick, this device was "one of the most powerful and certain means of bringing on the menstrual flow that we possess. In fact, it can *scarcely fail!*" He did have the good sense to caution against using it recklessly, since it had the power to pull blood right through the pores of the skin. The second device Hollick described was based upon theories put forward earlier in the century concerning the effect of electricity in causing the uterus to empty its contents. This particular piece of equipment consisted of two long leads hooked up to a galvanic battery. One pole was placed upon the lower back, "and the other on the abdomen, just over the pubia; but at other times it is necessary to apply it more or less internally, in various ways not necessary to be here described."

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

Mr. PACKWOOD. Mr. President, I ask unanimous consent that I may yield to the Senator from Tennessee without losing my right to the floor and without my resuming being considered a second speech.

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

Mr. BAKER. Mr. President, I recall now how I was not listening intently to his previous recitation from this book.

Mr. PACKWOOD. I would be happy to read it from the start. [Laughter.]

Mr. BAKER. It is no assault to the Senator's sensibilities to say that I do not plan to listen now either. [Laughter.]

What I would like to do, Mr. President, is to find useful work for the Senate.

Could I inquire of the Senator if he would be willing to yield to me for the purpose of a unanimous-consent request, the effect of which would be to put us on the Civil Rights Commission bill, on condition that if the request is granted, of course, he would lose the floor, but if the request is not granted, he would not lose his right to the floor, and that it would not count as a second speech.

Mr. PACKWOOD. Would the majority leader be willing, when we go back on this bill, to allow me to have the floor?

Mr. BAKER. I do not have the chairman of the committee present.

Mr. STENNIS. Mr. President, I would express the hope that it would be within an hour when we go back, giving us a chance to finish this thing.

Mr. BAKER. In response, Mr. President, I would like not to do that because I do not have the chairman here. It may be necessary for us to try to move on with the bill itself. But the Senator certainly can gain recognition.

Mr. PACKWOOD. The majority leader is right. I will yield for the purpose of his unanimous-consent request.

Mr. BAKER. I thank the Senator.

First, Mr. President, I make the request that the Senator may yield to me without losing his right to the floor, without it counting as a second speech when he resumes, unless the unanimous-consent request I make in respect of proceeding temporarily to another measure is objected to, in which case he will be rerecognized.

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

Mr. BAKER. I thank the Chair.

CIVIL RIGHTS COMMISSION ACT OF 1983

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate temporarily lay aside the pending business and turn to the consideration of Calendar Order No. 360, H.R. 2230, an act to amend the Civil Rights Act of 1957.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. Mr. President, reserving the right to object, and I shall not object, the majority leader has propounded this request from time to time. We have all been put on notice and I know of no objection on this side.

Mr. BAKER. I thank the minority leader.

(Mr. PACKWOOD assumed the chair.)

Mr. BAKER. Mr. President, do I understand the distinguished Senator from Pennsylvania, who was most recently the occupant of the chair, may wish to reserve his right to object to the request I have put?

Mr. SPECTER. Mr. President, I did not plan to object. I wanted to be on the floor so I could be in a position to offer an amendment.

Mr. BAKER. The request pending is the request I stated earlier.

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

The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 2230) to amend the Civil Right Act of 1957 to extend the life of the Civil Rights Commission, and for other purposes.

The Senate proceeded to consider the bill.

Mr. BAKER. Mr. President, the distinguished chairman of the Judiciary Committee is here and I understand the distinguished ranking minority member is here. It would be my hope that we could finish this bill this afternoon. I understand there will be amendments offered. We do not have a time agreement, but I hope Senators can turn their attention to the matter and finish the bill by, say, 6:30 p.m.

Mr. President, I also would say that there are items which have been cleared on today's Executive Calendar and the Legislative Calendar. We will do those immediately after we complete debate on this bill, or at 6:30 this afternoon.

Mr. President, I thank all Senators for their cooperation.

The PRESIDING OFFICER. Who seeks recognition? The Senator from Pennsylvania.

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

Mr. President, I shall withhold the amendment until there have been opening statements by the chairman and the ranking member.

The PRESIDING OFFICER (Mr. DANFORTH). The Senator from South Carolina.

Mr. THURMOND. Mr. President, I support H.R. 2230, a bill to extend the life of the Civil Rights Commission.

The Civil Rights Commission was created in the 1957 Civil Rights Act. At that time, it was given only a 2-year existence. A series of subsequent authorizing legislation has extended the Commission until this year.

For several months, the Committee on the Judiciary has had under active consideration various proposals to reauthorize the Commission. These include the administration's proposal, which I introduced by request last spring, and a wide variety of permutations of legislation which has been introduced. The qualified nominees submitted by the administration have been simultaneously pending in the committee. We have attempted in good faith to work out an acceptable compromise under which those nominees could serve on a Civil Rights Commission with an extended life.

Mr. President, at no time during the course of those negotiations was the reauthorization of the Civil Rights Commission in doubt. I have made that intention clear, as have the distinguished majority leader (Mr. BAKER) and the chairman of the subcommittee (Mr. HATCH). As recently as last week, the administration reaffirmed its clear support for the continued existence of that body.

Mr. President, with the November 29 deadline looming before us, it is imperative that we act as expeditiously as possible. The Commission must be reauthorized promptly. After surveyng all of the alternatives, I have concluded, along with the administration, the majority leader and the subcommittee chairman, that the best course of action at this point is to accept the bill passed by the House of Representatives, without change. This will enable us to send legislation to the President for his signature immediately. I see no reason for further delay at this point.

The House bill, H.R. 2230, has two basic features. First, it would extend the life of the Commission for 5 years, through September 30, 1988. This extension is in keeping with those in the past. Second, it would limit the President's removal power so that only removal "for cause" would be authorized. This, I believe, addresses the concerns which have been voiced by some of my colleagues. H.R. 2230 was passed by the House with wide, bipartisan support.

I understand that an amendment will be offered to this bill which would essentially place the Commission in the legislative branch of the Federal Government. I believe that this course of action would be ill-advised in several respects. First, it would further delay this legislation and place us in grave danger of missing the November 29 deadline. Second, there are substantial problems with this alternative, which I will discuss in more detail when it is offered. It is strongly opposed by the administration and was recently questioned in a Washington Post editorial.

Mr. President, in summary, let me emphasize that the continued life of the Civil Rights Commission has had, and continues to have, the support of the administration, myself, and various others on both sides of the aisle. In furtherance of that position, I firmly believe that this body should act promptly and favorably on H.R. 2230, without amendment.

Mr. BIDEN. Mr. President, I want first to thank the majority leader for keeping his commitment, as he always does keep his commitments, to bring up this legislation and to the chairman of the full Committee on the Judiciary for keeping his commitment to make sure that we move on disposing one way or the other of the Civil Rights Commission and its markup for reauthorization. I shall be very brief at this time and then yield to the Senator from Pennsylvania.

What I would like to do is make one thing perfectly clear: The House bill that we are voting on or will be voting on is not a bill everyone in the House supports. The House bill was in the context of an overall agreement. The overall agreement encompassed the makeup of the Commission.

As we all remember, the President of the United States did what some argue it is not his authority to do. Others, like myself, argue about the wisdom of his having done it. Still others argue that he does not have the legal basis to do it. Nonetheless, the President came forward and said he did not like those folks around the Commission now.

A President can say that.

The President then went forward and decided he was going to change two of the folks on that commission, and he did. That caused a bit of a brouhaha.

Then he suggested, about early summer, that he had decided there were three more people he did not like on that commission, one who is affectionately referred to as a Maoist, the other referred to as having been there too long. In our conversations about this, he said, "I do not want those three folks on the Commission and I am appointing three new folks. They are good folks." And they are. Abram is a qualified man, has good credentials on civil rights, and the two other appointees are good folks.

It became clear that there were some of us in the Senate who thought this was putting into question the independence of the Civil Rights Commission—which I might add has been an independent advisory group—I emphasize "advisory"—underline "advisory," I reemphasize "advisory." That is all it is, advisory. Some of us thought that, notwithstanding the fact that it had been an independent advisory committee from Eisenhower straight through President Reagan, President Reagan was, at a minimum, committing a breach of faith regarding what we all thought heretofore was an independent Commission. We can all argue whether it was or was not.

I suggest that the end result was that there was a great deal of discussion and dilemma about the future makeup of the Commission. The Senator from Utah, the Senator from North Carolina, the Senator from Kansas, the Senator from Pennsylvania and others of us said, maybe we can work this thing out; maybe we can do something that makes sense, preserves the integrity from our perspective and from the perspective of the Senator from Utah and others, who thought the integrity was there all the time; maybe we can do something to preserve the President's prerogative. maybe we can start to negotiate.

We negotiated for, literally, months—specifically 5 months. I am embarrassed to say I have probably spent more time on this issue, which Senator DOLE refers to as a beltway issue, than anything else I have done in the last 5 months.

It was a good-faith effort. We met with administration officials, we met with everyone. We finally had a proposal that was encompassed within the context of this House-passed legislation to reauthorize the Commission, which said, "Look, we are going to increase the membership to eight and we are going to work it out the following way: We are going to have two of the three appointees that the President wants right away, one more of the appointees, the third one, in January of 1985, and then we are going to have two every year thereafter," and so on and so forth.

We really did, I thought, some pretty good work. We got a consensus, at least in terms of votes, on the Judiciary Committee. We thought we had it pretty well locked up and satisfied. Not everybody was happy—the civil rights community was not happy, the President was not happy, but the Senate was happy, and at least a majority of the members of the committee were happy. A majority, I emphasize. There was a distinct number of those in the minority who were not happy, but at least a majority were happy. So I got on my usual Amtrak train and headed on down thinking I had done the Lord's work the last 5 months along with Senators SPECTER, DOLE, and others, and we had come up with a way to satisfy the civil rights constituency in this country, of which I consider myself a member, and also to do something which was positive and productive. I got in my office at 9:30 in the morning. We were about to go in to meet, and I received a call from the distinguished Senator from the full committee who said, "JOE, I

think we are going to cancel today's executive session," which he should have done in light of what happened. I said, "Well, why?" He said, "Well, the President"—the chairman did not say this, but my staff informed me that the President had fired three members of the Commission, the three we had been negotiating over for 5 months. I almost wish he had just fired them in the beginning and we had gone on to this thing 5 months ago. But after 5 months of good negotiation, the morning we go in with the votes to pass the legislation, which is a version of this legislation that we have before us now, the President fired everybody. Well, all bets were off. He fired everybody. The House thought that the bill they passed and sent over to us was based on the makeup of the Commission at the time the House passed that bill. Now I find myself in the dubious position, along with Senator SPECTER and others on the floor, saying we are against this House-passed bill because after the firings, the House-passsed bill does not maintain the integrity and the independence of the Commission.

So the President says he wants a commission, a Civil Rights Commission. Well, with all due respect, he wants a kind of Civil Rights Commission different than the kind of Civil Rights Commission I want. I want a Civil Rights Commission that is able to say what it wants to say and give an advisory opinion. Why should the President be afraid of an advisory opinion? The Civil Rights Commission has disagreed with every President, has criticized every President from Dwight D. Eisenhower, John Kennedy, Lyndon Baines Johnson, Richard Nixon, Gerald Ford, and Jimmy Carter. They have all been criticized by it. They did not like it; they lived with it. I thought that was part of the process. I, for example, am in total agreement with the appointees, and have so voted for the last 11 years, who state that they are for civil rights, but against busing and against quotas. So I do not just say that. I voted that way, and I voted that way as an advocate of civil rights for the past 11 years.

We are told that the real reason people are against these appointments relates to whether or not they are either for busing or against busing or for quotas or against quotas. It has nothing to do with that. It has to do with the integrity of the Civil Rights Commission.

And so I am going to yield the floor now, but I want to emphasize again for those who have their squawkboxes on, do not be misled; the House-passed bill that is before us, that is about to be amended, absent it being amended, is not supported by the civil rights community; it is not supported by the majority of the Members of the House of Representatives, and it is not supported by those of us who have been working for a compromise. The fact of the matter is, some of us think maybe the President has a different agenda on this issue and we are prepared to discuss, not at length but fully and hopefully by 6:30 finish it all, what that agenda is. With that, I will yield the floor.

(By request of Mr. BYRD, the following statement was ordered to be printed in the RECORD:)

● Mr. CRANSTON. Mr. President, for a quarter of a century the Civil Rights Commission has expressed the commitment of our Government and the American people to the cause of equal justice and civil rights.

Until this year, it was a commission free of Presidential obstruction, interference and manipulation.

If Congress refuses to act now and reauthorize an independent Civil Rights Commission, then Congress will demonstrate that it is as indifferent to civil rights as is Ronald Reagan.

This is the issue facing the Senate: Our responsibility—in the face of Presidential intransigence—to protect the independence and insure continuation of the Civil Rights Commission.

The U.S. Commission on Civil Rights was created by the Civil Rights Act of 1957.

The Commission is empowered to examine and report on discrimination or denial of equal protection of the laws because of race, color, religion, sex, age, handicap, national origin, or in the administration of justice.

For more than 25 years, this Commission has carefully evaluated the effect of Federal laws in causing or in preventing discrimination.

It has weighed the effectiveness of Government equal opportunity programs in remedying the effects of discrimination and in providing equal employment opportunities to all our citizens.

Throughout its lifetime, the Commission has served with significant beneficial effect as a national clearinghouse for civil rights information.

Presidents of the United States have not always been pleased with the critiques of their programs issued by an independent, bipartisan Civil Rights Commission.

But every President of either party from Dwight Eisenhower to Jimmy Carter supported the efforts of this Commission and permitted it to do its work independently and without interference.

Every President until Ronald Reagan.

Mr. President, to do its job properly the Civil Rights Commission must function independently, free of Presidential domination.

Yet Ronald Reagan—who already had appointed two of the six sitting commissioners—recently fired without cause three additional commissioners to appoint others more to his liking.

Moreover, this precipitous action has been only the latest in a series of actions by this administration to obstruct a bipartisan settlement of the closely related issues of reauthorization and continued independence of the Commission.

Permitting Ronald Reagan to name five of the six commissioners as a price for reauthorization is too expensive a price, Mr. President, no matter how well qualified Ronald Reagan's nominees are.

If President Reagan is permitted to get away with his unprecedented firing of these commissioners without cause, no further commissioner would even feel free to express views critical of any administration policy without fearing loss of his or her job.

This is bound to chill the work of the Commission.

The President's actions raise serious questions about his willingness to permit an independent Civil Rights Commission to survive and about the sincerity of his commitment to civil right generally, despite his recent statements in signing the Martin Luther King holiday legislation.

Ronald Reagan in out of step with the vast majority of the Members of this body—on both sides of the aisle—and with the vast majority of Americans who believe this Commission should continue its vital work free of Presidential interference.

The Senator from Pennsylvania (Mr. SPECTER), member of the President's party, and the Senator from Delaware (Mr. BIDEN), the ranking Democrat on the Judiciary Committee, have jointly authored the amendment before us. This amendment will permit the Civil Rights Commission to do its work as an independent, bipartisan congressionally appointed body.

We do not have time to melt the opposition of this intractable President.

The Commission's legal authority has already expired, and the Commission will be shut down within a few weeks unless Congress acts now.

I urge overwhelming support for the Specter-Biden amendment to reestablish an independent Civil Rights Commission.●

AMENDMENT NO. 2533

(Purpose: To establish a Commission on Civil Rights in the legislative branch of the Federal Government)

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

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

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Pennsylvania (Mr. SPECTER), for himself and Mr. BIDEN, proposes an amendment numbered 2533.

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

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

The amendment is as follows:

On page 1, through line 2 on page 3 line three, strike all after the word "That" and insert in lieu thereof the following: this Act may be cited as the "Commission on Civil Rights Authorization Act of 1983".

SEC. 2. (a) Section 101 of the Civil Rights Act of 1957 is amended to read as follows:

"ESTABLISHMENT OF THE COMMISSION ON CIVIL RIGHTS

"SEC. 101. (a) There is created in the legislative branch of the Government a Commission on Civil Rights (hereafter in this Act referred to as the 'Commission').

"(b) The Commission shall be composed of eight members as follows:

"(1) four shall be appointed by the Speaker of the House of Representatives on the recommendation of the Majority Leader and the Minority Leader, no more than two of whom shall be of the same political party; and

"(2) four shall be appointed by the President pro tempore of the Senate upon the recommendation of the Majority Leader and the Minority Leader of the Senate, no more than two of whom shall be of the same political party.

Not more than four of the members shall at any one time be of the same political party.

"(c) The Commission shall select a Chairman and a Vice Chairman from among its members annually. The Vice Chairman shall act as Chairman in the absence or disability of the Chairman, or in the event of a vacancy in that office.

"(d) Members of the Commission shall be appointed for a term of eight years, except that as designated by the Speaker of the House of Representatives and the President pro tempore of the Senate the first and second Commissioners appointed shall serve two-year terms, the third and fourth Commissioners appointed shall serve four-year terms, and the fifth and sixth Commissioners appointed shall serve six-year terms. A Commissioner may be reappointed.

"(e) Any vacancy in the Commission shall not affect its powers and shall be filled in the same manner, and subject to the same limitation with respect to party affiliations, as the original appointment was made.

"(f) A member of the Commission may continue to serve until his successor has taken office as a member of the Commission.

"(g) A majority of the Commission shall constitute a quorum.

"(h) The Speaker of the House of Representatives and the President pro tempore of the Senate jointly may remove a member of the Commission only for neglect of duty or malfeasance in office.".

(b) Section 102 of the Civil Rights Act of 1957 is amended by adding at the end thereof the following new subsection:

"(m) The provision of subchapter II of chapter 5 of title 5 of the United States Code, relating to administrative procedure and freedom of information, shall, to the extent not inconsistent with this section, apply to the Commission established under this Act.".

(c) Section 104(c) of the Civil Rights Act of 1957 is amended to read as follows:

"(c) The Commission shall submit reports to the Congress at such times as the Commission or the Congress shall deem desirable.".

(d) Section 105(a) of the Civil Rights Act of 1957 is amended to read as follows:

"(a)(1) There shall be a full-time staff director for the Commission who shall be appointed by majority vote of the Commission.

"(2)(A) Effective November 29, 1983, or on the date of enactment of this Act, whichever occurs first, all employees (other than the director, the members of the Commission and the special assistants thereof) of the Commission on Civil Rights are transferred to the Commission established by the amendment made by section 2(a) of the Commission on Civil Rights Authorization Act of 1983.

"(B) Upon application of any individual (other than the Director, a member of the Commission or a special assistant thereof) who was an employee of the Commission on Civil Rights established by the Civil Rights Act of 1957 on September 30, 1983, the Commission shall appoint such individual to a position the duties and responsibilities of which and the rate of pay for which, are comparable to the duties, responsibilities and rate of pay of the position held by such employee on September 30, 1983.

"(C) Any employee transferred under subparagraph (A) or appointed under subparagraph (B) shall be deemed to have been employed by the Government without a break in service for purpose of chapter 35 (retention preference), 55 (pay administration), 63 (leave), 81 (insurance) and 89 (health insurance) of title 5, United States Code.

"(3) Within the limitations of its appropriation, the Commission may appoint such other personnel as it deems advisable.

"(4) The Commission shall, not later than 90 days after the date of enactment, establish by regulation a personnel management system for the Commission which shall be consistent with the personnel management system established under section 732 of title 31, United States Code.".

(e) Section 106 of the Civil Rights Act of 1957 is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 106. There are authorized to be appropriated $12,180,000 for each of the fiscal years 1984, 1985, 1986, and 1987.".

SEC. 3. (a) Effective thirty days after the date of enactment of this Act, files, records, and balances of appropriations of the Commission on Civil Rights are transferred to the Commission established by the amendment made by section 2(a) of this Act.

(b) To the extent not inconsistent with the amendments made by this Act, the Commission established by the amendment made by section 2(a) of this Act shall be bound by all rules issued by the Civil Rights Commission established by the Civil Rights Act of 1957 which were in effect on September 30, 1983, until modified by the Commission in accordance with applicable law.

Mr. SPECTER. Mr. President, this amendment is designed to further the purpose outlined in the last speech by the distinguished Senator from Delaware (Mr. BIDEN), and it seeks to establish a congressionally appointed, bipartisan Civil Rights Commission. The purpose of this amendment is to break the impasse which we now find ourselves in as a result of the events of the past several months.

In proposing this amendment, I do so reluctantly because it had been the hope of the Senator from Pennsylvania that the controversy could be worked out on an amicable basis among all the parties involved. I commend the very distinguished Senator from South Carolina, who chairs the Committee on the Judiciary, for his very strenuous efforts in trying to work out a compromise on this matter and for his patience in scheduling and rescheduling the complex matters which have come before the Committee on the Judiciary. I also commend the distinguished Senator from Utah (Mr. HATCH) for his diligence in conducting very extensive hearings on the three nominees submitted by the President, hearings which were held many months ago, as early as July 1983.

I sat through all of those hearings and, frankly, was impressed with the credentials of the three nominees submitted by the President. But as those hearings progressed, I came to conclude that if the three nominees were confirmed by the Senate, the institutional independence of the Commission would be undermined. Because of that sense, I wrote to the President on July 29, 1983, in a letter which was not made public at that time, as follows:

JULY 29, 1983.

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: As a result of listening to many witnesses at Judiciary Committee hearings and reflecting on the matter, I am writing to urge you to reconsider your three nominations for the U.S. Civil Rights Commission.

I do so for these reasons: (1) the confidence of the American people in civil rights enforcement requires it; (2) your policy on civil rights has been badly misunderstood; (3) this bold move, which would be a sharp reversal of your present position, would restore public confidence in your civil rights position.

As the record will show at the two hearings before the Judiciary Committee, I stated for the record that I believed you had the right to replace Commission members and the sole question before the Committee was the independence and qualification of your nominees. As the hearings progressed, there was no significant challenge to the qualfication and independence of the nominees.

Based on that analysis, it was my initial conclusion that the nominees should be confirmed. However, in this unique situation, the whole is greater than the sum of the parts.

In a context where you would be replacing five of six Commission members in an unprecedented manner during the 26 year life of the Commission, there is substance to the objection raised by so many witnesses that the character of the Commission is being inappropriately reshaped by one Administration which is contrary to the intent of Congress and the continuity of independence of the Civil Rights Commission. The sub-

stance, as well as the perception, is that the institutional independence of the Commission would be altered.

Such a bold move on your part would, in my opinion, give additional strength to your Presidency and to your commitment on civil rights. There is real value to listening and hearing and changing your mind.

It is my considered judgment that it is in the national interest generally and the enforcement of the civil rights law specifically for you to withdraw the three nominations.

Sincerely,

ARLEN SPECTER.

AMENDMENT NO. 2534

(Purpose: To establish a Commission on Civil Rights in the legislative branch of the Federal Government)

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

Mr. SPECTER. I do.

Mr. BIDEN. Mr. President, I send a perfecting amendment to the desk to the pending amendment and ask for its immediate consideration.

The PRESIDING OFFICER. Does the Senator yield for that purpose?

Mr. SPECTER. I do.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Delaware (Mr. BIDEN) proposes an amendment numbered 2534.

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

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

The amendment is as follows:

Strike out all after line 4 on page 1 and insert in lieu thereof the following:

SEC. 2. (a) Section 101 of the Civil Rights Act of 1957 is amended to read as follows:

"ESTABLISHMENT OF THE COMMISSION ON CIVIL RIGHTS

"SEC. 101. (a) There is created in the legislative branch of Government a congressional Commission on Civil Rights (hereafter in this Act referred to as the 'Commission').

"(b) The Commission shall be composed of eight members as follows:

"(1) four shall be appointed by the Speaker of the House of Representatives on the recommendation of the majority leader and the minority leader, no more than two of whom shall be of the same political party; and

"(2) four shall be appointed by the President pro tempore of the Senate upon the recommendation of the majority leader and the minority leader of the Senate, no more than two of whom shall be of the same political party.

Not more than four of the members shall at any one time be of the same political party.

"(c) The Commission shall select a Chairman and a Vice Chairman from among its members annually. The Vice Chairman shall act as Chairman in the absence or disability of the Chairman, or in the event of a vacancy in that office.

"(d) Members of the Commission shall be appointed for a term of eight years, except that as designated by the Speaker of the House of Representatives and the President pro tempore of the Senate the first and second Commissioners appointed shall serve two-year terms, the third and fourth Commissioners appointed shall serve four-year terms, and the fifth and sixth Commissioners appointed shall serve six-year terms. A Commissioner may be reappointed.

"(e) Any vacancy in the Commission shall not affect its powers and shall be filled in the same manner, and subject to the same limitation with respect to party affiliations as the original appointment was made.

"(f) A member of the Commission may continue to serve until his successor has taken office as a member of the Commission.

"(g) A majority of the Commission shall constitute a quorum.

"(h) The Speaker of the House of Representatives and the President pro tempore of the Senate jointly may remove a member of the Commission only for neglect of duty or malfeasance in office.".

(b) Section 102 of the Civil Rights Act of 1957 is amended by adding at the end thereof the following new subsection:

"(m) The provision of subchapter II of chapter 5 of title 5 of the United States Code, relating to administrative procedure and freedom of information, shall, to the extent not inconsistent with this section, apply to the Commission established under this Act.".

(c) Section 104(c) of the Civil Rights Act of 1957 is amended to read as follows:

"(c) The Commission shall submit reports to the Congress at such times as the Commission or the Congress shall deem desirable.".

(d) Section 105(a) of the Civil Rights Act of 1957 is amended to read as follows:

"(a)(1) There shall be a full-time staff director for the Commission who shall be appointed by majority vote of the Commission.

"(2)(A) Effective November 29, 1983, or on the date of enactment of this Act, whichever occurs first, all employees (other than the Director, the members of the Commission and the special assistants thereof) of the Commission on Civil Rights are transferred to the Commission established by the amendment made by section 2(a) of the Commission on Civil Rights Authorization Act of 1983.

"(B) Upon application of any individual (other than the Director, a member of the Commission or a special assistant thereof) who was an employee of the Commission on Civil Rights established by the Civil Rights Act of 1957 on September 30, 1983, the Commission shall appoint such individual to a position the duties and responsibilities of which and the rate of pay for which, are comparable to the duties, responsibilities and rate of pay of the position held by such employee on September 30, 1983.

"(C) Any employee transferred under subparagraph (A) or appointed under subparagraph (B) shall be deemed to have been employed by the Government without a break in service for purpose of chapter 35 (retention preference), 55 (pay administration), 63 (leave), 81 (insurance) and 89 (health insurance) of title 5, United States Code.

"(3) Within the limitations of its appropriation, the Commission may appoint such other personnel as it deems advisable.

"(4) The Commission shall, not later than 90 days after the date of enactment, establish by regulation a personnel management system for the Commission which shall be consistent with the personnel management system established under section 732 of title 31, United States Code.".

(e) Section 106 of the Civil Rights Act of 1957 is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 106. There are authorized to be appropriated $12,100,000 for each of the fiscal years 1984, 1985, 1986, and 1988.".

SEC. 3. (a) Effective thirty days after the date of enactment of this Act, all files, records, and balances of appropriations of the Commission on Civil Rights are transferred to the Commission established by the amendment made by section 2(a) of this Act.

(b) To the extent not inconsistent with the amendments made by this Act, the Commission established by the amendment made by section 2(a) of this Act shall be bound by all rules issued by the Civil Rights Commission established by the Civil Rights Act of 1957 which were in effect on September 30, 1983, until modified by the Commission in accordance with applicable law.

Mr. BIDEN. Mr. President, this amendment is one I hope the Senate will consider. I yield the floor.

Mr. SPECTER. The essential conclusion is that, with the confirmation of the President's three nominees, there would be five appointed by the President. In my judgment, that puts the institutional independence of the Commission into question.

The sequence of events which next followed, Mr. President, was that an effort was made to work out a compromise. At one juncture, representatives of the White House urged the Committee on the Judiciary to vote out the President's three nominees.

I agreed with representatives of the White House to cast a vote to vote out those three nominees so that the matter might be considered on the floor of the Senate. At the same time, I made my position plain at that time that I would vote for one of the nominees, Mr. Morris Abrams, who appeared to me to be preeminently well qualified, but I would not vote for the other two, not because of their lack of qualification but because of my conclusion that if all three were confirmed the institutional independence of the Commission would be undermined.

The Committee on the Judiciary would have been split, as I understand the positions, 9 to 9, notwithstanding my agreement to vote out all three nominees, and a vote was never taken.

The next sequence of events included substantial discussion, my introduction of Senate bill 1832, which was a compromise to provide for permanent reauthorization of the Commission and to establish 6-year staggered terms for members of that Commission. The distinguished Senator from Kansas (Mr. DOLE) then elaborated on that proposal by suggesting an eight-member Commission with staggered terms, replacement only for cause, and which could function only with the existence of a quorum. The efforts at compromise came very close, indeed, with a final thought that the Commission would be expanded to eight. The President would secure two additional

appointments which, considering the two which he had already appointed, would bring his total appointments to four. Four appointees would already have been named by other appointing authorities.

The negotiations broke down when representatives of the President wanted a fifth appointment, effective April 1, 1984. It was my thought and the thought of others that that would not maintain the institutional independence of the Commission, because it would simply not be an even division.

The events of the firing of three Commissioners are now history, and it is my thought that some action must be taken to maintain the existence of a Civil Rights Commission. It is vital that there be a Commission to protect the interests of minorities, blacks, Hispanics, the interests of women, and the interests of all, without regard to race, color, or creed.

The congressionally appointed Commission of eight members, four to be appointed by the leaders of the Senate—two Democrats and two Republicans—and four to be appointed by the leadership of the House—two Democrats and two Republicans—will maintain the purpose of the existing Commission, that is, its investigatory role, its evaluating role, and its reporting role.

The decisions of the courts have made it plain that this is entirely constitutional: *Hannah* v. *Larche*, 363 U.S. 420, a 1960 decision by the Supreme Court, and *Buckley* v. *Valeo*, 424 U.S. 1 (1976), another decision by the Supreme Court of the United States.

Essentially stated, the Commission would go forward on a bipartisan basis, and the civil rights would continue to be protected. In my judgment, this is the best compromise which can be crafted, based upon the status of the record at this time.

Mr. President, have the yeas and nays been requested?

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

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

The PRESIDING OFFICER. On the second-degree amendment or the first-degree amendment?

Mr. SPECTER. At this time, I withdraw my request for the yeas and nays.

Mr. DOLE. Mr. President, as I understand it, the pending business is the amendment of the Senator from Pennsylvania.

The PRESIDING OFFICER. The pending amendment is the Biden amendment to the Specter amendment.

Mr. DOLE. Mr. President, I regret that I was not here to hear the opening statements. I have listened carefully to the Senator from Pennsylvania.

In this instance, I think that both sides got what they deserve. We tried for weeks to work out a compromise, and neither side would give. I guess each side had a strong vested interest in the outcome; and as a result, despite all the good intentions of a lot of people, it was not possible to put together a compromsie that would satisfy one group on the one hand or the administration on the other hand.

The net result is why we are here today, and we are here today still searching for that compromise, whereby each side understands the interests of the other and is willing to accommodate some of the concerns the other side has.

My view is that we should have at least a quasi-Presidential commission. We are talking about Congress having a legislative commission. We are not even under the act. We are not even under the EEOC. Maybe it is all right for us to say that we should have a Civil Rights Commission and that we think we should have an amendment to say that we also will be subject to the laws as they apply. But it seems to me that the debate has been initiated, and perhaps between now and tomorrow morning there will be enough give on each side that it might even bring this to a rapid conclusion.

Mr. President, I have been working with Members on both sides, as have the Senator from Pennsylvania, the Senator from Delaware, the Senator from South Carolina, the Senator from Utah, and others, trying to hammer out some compromise that would not destroy the importance of the Commission.

It seems to me that in order to keep it at the same high level, there must be some Presidential involvement. You can have a Presidential commission, and that is one thing. You can have a legislative commission, and that is something else. How do you put it together?

You have the President appoint four members of an eight-member Commission, and then the House and Senate leaders recommend two apiece, and the President must accept those recommendations, and the President has the right to name the chairman and the cochairman, and things of that kind.

It seems to me that we are fairly close to working out some satisfactory package where there is a shared authority to appoint members of the Civil Rights Commission—specifically, the President pro tempore of the Senate and the Speaker of the House, upon the recommendation of the leadership of both parties, to submit candidates to the President. The question is, how many names? Does the President have a right to appoint four of the eight? Those are areas we have been exploring all day today and yesterday and in the past few days.

I hope that before any final action is taken on this amendment, we might have an opportunity at least to discuss it with the distinguished chairman of the committee and the distinguished ranking minority member of the committee, to see if we are getting close enough to find some agreement whereby we can accommodate the interests of all parties concerned.

Mr. BIDEN. Mr. President, will the Senator yield for a question?

Mr. DOLE. I yield.

Mr. BIDEN. I am not quite certain that I understand how far the Senator has flushed out this potential compromise. Does the potential vehicle for compromise envision the President with four appointees?

Mr. DOLE. That is one track we are pursuing, where the President, in effect, would have four appointees and, for all practical purposes, Congress would have four appointees, or you would limit his option so that he would have to take the recommendations from the Senate and the House, each of which would have two recommendations.

Mr. BIDEN. With respect to those appointees, has the Senator considered the prospect that the appointments made by each of the appointing powers—whether the President, the Senate, or the House—be bipartisan, that the President would have to appoint two and two, or one and one from different parties?

Mr. DOLE. That is right. We would try to maintain that parity, which is historic, as the Senator knows, on the Commission, which is one reason why many of the civil rights groups objected to the President's early plan, because it disrupted that balance. The balance would be an eight-member Commission, with not more than four from either party. Just how you reach that four, I guess, is a detail we would have to fashion, but it seems to me that we must have a balance.

Did I answer the Senator?

Mr. BIDEN. The Senator did just fine.

Mr. DOLE. I had a little side conference there.

But it seems to me there is a lot of good will in the Chamber and I hope outside of the Chamber we could probably discuss this, unless there is some disposition to end the debate on this and pass something this evening. There is a fairly good chance. I know the Senator from New Mexico, Senator DOMENICI, has been working with some of the civil rights groups and representatives of the White House. He has had a lot of input this afternoon. He is willing to try to help us. It is not a budget problem. But he has a very real interest in this area.

Mr. BIDEN. Mr. President, if the Senator will yield, I am not adverse, as the Senator well knows, to working

this out. I would love to work it out. It may be that if the Senator has any draft of the potential compromise he is suggesting we could see that. I am not anxious to preclude the prospect of that occurring. I yield to the Senator from Pennsylvania.

Mr. SPECTER. Mr. President, will the Senator from Kansas yield for a question?

Mr. DOLE. I am happy to yield the floor.

Mr. SPECTER. Mr. President, I commend the Senator from Kansas who I think is not only a great compromiser but the greatest compromiser, and it has been my sense that when it was obvious that this amendment had two principal sponsors and 52 cosponsors there would be some movement by the administration to come to a compromise. I think that is by far the best resolution.

I would much prefer to see a Civil Rights Commission maintained in its current form with the President as the appointing authority. Given all the options, that is the preferable option.

I think we would all like to support the President on both sides of the aisle if we can, consistent with the preservation of the Civil Rights Commission and consistent with the institutional independence of the Commission. If a compromise can be worked out, that would be my fondest wish.

I would certainly join with the distinguished Senator from Kansas in any proposal that would reach that objective and that end.

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

Mr. SPECTER. I yield.

Mr. BIDEN. This may be the appropriate thing to do because again we are not anxious—the Senator from Pennsylvania, the Senator from Maryland, any of us—to do anything other than to try to come up with a reasonable way to honor the independence of the Commission, and we would wish to have all the parties dealt in.

I would like to have the President part of that if he is willing. It may be appropriate in light of the fact that the pending business is the amendment that has 54 cosponsors. Rather than pursue that at this time it may be appropriate either to suggest the absence of a quorum and to sit down and see if we can work something out, or continue to talk about this, while we sit down and try to work something out.

I for one am not anxious to preclude any last-minute attempt to work out a compromise. I am happy to do that.

Mr. DOLE. Mr. President, I will just say to the Senator from Delaware, and again this is something we just talked about orally—I do not have it in writing, but it could be jotted down in writing—I do not think there are many areas that cannot be addressed. I think there must be a recognition by the different——

The PRESIDING OFFICER. The Chair will advise the Senator from Delaware that his amendment appears to strike out language in the original amendment and replace it with identical language and that such an amendment is not in order. Therefore, the amendment is not in order.

Mr. BIDEN. Mr. President, I wish to suggest that I modify my amendment, and I would send that modification to the desk.

The PRESIDING OFFICER. The Senator has the right to modify his amendment.

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

Mr. BIDEN. Mr. President, the Senator cannot yield the floor because if the Senator yields the floor he cannot send his modified amendment to the desk, so the Senator will be delighted to yield the floor as soon as he sends the modified amendment to the desk.

Mr. MATHIAS. Mr. President, I wish to ask the Senator a question.

Mr. BIDEN. I am delighted to yield for a question without losing my right to the floor, and I am delighted to answer a question.

Mr. MATHIAS. Mr. President, is the Senator familiar with that passage from the beatitudes——

Mr. BIDEN. I am familiar with all of them.

Mr. MATHIAS (continuing). Blessed are the peacemakers.

Mr. BIDEN. That is correct.

Mr. MATHIAS. But is the Senator also aware that peacemakers usually have a pretty tough time of it?

Mr. BIDEN. I am familiar with that passage. Does the Senator have any reason for asking me that?

Mr. MATHIAS. Oh, yes. I ask the Senator the question whether he is familiar with the beatitude, "blessed are the peacemakers," because I think that is the role the Senator from Kansas has been attempting to play here. It is a valuable role. However, I just wanted to be sure that both the Senator from Kansas and the Senator from Delaware were aware that the path of the peacemaker is never easy. Not very many people will agree with the compromise solution. The peacemakers are reviled and in some cases attacked. But I think it is still an effort that needs to be undertaken because we are really at a moment of crisis as far as the Civil Rights Commission is concerned. This thing can either descend into a bottomless pit, if there is disagreement with the Executive and disagreement among ourselves, or we can take this last opportunity to try to work out a compromise.

I want to commend what the Senator from Delaware is attempting to do and what the Senator from Kansas is attempting to do and what the Senator from Pennsylvania has done, because I think this is the last stop. This is the last time the train will stop in this station and we had better get on it.

Mr. BIDEN. I thank the Senator for his question. I am aware of the fact that the peacemakers are reviled sometimes and that is why I want to let Senator DOLE know right this minute I would not be that way with him. I am going to support him all the way down the line in his efforts to make peace.

Mr. President, I send a modification to the desk.

The PRESIDING OFFICER. The amendment is so modified.

The modified amendment is as follows:

Strike out all after line 4 on page 1 and insert in lieu thereof the following:

SEC. 2. (a) Section 101 of the Civil Rights Act of 1957 is amended to read as follows:

ESTABLISHMENT OF THE COMMISSION ON CIVIL RIGHTS

"SEC. 101. (a) There is created in the legislative branch of Government a Congressional Commission on Civil Rights (hereafter in this Act referred to as the 'Commission').

"(b) The Commission shall be composed of eight members as follows:

"(1) four shall be appointed by the Speaker of the House of Representatives on the recommendation of the Majority Leader and the Minority Leader, no more than two of whom shall be of the same political party; and

"(2) four shall be appointed by the President pro tempore of the Senate upon the recommendation of the Majority Leader and the Minority Leader of the Senate, no more than two of whom shall be of the same political party.

Not more than four of the members shall at any one time be of the same political party.

"(c) The Commission shall select a Chairman and a Vice Chairman from among its members annually. The Vice Chairman shall act as Chairman in the absence or disability of the Chairman, or in the event of a vacancy in that office.

"(d) Members of the Commission shall be appointed for a term of eight years, except that as designated by the Speaker of the House of Representatives and the President pro tempore of the Senate the first and second Commissioners appointed shall serve two-year terms, the third and fourth Commissioners appointed shall serve four-year terms, and the fifth and sixth Commissioners appointed shall serve six-year terms. A Commissioner may be reappointed.

"(e) Any vacancy in the Commission shall not affect its powers and shall be filled in the same manner, and subject to the same limitation with respect to party affiliations as the original appointment was made.

"(f) A member of the Commission may continue to serve until his successor has taken office as a member of the Commission.

"(g) A majority of the Commission shall constitute a quorum.

"(h) The Speaker of the House of Representatives and the President pro tempore of the Senate jointly may remove a member of the Commission only for neglect of duty or malfeasance in office.".

(b) Section 102 of the Civil Rights Act of 1957 is amended by adding at the end thereof the following new subsection:

"(m) The provisions of subchapter II of chapter 5 of title 5 of the United States Code, relating to administrative procedure and freedom of information, shall, to the extent not inconsistent with this section, apply to the Commission established under this Act.".

(c) Section 104(c) of the Civil Rights Act of 1957 is amended to read as follows:

"(c) The Commission shall submit reports to the Congress at such times as the Commission or the Congress shall deem desirable.".

(d) Section 105(a) of the Civil Rights Act of 1957 is amended to read as follows:

"(a)(1) There shall be a full-time staff director for the Commission who shall be appointed by majority vote of the Commission.

"(2)(A) Effective November 29, 1983, or on the date of enactment of this Act, whichever occurs first, all employees (other than the Director, the members of the Commission and the special assistants thereof) of the Commission on Civil Rights are transferred to the Commission established by the amendment made by section 2(a) of the Commission on Civil Rights Authorization Act of 1983.

"(B) Upon application of any individual (other than the Director, a member of the Commission or a special assistant thereof) who was an employee of the Commission on Civil Rights established by the Civil Rights Act of 1957 on September 30, 1983, the Commission shall appoint such individual to a position the duties and responsibilities of which and the rate of pay for which, are comparable to the duties, responsibilities and rate of pay of the position held by such employee on September 30, 1983.

"(C) Any employee transferred under subparagraph (A) or appointed under subparagraph (B) shall be deemed to have been employed by the Government without a break in service for purpose of chapter 35 (retention preference), 55 (pay administration), 63 (leave), 81 (insurance) and 89 (health insurance) of title 5, United States Code.

"(3) Within the limitations of its appropriation, the Commission may appoint such other personnel as it deems advisable.

"(4) The Commission shall, not later than 90 days after the date of enactment, establish by regulation a personnel management system for the Commission which shall be consistent with the personnel management system established under section 732 of title 31, United States Code.".

(e) Section 106 of the Civil Rights Act of 1957 is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 106. There are authorized to be appropriated $12,100,000,000 for each of the fiscal years 1984, 1985, 1986, and 1988.".

SEC. 3. (a) Effective thirty days after the date of enactment of this Act, all files, records, and balances of appropriations of the Commission on Civil Rights are transferred to the Commission established by the amendment made by section 2 (a) of this Act.

(b) To the extent not inconsistent with the amendments made by this Act, the Commission established by the amendment made by section 2 (a) of this Act shall be bound by all rules issued by the Civil Rights Commission established by the Civil Rights Act of 1957 which were in effect on September 30, 1983, until modified by the Commission in accordance with applicable law.

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

Mr. BIDEN. I yield the floor

Mr. DOMENICI and Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. DOMENICI. Mr. President, I will take just a moment.

I wish to tell the Senate why I am involved. Obviously, I am not on the committee of jurisdiction, but I come from a State that is over 30 percent Hispanic and needless to say they are genuinely worried about the fact we are not going to have a Civil Rights Commission.

Further, it should be noted that my State with reference to civil rights is about as progressive as any in the country and yet my Hispanic people are very concerned that we will go backward instead of continuing forward. We have many people there very familiar with what the Commission has done, its successes, and they are very concerned we come up with something that keeps it alive.

In other words, the stalemate is not good enough in this case. We have to do something, and I thank the Senators for letting me participate today and yesterday. I offered the suggestions I could and talked with people in my State who are rather expert. I wish to thank the Senator from Kansas for permitting us to help him and work with him, and I compliment the Senator from Pennsylvania for getting the issue here, and I hope we get a bill today. Whatever it is, I think we will leave this Chamber tonight convinced that we started something that has a chance of putting this Commission back in business.

I agree with the Senator from Kansas. I do not think a purely legislative commission is the best approach. I say to my good friend from Pennsylvania that I do not think he does either. Obviously he had no other alternative at the time he moved in that direction.

Maybe one that is partly legislative and partly executive if it has a little of both is the solution.

I also am concerned if it is purely legislative whether it really will have the powers that are necessary.

There are some subpena powers that have been tremendously important. They have to be used judiciously, but they have to be valid and operative. I have not studied the issue, but my recollection of the law would indicate that there are problems if it is a purely legislative commission which it would be without the Executive ever having signed it. The problems include subpena power and the like to carry out the functions.

So I am more than willing to continue to help where I can, and I thank the Senator for the opportunity.

Mr. BIDEN. Mr. President, if the Senator will yield on one point, I wish to make it clear that is the legislative approach that the Senator from Pennsylvania and I are supporting there is no question there would be subpena power.

I agree with the Senator that it would be nice to have the administration counted in, and I think it would be a good idea. But there is subpena power.

I compliment the Senator on his continuing concern for the American Hispanic community. That is why we have been meeting for the last 5 months with the leaders of the two major groups representing the Hispanic organization.

Mr. DOLE. Mr. President, I shall just take one moment because I know Senator HATCH, who has primary jurisdication, is here and has been waiting to speak, and I would just say this: The one problem, of course, we have when we get into this time of the year is how long we are going to be around here.

It just takes one Senator to walk over here and say, "This bill is not going to pass." That is all it takes at this point.

I assume the majority leader then is under some compulsion to establish priorities of where does this belong and should it be up here for 3 or 4 days. We have to move to the debt ceiling, reconciliation, the continuing resolution, and three of four other must items—hopefully budget reduction, deficit reduction, and that may not be quite as easy.

But, in any event, I hope that all those who have an interest in trying to resolve this problem—I know of no one in this Chamber who does not want to see a continuation of the Civil Rights Commission. And it ought to be as strong as we can make it.

Therefore, I think there ought to be shared authority by the President and by the Congress. To do any less, in my view, even though I think the Senator from Pennsylvania and others have done what they had to do when it appeared there was going to be no Commission at all, is not to fill the breach as they have done.

I hope that the administration's views can be reconciled with the views of other Senators who have a slightly different approach and with members of the Leadership Conference and other civil rights groups.

I would be very pleased to work with other Senators in trying to put that together between now and tomorrow morning.

Mr. KENNEDY. Mr. President, I rise in strong support of the amendment of the Senator from Pennsylvania.

For several months the Judiciary Committee has struggled to save the Civil Rights Commission.

Reauthorization legislation has been pending in the committee since last spring. Yet, there were no hearings on this important legislation until weeks before the Commission's expiration.

The President submitted nominees to the Commission who would replace effective, capable commissioners presently serving on the Commission. Most of us on the Senate Judiciary Committee were shocked by the sudden wholesale replacement of so many members of the Civil Rights Commission without any cause.

It was my belief and the belief of many on that committee that the President's actions, if permitted to succeed, would have irreparably endangered the integrity and independence of the Civil Rights Commission.

Week after week the Judiciary Committee attempted to resolve the differences among its members with respect to the reauthorization of the Commission and the President's nominees. Finally, we were prepared to vote on a painstakingly crafted compromise. Yet, the morning of the scheduled meeting we discovered the President had torpedoed this bipartisan effort by firing three commissioners from the Civil Rights Commission.

Is the President concerned about civil rights? Will he permit his administration to submit to the kind of scrutiny accepted by six previous Presidents?

Each of these Presidents, Republicans and Democrats, has respected the independence of the Civil Rights Commission. In that 25-year history, no commissioner had ever been fired. Appointments have been made only to fill vacancies.

The present administration has been frequently criticized by the Commission for a very sound reason. It is notorious as the most anti-civil-rights administration in modern history. It richly deserves that reputation. This attempt to fire three members of the Commission is only the latest exhibit in the case against the administration on civil rights.

Now with his Monday morning massacre at the Commission, the President demonstrated that he will not stand for an independent Civil Rights Commission to exist in the executive branch.

President Reagan's action was a crude attempt to destroy the independence of the Commission. It was an insult to all Americans committed to civil rights, and a slap in the face of Senators of both parties who had worked to find an acceptable solution.

This abrupt, callous action is reminiscent of President Nixon's decision to fire the Watergate special prosecutor 10 years ago last weekend. Once again, the White House, realizing it cannot impose its will over the wishes of Congress and the American people, has lashed out against its critics.

The time has come for Congress to protect the Commission from an executive branch bent on its destruction. We must reconstitute the Commission as an arm of Congress. At least for the present the executive branch is no longer a safe place for the truly independent Commission on Civil Rights.

There have been no allegations that the commissioners the President fired were in any way lacking in competence or commitment to civil rights. In fact, they were too efficient in this role—and that was the real source of the administration's difficulty. Instead of firing the messengers who bring the bad news about his dismal record on civil rights, the President should have fired the officials in his administration who are responsible for that record.

Rabbi Murray Saltzman, Dr. Mary Berry and Blandina Cardenas Ramirez are fulfilling their duties admirably. Their conscientious performance, their independent thought, their freedom in criticizing this administration's civil rights policies are the reasons they are being replaced.

The President's purge is nothing more than a flagrant attempt to politicize the Commission, and to make it a political arm of the White House. The Chairman of the Commission candidly admitted that aim last spring in his complaint that he needed more team players ready to march to the White House's tune. The Senate must not permit the purpose and function of the Civil Rights Commission to be subverted in this way.

It is essential that we have an independent agency to undertake factfinding with respect to racially discriminatory practices. The Civil Rights Commission has investigated such practices, conducted oversight of Federal agencies, criticized Presidential policies and made forward-thinking recommendations on civil rights issues.

The legislation introduced by Senators SPECTER, BIDEN, myself, and a bipartisan group of other Senators will preserve the concept, spirit, function, and independence of the Civil Rights Commission. The Commission will be reconstituted in the legislative branch and preserved as a truly independent agency.

The House of Representatives has passed reauthorization legislation. However, with the firing of the incumbent Commissioners, that bill's chief sponsors agree that the President has ended the present Commission's usefulness. They are now working to enact a companion measure to our proposal for a congressional commission.

This body must act to save this cruical oversight agency—the only institution with a mandate to monitor our civil rights performance—by making it an arm of the Congress.

With our history-making vote October 19 creating a national holiday in honor of Martin Luther King, this body pledged its commitment to civil rights progress.

We took a stand for the values of freedom, equality, and justice for all Americans.

With this vote today we can began anew to follow the ideals espoused by dozens of Members, in the statements made during the debate on the King holiday legislation.

The President may question whether the civil rights movement was an American movement. But, with our vote October 19 and with our vote today, the Senate affirms its belief that civil rights represents the highest ideals of our Founding Fathers, the highest ideals of the people of this great land.

Mr. President, we are told if the Senate wishes to save the Civil Rights Commission, then all we need do is to pass H.R. 3103, the reauthorization of the Commission which the House of Representatives adoped weeks ago.

In fact, the opposite is the case. For us to pass H.R. 3103 now, after all that has intervened, would turn the House action on its head. It would be directly contrary to the clear purpose of this bill at the time that it was actually passed by the House.

The debate in the other body makes abundantly clear that H.R. 3103 was intended to pre ent the President from summarily firing three incumbent commissioners without cause. It was designed to prevent the President from being able to purge those with whom he disagreed, and stack the Commission with his own handpicked majority.

That is what this bill was all about when it passed the House. Everyone knew that.

Now we are asked to adopt it too. There is one major problem. In the meanwhile the President carried out this Monday morning massacre at the civil Rights Commission, fired three incumbents without just cause and destroyed the concept of an independent commission within the executive branch.

Commissioners Blandina Ramirez, Mary Berry, and Rabbi Saltzman are now challenging their dismissal in court. I doubt that their removal without cause is consistent with the legislative history of the creation of the Commission. But the legal case may be entangled in the courts for some time and the final outcome is unclear.

Therefore, unless the Senate acts decisively, the President will be able to retain the fruits of this unjustified assault on the independence of the Commission. If we now pass H.R. 3103, or minor modification of it, the Senate will be ratifying the President's action and locking in the results. He will have succeeded in purging the Commission,

and then his nominees will be portected from future removal.

In short, only those who applaud the President's action, and who think it was justified and consistent with the concept of an independent watchdog on civil rights, can, in good conscience, support passage of the House bill now.

Mr. BENTSEN. Mr. President, I would like to commend the Senator from Delaware for his dogged, persistent, and effective efforts to preserve the integrity of the Civil Rights Commission. Senator BIDEN has fought for the Commission in committee; just last week when I offered my amendment to extend its life until mid-February, he was at my side, helping to make the case for civil rights. And today, together with Senator SPECTER, he is offering us a responsible alternative to the administration's efforts to gut the Commission.

As one who has also been active in the effort to rescue the Civil Rights Commission from the ravages of the Reagan administration, I would like to pin down one point with the managers of this bill. I have asked assurance, that Hispanic Americans—America's fast-growing and soon to be largest minority—will be represented on the congressional Commission.

Senators SPECTER and BIDEN have given me that assurance and join my colleagues on both sides of the aisle in supporting the creation of a congressional Commission on Civil Rights. I think it is important that somewhere in this vast Government apparatus of ours there be an agency whose primary concern is the rights of minorities: The rights of Hispanics, and the elderly, and blacks, and women, and the handicapped, and native Americans.

I think it is a shame, Mr. President, that such an agency cannot safely exist within the executive branch—where it most logically belongs. Some of us in this body have worked hard to fashion a bipartisan compromise that would enable the Commission to remain in the executive branch, where it has stood as a symbol of justice and equality in America for more than a generation. However, just a week ago the President torpedoed that compromise by physically removing commissioners from their office and demonstrating once and for all that the administration will only accept a Civil Rights Commission it can control.

Mr. President, just last week the President signed legislation making Dr. Martin Luther King's birthday a national holiday. When he accepted the Nobel Peace Prize in 1964 Dr. King suggested that, "the tortuous road which has led from Montgomery to Oslo is a road over which millions of Negroes are traveling to find a new sense of dignity. It will, I am convinced, be widened into a superhighway of justice."

I hope Dr. King was right, because that road is now being traveled by millions of minority Americans. The Civil Rights Commission has helped light that road and show us the way to justice and equality in America. Presidents Eisenhower, Kennedy, Johnson, Nixon, Ford, and Carter recognized the mission and the work of the Civil Rights Commission. They did not always agree with its findings or recommendations, but they did not attempt to pack the Commission with their own appointees or twist it to their political will.

I think it is a sad day for America when there is no place in the executive branch for an independent Civil Rights Commission.

When we have an administration that is strangely reluctant to prosecute civil rights violations—that wants to give tax benefits to schools that discriminate—and seeks to gut title IX of the 1972 Education Act, I believe it is especially important that we find a safe haven for the Civil Rights Commission, we cannot permit civil rights to become a political orphan in America; we cannot let civil rights become the victim of rigid, partisan ideology.

Today—as much as at any time in our history—we need voices that can speak for justice and equality without fear of political retaliation. We need to improve affirmative action and strengthen Government equal opportunity programs. We need a Civil Rights Commission with an abiding commitment to equality, an independent, apolitical Commission that can give the American people the unvarnished truth about how far we have come down Dr. King's superhighway of justice—and how far we have to go.

Mr. President, I am proud to be a Member of the Congress that is determined to preserve the Civil Rights Commission—to provide shelter from the political firestorm created by this administration. In urging my colleagues to support this amendment and protect the integrity of the Civil Rights Commission, I want to emphasize that I am not quarreling with the qualifications of the replacement nominees sent up here by the President. In my opinion, individuals are not the question. Rather, I am concerned with the President's blatent attempt to stack the deck, introduce partisan politics into the issue of civil rights, and strip Hispanic Americans of their representation on the Commission.

Mr. HATCH. Mr. President, I share in the goal of all concerned here trying to resolve this on an amicable basis. There is no question in my mind that we should have a Civil Rights Commission. I have been a severe critic of the Civil Rights Commission in the past because I have not felt it has operated very effectively, and, in some ways, I think has operated detrimentally. On the other hand, I do believe that we should have a Civil Rights Commission.

I am also concerned about the amendment proposed by the Senator from Pennsylvania and the Senator from Delaware in his perfecting amendment to transfer the Civil Rights Commission to the legislative branch. My research indicates that this amendment may raise serious constitutional questions.

In 1975, the Supreme Court struck down as a violation of the separation of powers doctrine those provisions of the Federal Election Campaign Act of 1971 that purported to vest executive functions in a commission appointed and supervised by Congress. *Buckley* v. *Valeo*, 424 U.S. 1 (1975). In the words of one of the initial sponsors of Senate Concurrent Resolution 78, which is the precursor of these two amendments, the objective of this amendment is to create "a legislatively constituted Civil Rights Commission with all the rights and powers invested in the original Commission." (Cong. Rec. p. 29139, Oct. 25, 1983 (statement of Senator BRADLEY).) While I join with my colleagues in wanting to reauthorize the Civil Rights Commission and insure its continuity as an institution, the Commission has been for 26 years and now is an executive body which performs executive functions. It simply cannot be transferred to the legislative branch with all its present "rights and powers." The Constitution erects barriers to creation of legislative bodies with executive functions and vice versa. The Supreme Court has policed these barriers between the branches tenaciously in the past and must be counted upon to do so again if we attempt to overstep the constitutional separations between the branches of Government.

Beyond constitutional questions this amendment raises also many questions about the prudence of reconstituting the Civil Rights Commission within the legislative branch. For instance, the current staff of the executive Civil Rights Commission would suffer the loss of many employment protections upon transfer to the legislative branch. Not only would they lose the protections of the Civil Service Act which protect job tenure, they would also lose labor union organizational rights, the opportunity to appeal to the Merit Systems Protection Board, and interestingly, the protections of title VII of the Civil Rights Act of 1964. The status of the current staff of the Civil Rights Commission, if transferred to the legislative branch, would be considerably changed.

Another prudential concern deals with the nature of the mission of the Commission. The Commission has always operated as an advocacy insti-

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tution. Yet its advocacy within the confines of the legislative branch will almost certainly bring it into conflict with the views of some Members of Congress or perhaps even an entire House of Congress. The Washington Post noted the difficulties this might produce, both for Members of Congress who feel their views are not adequately represented by a congressional staff body and for the legislative commission which could be compelled to satisfy the diverse views of the entire Congress:

> Other agencies responsible to Congress—the General Accounting Office, the Congressional Budget Office, the Office of Technology Assessment—are neutral fact-finding agencies, while the Civil Rights Commission has always, rightly, made judgments about policy while it ascertains facts . . . The best course, in our view, is the original compromise: reauthorize the commission with fixed terms. (Editorial Page, October 27, 1983).

Another prudential concern raised by this amendment concerns the process to hold the legislative commission accountable to carry out its mandate. Under this amendment, a member of the Commission could only be removed if the Speaker of the House and the President pro tempore of the Senate jointly agree that the member neglected his duty or was responsible for malfeasance in office. If those two officers, as is currently the case, are from different parties or disagree otherwise about the degree of neglect or malfeasance, this strict removal provision could make it very difficult for the Congress to insure that the legislative commission stayed within its mandate.

Before returning to the major issue before the Senate; namely, the constitutionality of this amendment, I would like to briefly trace the circumstances that have produced this effort to reauthorize the Civil Rights Commission before it expires completely on December 1 of this year.

Several months ago the President nominated three exceptionally qualified individuals to serve on the Civil Rights Commission. The Judiciary Committee hearings to examine the qualifications of these appointees produced remarkably laudatory testimony about the accomplishments and abilities of Mr. Abram, Dr. Bunzel, Mr. Destro, and Ms. Chavez, who was appointed to serve as staff director. Even those civil rights advocacy groups who opposed the confirmation of these individuals raised no objection to their qualifications or their commitment to civil rights. Their argument against the nominees was that the appointment of these three eminently qualified civil rights leaders would somehow compromise the Commission's independence.

This contention that the independence of the Commission would be compromised by the confirmation of these nominees, however, became very strained when the appointees themselves began to testify. Each of the nominees, all Democrats by political persuasion, established his independence from the President who appointed them and every other individual or group that may try to dissuade them from seeking the best means to achieve our national goal of equal opportunity under law. In fact, the nominees openly disagreed with the President on many significant civil rights questions. The independence of the Commission could hardly be doubted in the hands of these courageous and forthright leaders.

During the hearing process, the Judiciary Committee also examined the legal foundation for the President's authority to remove those whom he appoints to executive positions. In the words of the Supreme Court, "the right of removal . . . inheres in the right to appoint." *Shurtleff* v. *U.S.* 189 U.S. 311,316 (1903). Or in the words of James Madison, father of the Constitution, "the power of removal . . . rests on the President alone." I Annals of Cong. 469 (1789). Even its organic statute clarifies that the Commission "is created in the executive branch" under the authority of the President. 42 U.S.C. 1975 (A).

Now, despite the clarity of the President's authority to appoint replacements for commissioners serving on the Civil Rights Commission, strong special interest groups still opposed confirmation of these three nominees, not because they were unqualified, not because they did not have civil rights qualifications, not because they were not top leaders in the civil rights field, but because they claimed that their nominations interfered with the independence of the Commission. They certainly had no basis for this opposition or the consideration that the President's appointments lacked the expertise or dedication to equal protection under the law.

This only highlights the observation that the civil rights records of the individuals nominated by President Reagan are practically unassailable. Throughout the last several months, the nominee's qualifications have not been at issue. Neither has the President's authority to appoint new commissioners been an issue of any lasting consequence, in spite of the fact that certain of the fired commissioners are now contesting that in court. I do not think they have any real belief that they are going to win in a court of law.

The real issue that deadlocked the Judiciary Committee over the President's appointments came forward in testimony on July 13. Congressman GARCIA, speaking for himself and a caucus of other Congressmen, frankly noted that the real issue is quotas. Congressman GARCIA favors preferential treatment on the basis of race, in essence, racial discrimination, as a means to eradicate racial discrimination. I admire him for at least stating the issue forthrightly. He objected to the nominees because they oppose quotas. The nominees, however, correctly maintain that equal opportunity and quotas cannot coexist. Quotas require preferential treatment on the basis of race, color, creed, or gender.

These nominees are dedicated to the principles of equal opportunity without regard to any arbitrary and irrelevant classifications, such as race.

Thus the underlying issue that precipitated the stalemate in the Judiciary Committee was the question of how the Commission would continue to view quotas with the new nominees in place. In a sense, this issue could be stated as an independence question. The real independence question is whether the Commission would be entitled to freely examine all evidence and recommend the best policies or, whether the Commission will remain the captive of special interests that advocate quotas.

Judging from the qualifications of these nominees, their confirmation will guarantee the independence of the Commission. They will keep the Commission independent of the President, of special interest groups, and of any other outside influence that would like to control our Nation's civil rights policy. The real issue is that some groups do not want this kind of independence.

Take, for example, Mr. Abram. His independence is beyond question. Nearly two decades before the Civil Rights Act of 1964 and a decade before the Commission was created, Mr. Abram, a Rhodes Scholar and a graduate of the University of Chicago Law School, commenced his great, mostly pro bono career in opposition to those who felt whites deserved racial preferences. As author of the bills which banned public cross burnings and mask wearing in the late 1940's and early 1950's, Mr. Abram was instrumental in curtailing the menacing influence of the Ku Klux Klan. Following this victory, Mr. Abram began a 14-year fight against the Georgia county unit system which disenfranchised black people who were otherwise qualified to vote. His persistence culminated with a victory in the U.S. Supreme Court, permanently enshrining the constitutional principle of one man one vote.

Mr. Abram's credentials also include civil rights achievements within the Government and in the realm of international law. He was a principal author of the "International Convention Against All Forms of Racial Discrimination" adopted by the U.N. General Assembly in the 1960's. In 1965, Mr. Abram cochaired the planning session of the White House Conference

for Civil Rights. President Johnson later offered him the first Chairmanship of the Equal Employment Opportunity Commission. In 1979, President Carter offered him a post on the Civil Rights Commission but later withdrew the nomination when Mr. Abram informed him that he was still opposed to racial preferences of any kind.

Dr. John Bunzel impresses me as no less independent. In 1946, he founded the Liberal Union at Princeton in order to combat discrimination in university admissions policy and within campus social clubs. After earning his Ph. D at the University of California, Berkeley, he was appointed to the California Attorney General's Advisory Committee on constitutional rights. As a committee member, Dr. Bunzel monitored civil and constitutional rights violations and assisted in proposing remedies to the Governor. In 1974, the San Francisco Board of Supervisors awarded Dr. Bunzel a "Certificate of Merit" for unswerving devotion—to the elimination of racial and religious bigotry and discrimination.

As president of San Jose State University, Dr. Bunzel appointed large numbers of minorities to high ranking positions, including more women than any other period in the university's history. He achieved this remarkable record without resorting to a system of racial quotas. While vigorous efforts were made to find and recruit qualified applicants, final selection for appointment to university positions was based upon individual merit.

Mr. Destro was born about the time Messrs. Abrams and Bunzel commenced their defense of civil rights, but in the years since 1975, when he graduated from California's Boalt Hall School of Law, Mr. Destro has demonstrated a similar commitment to civil rights. Indeed, his professional career is devoted to civil rights issues. As an associate attorney for a Cleveland law firm, Mr. Destro worked with the American Civil Liberties Union, the Christian Legal Society, and the Italian American Foundation to combat discrimination based on religion or national origin. Between 1977 and 1982 he served as general counsel to the Catholic League for Religious and Civil Rights. In that capacity he established a nationwide legal services practice specializing in civil rights litigation. As a professor of law at Catholic University, Mr. Destro teaches two courses on first amendment guarantees of civil rights.

No less committed to civil rights, Linda Chavez, nominee to the Executive Director position, was originally asked to be a member of the Commission. She felt she could use her talents more effectively, however, as its Director. A graduate of the University of Colorado in 1970, Ms. Chavez began her professional career as an instructor at Colorado and UCLA, where she taught disadvantaged students. She later joined the staff of the House Civil and Constitutional Rights Subcommittee.

In 1977, she was a consultant to the President's civil rights reorganization project under President Carter. A committed trade unionist, Ms. Chavez currently serves as assistant to the President of the American Federation of Teachers. In addition, she administers the national AFT office in Washington, D.C. and is editor of its monthly newspaper, the American Teacher. In that role, she has been commended by civil rights groups for her defense of poor and working minorities through her editorials and articles.

These four individuals have stellar records with regard to advocacy of civil rights of all Americans. It is a tragedy that they have not received the opportunity to make the remarkable contributions to civil rights which they would have undoubtedly made on the Civil Rights Commission.

Despite their unimpeachable qualifications, however, their confirmation was opposed to such lengths that the Senate Judiciary Committee was unable to reach agreement on legislation to reauthorize the Commission. Faced with this untenable situation, President Reagan employed his removal authority. The Commission now has only three Commissioners—not enough to form a quorum for business. Moreover, only a handful of days remain before the 60-day grace period for the Commission expires and it goes out of business entirely. In this circumstance, it is imperative that Congress act in the most expeditious manner to reauthorize the Commission. Without doubt, the most sure and swift way to insure the continued life of the Commission would be for the Senate today to pass the House-approved bill, H.R. 2300.

If the Senate adopts an amendment today to H.R. 2300, the legislation will be required to return to the House. A conference is likely to be required to resolve differences between the House and Senate on this issue. While the Congress attempts to establish the parameters of the reauthorization, the Commission is likely to expire. Accordingly, I urge my colleagues, for the sake of the life of the Civil Rights Commission, to oppose all amendments to H.R. 2300.

At this point, I would like to return to the constitutional questions posed by this amendment. As I stated at the outset, the Constitution explicitly states that "all legislative powers * * * shall be vested in Congress" and that "all executive power * * * shall be vested in a President." Thus, the principle of the separation of powers is not merely an abstract generalization in the minds of the framers of the Constitution, but an explicit command of our foundational document. The Constitution further expresses this concern with the separation of powers by stating that Members of Congress shall be ineligible to serve in an "office of the United States" during his tenure in the legislative branch. Finally the Constitution clarifies that the "President shall nominate * * * all * * * officers of the United States." Art. II, section 2, clause 2. The Supreme Court in Buckley against Valeo clarified that clause as follows:

> We think its fair import is that any appointee exercising significant authority pursuant to the laws of the United States is an "officer of United States," and must, therefore, be appointed in the manner prescribed by Section 2, Clause 2 of that Article. 424 U.S. at 126.

Of course, the Constitution does not circumscribe Congress' power to create a purely investigative or factfinding body. The power to legislate under the Constitution naturally includes the power to create committees, subcommittees, and factfinding bodies to gather information as a basis for legislation. If, on the other hand, Congress creates a body that carries out the commands of the law, assists or advises other governmental entities in carrying out the commands of the law, performs some national responsibility beyond the functions of Congress, or otherwise administers or acts in furtherance of the laws of the United States, this body would be performing executive functions and its officers must be appointed by the President.

A quick review of this amendment suggests several areas which suggest that the Civil Rights Commission performs executive functions beyond the constitutional authority of a congressional committee or investigating arm. For instance, the amendment authorizes the Commission, as it has for 26 years, to act as a national clearinghouse. This is a national function which authorizes the Commission to serve as a mediator for information exchanges between Federal agencies, State government agencies, private citizens, businesses, and other public and private entities. It is an executive function to assist other governmental bodies in the implementation of the law. Congress makes the law, but is not empowered to advise governments and individuals about how the law is to be applied in specific circumstances or localities.

Another Commission responsibility that suggests executive authority is the provision permitting the establishment of State advisory committees and permitting the Commission to consult with Governors, attorneys general, and other representatives of State and local governments. For 26 years, the Commission has been advising State governments about the best means to comply with the law. For 26 years, the Commission has used this authority to set up advisory commis-

sions in the various States to monitor compliance with the law and to advise changes in offending State policies. We should perhaps question whether an investigatory arm or committee of Congress should have an independent channel to State governments for the purpose of advising compliance with a particular reading of the law. This could produce interbranch confrontation if the legislative commission urged compliance with an interpretation of law not shared by the President who has the constitutional responsibility to insure that the laws are properly administered. Precisely to avoid this kind of confrontation, the framers of the Constitution erected barriers between executive and legislative functions—barriers which this amendment appears to disregard.

This same kind of confrontation is suggested by the provision requiring all Federal agencies to cooperate fully with the Commission to the end that it may effectively carry out its functions and duties. Congress, of course, may secure the cooperation of executive agencies through the implementation of the appropriations power or other constitutional tools. It seems to beg confrontation, however, to require executive agencies to cooperate with an entity independent of Congress in the sense that its members can only be removed by Congress with extreme difficulty and under strictly defined circumstances.

The legislative Commission is also endowed with regulation and rulemaking authority by the amendment. It may make such rules and regulations as are necessary to carry out the purposes of the Commission. Since the Commission is largely independent of congressional supervision, this sweeping authority to make regulations could entail a new form of policymaking by unelected officials within the legislative branch.

Another provision of this amendment requires the executive Commission to surrender its executive records to this new legislative body. Not only does this suggest that the new Commission would continue to execute executive functions as it has in the past, but it also raises questions of separation of powers again. While Congress has authority to subpena specific executive records for carefully justified reasons within the legislative province, it is doubtful that the legislative branch may compel an agency to surrender all its records permanently to a legislative body. If this were possible, Congress could compel the Treasury Department or the Justice Department to surrender all records to an appropriate congressional committee. This precedent could severely challenge the comity relationship between the branches.

Beyond these specific problems within the amendment, however, the legislative Commission created by this amendment is nonlegislative in character. It resembles instead an independent agency. Its membership is limited to eight and is only removable for cause. It has independent rulemaking authority and a broad mandate to monitor and execute policy. Whenever an entity has been created with statutory independence from Congress, Congress takes great care to respect the prerogatives of the executive branch as well. For instance, the General Accounting Office, an independent body performing wholly legislative factfinding functions, is headed by a Presidential appointee. In this regard, the Supreme Court has pronounced that:

> Not having the power of appointment, unless expressly granted or incidental to its powers, the legislature cannot engraft executive duties upon a legislative office, since that would be to usurp the power of appointment by indirection. *Springer* v. *Philippines*, 277 U.S. at 202.

This amendment suffers from precisely the infirmity described by the Court; it attempts to engraft the executive functions of an agency which has functioned as an executive body for 26 years upon a legislative office. This jeopardizes the separation of powers doctrine and deprives the President of his power to appoint.

Let me make one final comment. I personally believe that the Civil Rights Commission is in this difficulty not because the President has acted the way he has, but I believe purely because of political considerations.

I believe that these three gentlemen have been fought against not because they lack qualification but basically because all three are against quotas and forced busing.

The real issue comes down to this: What we do here today or tomorrow is going to determine, really, what happens to the Civil Rights Commission. If we proceed with the amendment of the distinguished Senator from Pennsylvania, as amended by the distinguished Senator from Delaware, I have no doubt in my mind that the President will veto this bill regardless of what happens between the House and the Senate and any conference report that comes out.

If that is so, then we shall be back in this body after the first of the year, I suppose, fighting this all over again.

I cannot blame the President under the circumstances of the negotiations which have occurred here. I really could not find any fault with the President. First of all, his ability as President of the United States was challenged.

Mr. President, I need to have some answers to questions by the distinguished Senator from Pennsylvania or the Senator from Delaware or both. It is my understanding we shall shortly go out. Perhaps we can have them placed in the RECORD and tomorrow, they will be easier to answer.

Before I do that, let me make the point that I do not blame the President for standing up for his executive rights to appoint, especially after I think they were negligibly called into question during the committee hearings. I think with little or no justification whatsover.

Now, one might criticize fairly that the President did ask for the resignation of all three of the existing members and then intended to appoint three additional members. Perhaps had he staggered that, it would have been more palatable, it would have been more acceptable, but I have grave difficulties with anybody raising the issue that he did not have the right to do that if he wanted. I grant questions can be raised about that. I grant that you can criticize that. What I cannot grant is that he was acting outside of the scope of his powers as President of the United States. I do not blame some people for being upset. I would have preferred it had been done a different way myself. But once it was done, I think it was presumptive on the part of those who made the arguments that the President had no power to do that. The fact is he had all the power in the world to do that. To question the intent behind it or the advisability is one thing, the question of legal power is another.

I think what it comes down to is this: If we want a Civil Rights Commission, which I think most everybody in this body does, it is inadvisable to form the Civil Rights Commission into a legislative commission with legislative powers. I think it is not only inadvisable, I think it is constitutional error to do so.

Now, more than that, if that is what we insist on doing on the floor, I think that clouds the Commission, because I do not see what alternative the President has but to veto that type of an arrangement. If he vetoes that arrangement, then I suppose the Congress could come back after the first of the year and do exactly this again. If that is the way Congress decides to do it, I do not know who can stop it.

I think it is a real mistake, however, to do it that way. It would be far more preferable if we can work together to resolve this in an amicable way.

Now, I for one, being involved in an awful lot of the discussions on how to compromise this issue and how to resolve it and I think worked very hard to try and resolve this problem, found it very difficult to do so because of the politics involved on both sides of this particular issue. There is no question there were politics involved.

My personal feeling is we ought to get this Commission out of politics, and yet I am not quite sure how to do it. I do believe that it has a life of

itself if we will just give it a chance to work. I am hopeful that we can resolve the problems surrounding the Commission and come up with a compromise that will be acceptable to the President and to everybody in this body by tomorrow.

Senator SPECTER, I notice, is on the floor. I want to ask a couple of questions of the distinguished Senator from Pennsylvania for the record. I would like to ask him this: How do the amendments offered by the distinguished Senator from Pennsylvania and the distinguished Senator from Delaware, as a perfecting amendment, differ from Senate Joint Resolution 78, the original Specter amendment?

Mr. SPECTER. I am pleased to respond to the distinguished Senator from Utah.

This is the same as the concurrent resolution that he referred to.

Mr. HATCH. There are no changes whatsoever in either of them other than technical changes to qualify the perfecting amendment?

Mr. SPECTER. I believe that is correct. I have been advised by staff that there was an addition after the resolution was introduced and that was to make changes to take care of the employees. In the Senator's statement he referred to some problems which existed with respect to rights which would be lost by the employees of the Civil Rights Commission, and that matter had not been considered at the time the resolution was prepared in the initial drafts, so that under the provisions of the amendments submitted today those employees were protected.

Mr. HATCH. Let me see if I am right in suggesting maybe a few other changes between Senate Joint Resolution 78 and the amendments as proposed today.

As I understand it, the requirement that nominees be from the general public has been dropped from the original Senate Joint Resolution 78, am I correct in that?

Mr. SPECTER. That is not in our resolution.

Mr. HATCH. That is not in your resolution. It is my understanding that the chairman and vice chairman are to be selected annually, is that correct?

Mr. SPECTER. Will the Senator repeat that question, please?

Mr. HATCH. One of the changes is that the chairman and the vice chairman are to be selected annually?

Mr. SPECTER. Yes, that change has been made.

Mr. HATCH. Another change I believe is that members are to serve 8-year staggered terms, which is a change from the original Specter bill?

Mr. SPECTER. That is correct.

Mr. HATCH. Another one is a commissioner may be reappointed?

Mr. SPECTER. The current proposal provides for reappointment, but I think this was also present in the original amendment.

Mr. HATCH. OK. Another one is that the staff director is appointed by a majority of the commissioners. Is that a change from the original?

Mr. SPECTER. That is correct.

Mr. HATCH. Another one is that the new amendments included protections for Commission staff which the Senator mentioned, present employees will be transferred, there will be no break in service upon transfer, as I understand it?

Mr. SPECTER. That is correct. The thrust of the original amendment which I introduced several weeks ago on the same day that we introduced the resolution is the same as the substance of what Senator BIDEN and I have introduced today. A principal change is to protect the employees, and there are some other minor matters, but none which go to the essence of what we have proposed.

Mr. HATCH. Let me end by complimenting the distiguished Senator from Pennsylvania for his efforts to try to resolve this issue.

I know that the distinguished Senator from Pennsylvania and my good friend spent hours listening and observing the committee hearings on this matter, on the nominations of these nominees, and I personally appreciate that very much. I know that the Senator from Pennsylvania is tremendously dedicated to resolving these issues in a way that will be satisfactory to everyone. I do have difficulties, of course, with these two amendments. I hope we can resolve this problem in the best interests of all concerned. It is my understanding that we will have some time to negotiate this and see if it can be resolved. I will do everything I can to assist the distinguished Senator from Pennsylvania and the distinguished Senator from South Carolina to resolve this issue.

I compliment the distinguished chairman of this Judiciary Committee. This has been a very difficult issue for him. I think he has tried to do the very best he can under the circumstances. I know he has participated in all the negotiations and, of course, has tried to resolve this issue, I know that he feels, as do I, that the President ought to have the right to appoint these people; that we ought to keep it that way. It hopefully will be resolved along those lines. I am very flexible as far as keeping the Commission alive, but I feel very strongly that the President ought to continue to be able to appoint, which would, of course, be obviated by the language the distinguished Senator from Pennsylvania has offered today. In any event, I know that there has been a lot of good faith effort on the part of everyone. It has been a tremendous burden, of course, on some of us who have sat through all of the hearings, all of the arguments, and many of the negotiations and committee conversations as well. I hope we can resolve it in the best interests of everyone.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SPECTER. Mr. President, I thank the distinguished Senator from Utah for his kind remarks. I want to comment very briefly on some of the things that he said.

I agree with much of what the Senator from Utah has said. I agree with much more of it than I disagree. I said earlier that the distinguished Senator from Utah performed an extraordinary feat in conducting these very extensive hearings. As the record will show, he and I were present to hear a great deal of testimony. It was during the course of those hearings, frankly, that I changed my perspective on the three appointees. When the distinguished Senator from Utah says that the President has the legal power to make the replacements, I believe that is correct. It is a different question from a different angle, however, as to whether the Senate ought to confirm all three of those nominees. But I researched the issue, and I concluded and said at the hearings that I thought the President had that power.

However, I believe that it is unwise for the Senate to exercise its powers of confirmation on more than one. The President should end up with having three of the six and not have a majority of the Commissioin.

When the distinguished Senator from Utah talked about the constitutionality of the legislatively created Commission which our amendment proposes, I refer to the case of *Hannah* v. *Larche*, a Supreme Court decision at 363 U.S. 420, where the Court described the Commission's functions as follows:

> . . . Its function is purely investigative and factfinding. It does not adjudicate. It does not hold trials or determine anyone's civil or criminal liability. It does not issue orders. Nor does it indict, punish, or impose any legal sanctions. It does not make determinations depriving anyone of his life, liberty, or property. In short, the Commission does not and cannot take any affirmative action which will affect an individual's legal rights. The only purpose of its existence is to find facts which may subsequently be used as the basis for legislative or executive action.

That, Mr. President, conforms very closely to the functions of the Federal Election Commission, as described by the Supreme Court in Buckley against Valeo, as follows:

> Insofar as the powers confided in the Commission are essentially of an investigative and informative nature, falling in the same general category as those powers which Congress might delegate to one of its own committees, there can be no question

that the Commission as presently constituted may exercise them.

So it is my judgment that congressional appointment of the Civil Rights Commission would be constitutional under those guidelines.

When the distinguished Senator from Utah commented about the qualifications of the three nominees, I agree with him totally. I do not believe that the issue is busing or quotas. It is my judgment that blacks and whites alike would agree that busing has been a colossal failure in this country. I am opposed to quotas, and I do not believe that it is the sentiment of the three nominees on those subjects which are in any way related to this controversy.

As I see it, the differences of opinion are slight and one of gradation and turn essentially on at least my conclusion that if the President appoints more than a majority, then the institutional independence of the Commission is undermined.

I join the distinguished Senator from Utah and the distinguished Senator from Kansas in urging that a compromise be found, if that is possible.

Mr. BAKER. Mr. President, I, too, hope for a compromise.

It is now 6:25 p.m., and I think there might be a better opportunity for some things to be worked out in the morning than there is tonight. So, if the managers and the sponsor of the amendment are agreeable, I propose that we leave this matter now and go to a period for the transaction of routine morning business, and return to the consideration of the pending matter in the morning.

Mr. SPECTER. I agree to that, and I thank the majority leader.

THE CALENDAR

Mr. BAKER. Mr. President, I have a few matters to take care of. I ask the minority leader if he is prepared to clear for action at this time Calendar Order No. 518, Senate Resolution 265, which has a technical amendment at the desk by Senator MATHIAS.

Mr. BYRD. Yes, Mr. President.

GRATUITY TO ADELE C. OSTRANDER

Mr. BAKER. Mr. President, I send a resolution to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

A Senate resolution (S. Res. 265) to pay a gratuity to Adele C. Ostrander.

The Senate proceeded to consider the resolution.

Mr. BAKER. Mr. President, I ask for immediate consideration of the amendment by Mr. MATHIAS.

AMENDMENT NO. 2535

(Purpose: To amend Senate Resolution 265)

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Tennessee (Mr. BAKER), for Mr. MATHIAS, proposes an amendment numbered 2535.

On page one, line 5, strike out "one year's" and insert in lieu thereof "eight and one-half months' ".

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2535) was agreed to.

Mr. DANFORTH. The question is on agreeing to the resolution as amended.

The resolution (S. Res. 265) as amended was agreed to as follows:

S. RES. 265

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to Adele C. Ostrander, widow of Harry R. Ostrander, an employee of the Senate at the time of his death, a sum equal to eight and one-half months' compensation at the rate he was receiving by law at the time of his death, said sum to be considered inclusive of funeral expenses and all other allowances.

Mr. BAKER. I move to reconsider the vote, Mr. President.

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

The motion to lay on the table was agreed to.

JOINT REFERRAL OF RICHARD H. FRANCIS

Mr. BAKER. Mr. President, as in executive session, I ask unanimous consent that the nomination of Richard H. Francis, of Virginia, to be president of the Solar Energy and Energy Conservation Bank, which was received by the Senate on August 31, 1983, and referred at that time to the Banking Committee, be re-referred jointly to the Committees on Energy and Natural Resources and Banking, Housing, and Urban Affairs.

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

THE EXECUTIVE CALENDAR

Mr. BAKER. Mr. President, I have certain items on today's Executive Calendar which appear to be cleared for action by unanimous consent. May I ask the minority leader if he is prepared to confirm all or some part of the nominations I am about to idenfity: On page 2 under Air Force, Calendar Order No. 366; on page 2, under New Reports, 368 and 369; on page 3, under Department of State, Orders No. 370 and 371, 375 and 376; on page 4, Orders No. 377, 378, 380, 381, and 382; as well as nominations placed on the Secretary's desk in the Foreign Service.

Mr. BYRD. Mr. President, if I understood the distinguished Senator correctly, he refers to Calendar Orders Nos. 368, 369, 370, 371, 375, 376, 377, 378, 380, 381, 382, and those nominations on page 5. Am I correct?

Mr. BAKER. Yes, Mr. President, with one additional; that is No. 366 on page 2.

Mr. BYRD. Mr. President, I am not prepared to clear No. 366. I am prepared to clear certain calendar order numbers which the distinguished majority leader did not read. With the exception of 366, all those the identity of which has been stated by the majority leader are cleared on this side.

Mr. BAKER. I thank the minority leader.

Mr. President, may I have just a moment?

EXECUTIVE SESSION

Mr. President, there is one other item I am checking but at this time, based on the response of the minority leader, which I appreciate, I ask unanimous consent that the Senate now go into executive session for the purpose of considering nominations as follows: Calendar Orders Nos. 368, 369, 370, 371, 375, 376, 377, 378, 380, 381, 382, and the nominations placed on the Secretary's desk in the Foreign Service.

There being no objection, the Senate proceeded to the consideration of executive business.

The PRESIDING OFFICER. The clerk will state the nominations.

THE JUDICIARY

The assistant legislative clerk read the nomination of Thomas G. Hull, of Tennessee, to be U.S. district judge for the eastern district of Tennessee.

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

Mr. BAKER. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

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

The motion to lay on the table was agreed to.

DEPARTMENT OF JUSTICE

The assistant legislative clerk read the nomination of Daniel J. Horgan, of Florida, to be U.S. Marshal for the southern district of Florida.

The PRESIDING OFFICER. The nomination is considered and confirmed.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the nomination was considered and confirmed.

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

The motion to lay on the table was agreed to.

DEPARTMENT OF STATE

The assistant legislative clerk read the nominations of Daniel Anthony O'Donohue, of Virginia, a career member of the Senior Foreign Service, class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Socialist Republic of the Union of Burma;

William H. Luers, of Illinois, a career member of the Senior Foreign Service, class of Career Minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Czechoslovak Socialist Republic;

Diego C. Asencio, of Florida, a career member of the Senior Foreign Service, class of Career Minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Brazil;

Robert E. Lamb, of Georgia, a career member of the Senior Foreign Service, class of Minister-Counselor, to be an Assistant Secretary of State; and

W. Tapley Bennett, Jr., of Georgia, a career member of the Senior Foreign Service, class of Career Minister, to be an Assistant Secretary of State.

The PRESIDING OFFICER. The nominations are considered and confirmed.

Mr. BAKER. I move to reconsider the vote by which the nominations were considered and confirmed.

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

The motion to lay on the table was agreed to.

AFRICAN DEVELOPMENT FOUNDATION

The assistant legislative clerk read the nomination of T. M. Alexander, Sr., of Georgia, to be a Member of the Board of Directors.

The PRESIDING OFFICER. The nomination is considered and confirmed.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the nomination was considered and confirmed.

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

The motion to lay on the table was agreed to.

U.S. INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

The assistant legislative clerk read the nomination of Frank J. Donatelli, of Virginia, to be an Assistant Administrator of the Agency for International Development.

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

Mr. BAKER. Mr. President, I move to reconsider the vote by which the nomination was considered and confirmed.

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

The motion to lay on the table was agreed to.

INTER-AMERICAN FOUNDATION

The assistant legislative clerk read the nominations of Langhorne A. Motley, of Alaska, to be a member of the Board of Directors; and J. William Middendorf II, of Virginia, to be a member of the Board of Directors.

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

Mr. BAKER. I move to reconsider the vote by which the nominations were considered and confirmed.

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

The motion to lay on the table was agreed to.

NOMINATIONS PLACED ON THE SECRETARY'S DESK IN THE FOREIGN SERVICE

The assistant legislative clerk read the nominations placed on the Secretary's desk in the Foreign Service.

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

Mr. BAKER. Mr. President, I move to reconsider the vote by which the nominations were considered and confirmed.

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

The motion to lay on the table was agreed to.

Mr. BAKER. Mr. President, I ask unanimous consent that the President be immediately notified that the nominations have been considered and confirmed.

The PRESIDING OFFICER. The President will be so notified.

LEGISLATIVE SESSION

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate return to the consideration of legislative business.

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

ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business, not to extend beyond 7 p.m., in which Senators may speak for not more than 5 minutes each.

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

Mr. BAKER. Mr. President, there will be no more record votes tonight.

NOTICE OF ABSENCE

Mr. STEVENS. Mr. President, the junior Senator for Alaska, Mr. MURKOWSKI, was necessarily absent on Tuesday. He traveled to Alaska with the President.

On Wednesday, Senator MURKOWSKI will be in Alaska for the purpose of testifying at EPA hearings in Sitka and Ketchikan.

MESSAGES FROM THE HOUSE

AT 9:51 a.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 2867. An act to amend the Solid Waste Disposal Act to authorize appropriations for the fiscal years 1984 through 1986, and for other purposes; and

H.R. 3259. An act to declare that the United States holds certain lands in trust for the Pueblo de Cochiti.

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

The message also announced that the Speaker has signed the following enrolled bills and joint resolutions:

S. 448. An act to authorize rehabilitation of the Belle Fourche irrigation project, and for other purposes;

H.R. 2920. An act to amend title 38, United States Code, to extend and improve various health care and other programs of the Veterans' Administration, and for other purposes;

S.J. Res. 92. Joint resolution designating the week beginning May 13, 1984, as "Municipal Clerks Week";

S.J. Res. 122. Joint resolution to designate the week of November 27, 1983, through December 3, 1983, as "National Home Care Week";

S.J. Res. 139. Joint resolution to commemorate the centennial of Eleanor Roosevelt's birth; and

S.J. Res. 188. Joint resolution to designate the month of November 1983 as "National Christmas Seal Month".

The enrolled bills and joint resolutions were subsequently signed by the President pro tempore (Mr. THURMOND).

At 12:14 p.m., a message from the House of Representatives delivered by Ms. Goetz, one of its reading clerks, announced that the House disagrees to the amendment of the Senate to the bill (H.R. 2968) to authorize appropriations for fiscal year 1984 for intelligence and intelligence-related activities of the U.S. Government, for the Intelligence Community Staff, for the Central Intelligence Agency retirement and disability system, and for other purposes; agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon; and appoints Mr. BOLAND, Mr. ZABLOCKI, Mr. MAZZOLI, Mr. MINETA, Mr. FOWLER, Mr. HAMILTON, Mr. GORE, Mr. STOKES, Mr. MCCURDY, Mr. ROBINSON, Mr. WHITEHURST, Mr. YOUNG of

Florida, Mr. STUMP, Mr. GOODLING; and for matters falling within the jurisdiction of the Committee on Armed Services: Mr. PRICE, Mr. STRATTON, and Mr. DICKINSON as managers of the conference on the part of the House.

At 12:45 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House disagrees to the amendment of the Senate to the bill (H.R. 2077) to amend title 5, United States Code, to extend the Federal Physicians Comparability Allowance Act of 1978, and for other purposes, it asks a conference with the Senate on the disagreeing votes of the two Houses thereon; and appoints Mr. FORD OF Michigan, Mr. UDALL, Ms. OAKAR, Mr. TAYLOR, and Mr. GLICKMAN as managers of the conference on the part of the House.

HOUSE MEASURES REFERRED

The following bills were read the first and second times by unanimous consent, and referred as indicated:

H.R. 2867. An act to amend the Solid Waste Disposal Act to authorize appropriations for the fiscal years 1984 through 1986, and for other purposes; to the Committee on Environment and Public Works.

H.R. 3259. An act to declare that the United States holds certain lands in trust for the Pueblo de Cochiti; to the Select Committee on Indian Affairs.

ENROLLED BILL AND JOINT RESOLUTIONS PRESENTED

The Secretary reported that on today, November 9, 1983, he had presented to the President of the United States the following enrolled bill and joint resolutions:

S. 448. An act to authorize rehabilitation of the Belle Fourche irrigation project, and for other purposes;

S.J. Res. 92. Joint resolution designating the week beginning May 13, 1984, as "Municipal Clerks Week";

S.J. Res. 122. Joint resolution to designate the week of November 27, 1983, through December 3, 1983, as "National Home Care Week";

S.J. Res. 139. Joint resolution to commemorate the centennial of Eleanor Roosevelt's birth; and

S.J. Res. 188. Joint resolution to designate the month of November, 1983, as "National Christmas Seal Month."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. PERCY, from the Committee on Foreign Relations, without amendment and with a preamble:

H. Con. Res. 176. Concurrent resolution expressing the sense of the Congress concerning U.S. support for the efforts of the Association of South East Asian Nations (ASEAN) with respect to Kampuchea.

By Mr. GOLDWATER, from the Select Committee on Intelligence, without amendment and with a preamble:

S. Res. 267. Resolution to support the establishment of a National Historical Intelligence Museum.

By Mr. McCLURE, from the Committee on Energy and Natural Resources, with an amendment:

S. 1982. A bill to extend the expiration date of section 252 of the Energy and Conservation Act.

By Mr. PERCY, from the Committee on Foreign Relations, without amendment and with a preamble:

S. Con. Res. 70. Concurrent resolution expressing the sense of the Congress regarding actions the President should take to commemorate the anniversary of the Ukrainian famine of 1932-1933.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. McCLURE, from the Committee on Energy and Natural Resources:

William P. Clark, of California, to be Secretary of the Interior (Exec. Rept. No. 98-20).

(The above nomination was reported from the Committee on Energy and Natural Resources with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. TOWER, from the Committee on Armed Services:

William E. Mayer, of California, to be an Assistant Secretary of Defense.

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. HEINZ:

S. 2071. A bill to limit the acquisition of depository institutions by nonbanks; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. HEINZ (for himself and Mr. DODD):

S. 2072. A bill to limit the circumvention of Federal banking law by State bank subsidiaries of bank holding companies; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. WARNER (for himself and Mr. TRIBLE):

S. 2073. A bill to improve the highway transportation system; to the Committee on Environment and Public Works.

S. 2074. A bill to improve the traffic flow on I-66; to the Committee on Commerce, Science, and Transportation.

By Mr. SPECTER:

S. 2075. A bill to increase the number of Superior Court judges in the District of Columbia; to the Committee on Governmental Affairs.

By Mr. TSONGAS (for himself, Mr. HEINZ, and Mr. PELL):

S. 2076. A bill to amend the Energy Security Act to extend the financing authority of the Synthetic Fuels Corporation to include projects for district heating and cooling and for municipal waste energy recovery, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. TOWER (by request):

S. 2077. A bill to amend title 10, United States Code, to require authorization by law of certain consolidations of functions within the Department of Defense; to the Committee on Armed Services.

By Mr. HATCH (for himself and Mrs. HAWKINS):

S. 2078. A bill to amend the Public Health Service Act to provide assistance to States to plan, develop, establish, expand, or improve State and local resource and referral systems for the dissemination of information concerning dependent care services; to the Committee on Labor and Human Resources.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. WARNER (for himself and Mr. TRIBLE):

S. 2073. A bill to improve the highway transportation system; to the Committee on Environment and Public Works.

S. 2074. A bill to improve the traffic flow on I-66; to the Committee on Commerce, Science, and Transportation.

LEGISLATION PERTAINING TO RICHMOND-PETERSBURG TURNPIKE TOLLS AND HOV RESTRICTIONS ON INTERSTATE 66

Mr. WARNER. Mr. President, today, Senator TRIBLE and I are introducing two bills that are designed to improve the highway transportation system of the Commonwealth of Virginia. Both of these provisions are contained in H.R. 3103, the Surface Transportation Technical Corrections Act, which is currently in conference. I feel it is necessary to introduce them as new bills because of the current stalemate between the House and Senate with respect to H.R. 3103. The citizens of Virginia should not be made to suffer the effects of not passing these provisions because of the inability of Congress to agree on other very expensive provisions of H.R. 3103 on the House side that do not affect Virginia, particularly in light of the fact that neither of my bills has any effect on the U.S. Treasury. They are necessary because Federal restraints are preventing the Commonwealth from working its will.

The Virginia General Assembly, in its 1983 sessions, enacted legislation for two reasons, which provided that tolls be kept on the Richmond-Petersburg Turnpike. The tolls need to be retained until I-295, between I-64 east of the city of Richmond and I-95 south of Petersburg, is completed in order to facilitate smooth traffic management.

The second reason, and the major reason, for extending the tolls is so that the tolls collected in the interim can be directed to the construction of five critically needed road projects in the Richmond-Petersburg area which could not be financed from normal

Federal or State revenue within the next 15 years.

In order to implement the provisions of the State's legislation, it is necessary that the Commonwealth be relieved of certain provisions of an agreement with the Federal Highway Administration in 1971. The FHWA has determined that the agreement cannot be amended administratively, but that such an agreement must be approved by Congress. Virginia House Members and I have just been informed, further, by the Virginia Secretary of Transportation, that every day the Federal Government does not act on this toll bill, that Virginia's road projects get delayed—which costs Virginians money. This has put a critical light to this legislation. As such, the Virginia House delegation was successful in having such a provision included in the House version of H.R. 3103. However, given the precarious nature of that legislation, I now find it necessary to introduce this new bill.

The other legislation I am introducing concerns a subject that was debated on the Senate floor when the Senate considered H.R. 3103.

I was very pleased when the Senate, in its wisdom, agreed with my amendment to reduce the high occupancy vehicle restrictions on I-66 from four to three and adopted it as a part of H.R. 3103. Similar action was taken in the House and this provision is included in both versions of H.R. 3103.

I will not go into the several compelling arguments in favor of this legislation because I have already filled the RECORD with material. This legislation is exactly the same as my amendment to H.R. 3103, except that some language has been added to clarify the original intent of the provision with respect to the Lynn Street and George Washington Parkway ramps.

Vehicles entering I-66 from these arteries have not been subject to HOV restrictions and while report language on H.R. 3103 makes the point clear, it was never intended that these ramps become subject to them as a result of this legislation.

Both of these provisions are timely and overdue. They have no costs to the taxpayers associated with them and they are not, to my knowledge, objectionable to any Member of Congress. I hope, Mr. President, that either as a part of H.R. 3103 or as separate legislation, they can be passed as soon as possible. I also reserve the right to offer them as amendments to any appropriate legislation that may come up in the Senate—over and over again, if necessary, until they become law.

By Mr. SPECTER:

S. 2075. A bill to increase the number of superior court judges in the District of Columbia; to the Committee on Governmental Affairs.

INCREASE IN NUMBER OF SUPERIOR COURT JUDGES IN THE DISTRICT OF COLUMBIA

Mr. SPECTER. Mr. President, I am today introducing legislation designed to prevent a crisis in our system of justice in the District of Columbia Superior Court. The caseloads and backlogs have reached alarming levels in the court, despite modern management techniques and lots of good, old-fashioned hard work. This bill will raise the number of judges in the superior court by 7 to a total of 51, including the chief judge.

On Tuesday, November 8, 1983, I held a hearing, as chairman of the District of Columbia Appropriations Subcommittee, on the question of the need for the new judges. The facts and statistics were disturbing. As of October 31, there were 3,102 felonies pending in the superior court. Since 1978, criminal case filings have increased from 26,420 to 33,589. By the end of 1982, the court had over 38,000 cases pending.

This backlog has created inordinate delays in both criminal and civil cases. Chief Judge H. Carl Moultrie reported at the hearing that the average felony case going to trial now takes 326 days from arrest to sentencing. For the 1,100 persons incarcerated pending their trials, such delays are intolerable. Perhaps more disturbing is the fact that the 1,985 persons released on both encountered the same delays. Judging from the nearest figures, many of those released preyed on additional innocent victims during that time.

Both the persons charged with these serious crimes and the public at large deserve prompt resolution of these matters so that the guilty may be appropriately sentenced and the innocent released.

I firmly believe that the District of Columbia's criminal justice system can be a model for the entire Nation. In September Congress approved the District's Appropriations Act for fiscal 1984. A significant feature of it was $25 million devoted largely to improvements in the Department of Corrections, where prison overcrowding has been a significant problem. It also contained an appropriation, subject to authorization, for the seven new judges for superior court. We thus need only authorize the judges in order to make use of this money and start attacking the backlog problem.

At our hearing on November 8, a spokesperson for the Mayor's Office indicated that the Mayor had not yet taken a position on the issue. While sympathetic to the need for the judges, concern was expressed about the home rule issues of who appoints the judges and who prosecutes local crimes. Obviously, the home rule issues are complicated and may take months or more for the District, the Congress, and the administration to resolve. The need for the judges is immediate, however; the defendants awaiting trial and the public deserving protection cannot afford to wait.

Indeed, the statistics show that even more than seven judges are needed. A 1982 D.C. Bar committee report suggests, by extrapolation, that 12 new judges are needed now. D.C. court officials indicated in testimony that they could justify the need for 15 judges, or 21 to include a full elimination of the backlog. It is clear that the seven judges are the minimum needed.

A particularly disturbing aspect of the criminal case backlog problem is the serious consequences of the delay. Not only are defendants' rights jeopardized and the public often endangered, but the delays also sometimes result in reversals of convictions. For example, a D.C. jury convicted Whitfield Graves in 1981 for felony murder, robbery, and first-degree burglary in the strangling death of James Matthews. The court imposed a sentence of 20 years to life. Yet the D.C. Court of Appeals reversed the conviction on September 23, 1983, because the 25-month delay between arrest and conviction violated Graves' right to a speedy trial. Less than 2 weeks later, a superior court judge dismissed a first-degree murder indictment, again on speedy trial grounds, when the Government witnesses were unavailable for a third time. Surely we have reached a crisis when the inability to resolve criminal cases timely results in freeing convicted and alleged murderers.

It is my deep hope that authorizing legislation, already approved by the Senate once in connection with the D.C. appropriation bill only to be removed in Congress, will win prompt Senate approval. I urge each Member to speed its passage.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

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

S. 2075

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 903 of title 11 of the District of Columbia Code is amended by striking out "forty-three" and inserting in lieu thereof "fifty".

By Mr. TSONGAS (for himself, Mr. HEINZ, and Mr. PELL):

S. 2076. A bill to amend the Energy Security Act to extend the financing authority of the Synthetic Fuels Corporation to include projects for district heating and cooling and for municipal waste energy recovery, and for other purposes; to the Committee on Energy and Natural Resources.

SYNTHETIC FUELS CORPORATION AMENDMENTS OF 1983

● Mr. TSONGAS. Mr. President, today my colleagues Senators HEINZ and PELL and I are introducing a bill to extend the financing authority of the Synthetic Fuels Corporation (SFC) to include district heating and cooling and municipal waste-to-energy projects. This bill is similar to H.R. 2489, which was introduced by Representatives OBERSTAR of Minnesota and SCHNEIDER of Rhode Island and is currently under consideration in the House.

Three years ago, I opposed the version of the SFC approved by the Senate Energy and Natural Resources Committee. I was concerned about the program's enormous scale, aggressive pace, and environmental impact. Today I continue to question the need for a program of this size, as well as the appropriateness of the Corporation's narrow focus on synthetic fuels.

As long as the Corporation does exist, however, it could serve a beneficial purpose by financing a balanced mix of energy source. As the synthetic fuels study panel observed in their report released on May 18, 1982, "There are appropriate roles for the SFC that go beyond the financial assistance provisions set forth in title I of the Energy Security Act." The first of their suggestions was:

> To the extent that government involvement (including that of the SFC) is indicated in the energy field, balanced consideration should be extended to the broadest array of domestic fuel resources, alternate energy technologies, conservation methodologies, and other techniques to improve productivity on a non-discriminatory basis.

Our bill would make district heating and cooling and municipal waste-to-energy projects eligible for SFC funds and insure that the agency properly considers these innovative energy systems.

The technologies behind both district heating and cooling and municipal waste to energy are sensible and proven. But financial roadblocks hinder their development.

District heating and cooling is a process invented in America in 1877. It works this way. Hot or cold water, or steam, is piped from a thermal source to customers for use in space heating and cooling and industrial processes. A district heating and cooling system supplied by an electric powerplant's waste heat can increase the plant's fuel efficiency from 35 percent to 80 percent.

District heating and cooling is a proven technology. It is used extensively in Europe and the Soviet bloc. The Oak Ridge National Laboratory has estimated that up to 50 percent of this country's space and water heating needs—10 percent of total U.S. energy demand—could be supplied should this process be put into widespread use in the United States.

But there are financing obstacles. Capital expenditures account for about 75 percent of the life-cycle cost of a district heating and cooling system, while operating outlays account for only 25 percent. These high front-end costs and low operating expenses lead to financial losses during the initial years of a project and to substantial profits in the later years. Thus high interest rates, uncertainty of future energy demand, and difficulty in raising capital have deterred communities from investing in district heating and cooling projects eligible for price guarantees, loan guarantees, and other forms of financial assistance. This aid would reduce financial risks in these ventures and spur their prudent development.

Municipal waste to energy, sometimes called resource recovery, is also an innovative, established technology. It utilizes urban refuse to provide steam for heating or to generate electricity. A resource recovery plant can salvage over 85 percent of a city's refuse destined for landfill and exploit it for energy.

The technology is an everyday fact of life in dozens of American and European cities. If widely adopted in the United States, waste-to-energy plants could produce up to the equivalent of 220,000 barrels of oil per day.

But the financial circumstances are adverse, as with district heating and cooling. Today it is often cheaper for cities to dispose of their garbage in landfills rather than recycle it through resource-recovery plants. But landfill is rapidly becoming scarce. Not long from now many municipalities will face waste-disposal problems. At that time, municipal waste-to-energy plants will be essential. So we must begin to develop them now.

To overcome the financing pitfalls, our legislation would authorize limited price-support SFC loans for municipal waste-to-energy plants. The money would be withheld until a project begins to produce energy. The assistance would be available only during the first 7 years of a plant's operation. At that point, repayment of a loan would commence, continuing over the remaining lifetime of the project. The bill thereby would provide an easily administered, market-oriented mechanism for removing disincentives to the development of this technology.

The bill would have far-reaching benefits. Expanded use of district heating and cooling and municipal waste-to-energy systems would curtail America's crippling reliance on importance on imported oil and bestow upon our cities a measure of energy independence. Unlike synthetic fuels, these technologies can benefit communities throughout the United States. In addition, these systems would provide energy with much less environmental disruption than caused by synthetic fuels production. Jobs are created through the construction and operation of these projects but also from the industry and urban development attracted by the stable source of energy. The energy savings from district heating could enhance economic development in cities and attract businesses, industry, housing to urban areas.

Until now, the SFC has been evaluating only synthetic fuels projects proposed by relatively large energy companies. Our legislation would allow SFC loans to aid financially strapped urban areas in developing their own energy supplies. Our bill would stimulate economic development and create productive jobs through a market-oriented mechanism. The legislation has widespread support from a variety of groups. A similar bill in the House, H.R. 2489, has the backing of the U.S. Conference of Mayors, the National League of Cities, the National Association of Counties, the AFL-CIO, the Consumer Energy Council of America, a coalition of labor, rural, energy and urban organizations, and other groups.

Mr. President, I believe there is a clear need for a program to aid in the development of district heating and cooling systems and municipal resource-recovery facilities. As I have said, I am no supporter of the SFC and do not believe that it is the only vehicle that can provide financial assistance to these technologies. But the Corporation exists, and its structure is well suited to accommodate these energy systems under its lending authority. I hope that the program to stimulate the development of district heating and cooling systems and municipal waste-to-energy projects contained in this legislation is the subject of committee hearings and receives the serious consideration it deserves.

Mr. President, I ask unanimous consent that a copy of the full text of this bill be printed in the RECORD following my remarks.

Mr. President, the Northeast-Midwest Congressional Coalition has prepared a bill summary and I also ask unanimous consent that this item be printed in the RECORD.

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

S. 2076

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

SHORT TITLE

SECTION 1. This Act may be cited as the "Synthetic Fuels Corporation Amendments of 1983".

DEFINITIONS

SEC. 2. Section 112 of the Energy Security Act (42 U.S.C. 8702) is amended by adding at the end thereof the following new paragraphs:

"(19)(A) The term 'district heating or cooling project' means an integrated pipe-

line system located in the United States which provides hot water, chilled water, or steam from a heating or cooling source to one or more unaffiliated users for residential, commercial, or industrial heating or cooling, or process steam, or any combination thereof.

"(B) Such term includes the pipe, pipe insulation, valves, pumps, expansion equipment and facilities, heat exchanges, temperature controls, terminal units, meters, and similar equipment, facilities, and property necessary for establishing and operating such system.

"(C) Such term does not include the heating or cooling source used for such system.

"(20) The term 'municipal waste energy project' has the same meaning as given such term in section 203(15) of this Act.

"(21) The term 'construction', when used with respect to any district heating or cooling project, has the same meaning as such term has with respect to biomass energy projects under section 203(9) of this Act.

"(22) The term 'project' means a synthetic fuel project, district heating or cooling project, or municipal waste energy project.".

EXTENSION OF CORPORATION'S FINANCING AUTHORITY FOR DISTRICT HEATING AND COOLING PROJECTS

SEC. 3. (a) Sections 132(a)(1), 133(a)(1), 134, 135(a), and section 137(a) of the Energy Security Act (relating to various forms of permitted financial assistance) are each amended by inserting "or district heating or cooling project" after "synthetic fuel project" each place it appears.

(b) Section 136 of such Act (relating to joint ventures for synthetic fuel project modules) is amended by adding at the end thereof the following:

"(g) The Corporation is also authorized to commit, or to enter into, joint ventures for district heating and cooling project modules under similar terms and conditions as apply under this section with regard to synthetic fuel project modules.".

(c)(1) Section 131 (b)(3), (b)(4), (e), (j), and (l) through (u), section 132 (a)(2)(A), (d), and (e), section 133 (a)(2), (a)(4), and (c), and section 137(b) of such Act are each amended by striking out "synthetic fuel project" each place it appears and inserting in lieu thereof "project".

(2) Section 135(a) of such Act is amended by striking out "to insure the production of synthetic fuel".

(3) Section 131(b)(1) and section 135(b) of such Act are each amended by inserting "or energy output" after "fuel" and "fuels", each place such terms appear.

(4) Section 137(a) of such Act is amended by striking out "synthetic fuel projects" and inserting in lieu thereof "projects".

(5) Paragraph (2) of section 131(u) of such Act is amended to read as follows:

"(2) Such cost-sharing agreements shall not exceed—

"(A) 1 percent of the preliminary total estimated cost of the applicant's proposed synthetic fuel project, or

"(B) 2 percent of the preliminary total estimated cost of the applicant's proposed district heating or cooling project or municipal waste energy project.".

(6) Section 131 of such Act is amended by adding at the end thereof the following new subsection:

"(v) A proposal for financial assistance for a district heating or cooling project shall include an evaluation of the energy efficiency of the area to be served by the proposed district heating and cooling system, and shall describe the effect that existing or future conservation activities would have on the economic viability of such a system.".

EXTENSION OF CORPORATION'S FINANCING AUTHORITY FOR MUNICIPAL WASTE ENERGY PROJECTS

SEC. 4. (a) The Energy Security Act is amended by inserting after section 132, relating to loans by the Corporation, the following new section:

"PRICE SUPPORT LOANS MADE BY THE CORPORATION FOR MUNICIPAL WASTE ENERGY PROJECTS

"SEC. 132a. (a)(1) In the case of any existing municipal waste energy project which produces and sells biomass energy, the Corporation may commit to make, and make, a price support loan in amounts determined under paragraph (3) for the operation of such project. Payments under any such loan shall be disbursed on an annual basis, as determined (in accordance with paragraph (3)) on the basis of the amount of biomass energy produced and sold by that project during the 12-month period involved and the type and cost of fuel displaced by the biomass energy sold.

"(2)(A) In the case of any support loan under this section for an existing municipal waste energy project—

"(i) disbursements under such loan may not be made for more than 5 consecutive 12-month periods;

"(ii) the amount of the disbursement for the second and any subsequent 12-month period for which disbursements are to be made under the support loan shall be reduced by an amount determined by multiplying the amount calculated under paragraph (3) by a factor determined by dividing the number of 12-month periods for which disbursements are made under the support loan into the number of such periods which have elapsed;

"(iii) except as provided in subsection (d), commencing at the end of the last of such 12-month periods, the support loan shall be repayable over a period equal to the then remaining useful life of the project (as determined by the Corporation) or 10 years, whichever is shorter; and

"(iv) commencing at the end of such last 12-month period, such loan shall bear interest at a rate determined by the Corporation (taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans) plus not to exceed 1 per centum, as determined by the Corporation, and adjusted to the nearest one-eighth of 1 per centum.

"(3) The amount of the loan payment to be disbursed under this subsection for any year with respect to each type of biomass energy produced and sold by an existing municipal waste energy project shall be equal to—

"(A)(i) the standard support price reduced by the cost of the fuel displaced by the biomass energy sold, or (ii) $2, whichever is lower, multiplied by

"(B) the amount of such biomass energy sold (in millions of British thermal units).

"(b)(1) In the case of any new municipal waste energy project which produces and sells biomass energy, the Corporation may commit to make, and make, a price support loan in amounts determined in accordance with the provisions of subsection (a), except as provided in paragraph (2).

"(2) In the case of any loan under this subsection for a new municipal waste energy project—

"(A) disbursements under such loan may not be made for more than 7 consecutive 12-month periods (with reductions as provided in subsection (a)(2)(A)(ii));

"(B) such loan shall bear interest at a rate not in excess of the rate prescribed under subsection (a); and

"(C) except as provided in subsection (d), the principal of or interest on such loan shall, in accordance with the support loan agreement, be repayable commencing at the end of the last 12-month period covered by the support loan, over a period not in excess of the period equal to the then remaining useful life of the project (as determined by the Corporation) or 15 years, whichever is shorter.

"(c) Before committing to make a price support loan under this section for any project, the Corporation shall consider—

"(1) the potential of such project to produce biomass energy,

"(2) the extent to which such project will supplement (rather than supplant) existing municipal waste energy projects.

"(d) The Corporation shall not commit to make or make a price support loan under this section to any municipal waste energy project until the Corporation finds—

"(1) such project meets the requirements of a plan as set forth in section 4003 of the Solid Waste Disposal Act (42 U.S.C. 6943), and

"(2) sufficient quantities of waste shall be available to supply such project until such loan is to be fully repaid under this section. In determining the availability of waste under paragraph (2), the Corporation shall not treat as available waste required to fill the present and reasonably anticipated future needs of any materials recovery project in the area of such municipal waste energy project.

"(e)(1) Repayment of a support loan under this section shall be deferred during any deferral period, and such loan shall not bear interest during such period.

"(A) For purposes of this paragraph, the term 'deferral period' means, with respect to any support loan under this section for an existing or new waste energy project, any period when the average price (per million British thermal units) for number 6 fuel oil imported into the United States is less than the product of—

"(i) the average price for number 6 fuel oil imported into the United States on January 1, 1983, and

"(ii) 75 percent of the percentage (if any) by which the most recently published CPI exceeds the CPI for the month of January 1983.

"(B) For purposes of subparagraph (A), 'CPI' means the Consumer Price Index for all urban consumers published by the Department of Labor.

"(2) repayment of a support loan with respect to a municipal waste energy project under this section shall be subordinate to all other obligations to repay loans for financing such project.

"(f) For purposes of this section—

"(1) The term 'new municipal waste energy project' means any municipal waste energy project which—

"(A) is initially placed in service after the date of the enactment of this section; or

"(B) if initially placed in service before such date, has an increased capacity by reason of additional construction, and as such is placed in service after such date.

"(2) The term 'existing municipal waste energy project' means any municipal waste

energy project which is not a new municipal waste project.

"(3) The term 'placed in service' means operated at more than 50 per centum of the estimated operational capacity.

"(4)(A) Except as provided in subparagraphs (B) and (C), the term 'standard support price' means the average price (per million British thermal units) for number 6 fuel oil imported into the United States on January 1, 1983, as determined, by rule, by the Corporation not later than 90 days after the date of the enactment of this section.

"(B) In any case in which the fuel displaced is number 6 fuel oil or any higher grade of petroleum (as determined by the Corporation) or natural gas the term 'standard support price' means 125 per centum of the price determined by rule under subparagraph (A).

"(C) In any case in which biomass energy produced and sold by a project is steam or electricity, the term 'standard support price' means the price determined by rule under subparagraph (A), subject to such adjustments as the Corporation may authorize by rule.

"(5) The term 'cost of the fuel displaced' means the cost of the fuel (per million British thermal units) which the purchaser of biomass energy would have purchased if the biomass energy had not been available for sale to that purchaser.

"(6) Any biomass energy produced by a municipal waste energy project which may be retained for use by the owner or operator of such project shall be considered to be sold at such price as the Corporation determines.

"(7) Not later than 90 days after the date of the enactment of this section, the Corporation shall prescribe, by rule, the manner of determining the fuel displaced by the sale of any biomass energy, and the price of the fuel displaced.".

(b) Section 112(10) of such Act (42 U.S.C. 8702(10)), defining loans, is amended by striking out "section 132" and inserting in lieu thereof "section 132 or 132a".

(c) The table of contents for such Act is amended by inserting after the item relating to section 132 the following new item:

"Sec. 132a. Price support loans made by the Corporation for municipal waste energy projects.".

PRODUCTION STRATEGY TO INCLUDE PLAN FOR DISTRICT HEATING AND COOLING PROJECTS AND MUNICIPAL WASTE ENERGY PROJECTS

SEC. 5. (a) Section 126(a) of such Act (42 U.S.C. 8722(a)), relating to the production strategy of the Corporation, is amended—

(1) by inserting "district heating or cooling projects, and municipal waste energy projects" after "synthetic fuel projects" where it appears in paragraph (1)(A); and

(2) in paragraph (2)(A), by striking out "as well as (ii)" and inserting ", (ii)", and by striking out the period at the end and inserting in lieu thereof ", and (iii) provide appropriate financial assistance for district heating or cooling projects and municipal waste energy projects.".

(b) Section 126(b)(3) of such Act (42 U.S.C. 872(b)(3)) is amended—

(1) by striking out "and" at the end of subparagraph (E), by striking out the period at the end of subparagraph (F) and inserting "; and" in lieu thereof, and by adding at the end thereof the following new subparagraph:

"(G) specifically address what types of district heating or cooling projects and municipal waste energy projects the Corporation intends to assist, as well as how it intends to provide that assistance.".

CORPORATE ORGANIZATION

SEC. 6. Section 117 of the Energy Security Act (42 U.S.C. 8713) is amended by adding at the end thereof the following new subsection:

"(f) The Board of Directors, by establishment of an office or otherwise, shall assure that the Corporation is organized and staffed so as to effectively evaluate, process, and review proposed and funded district heating or cooling projects and municipal waste energy projects.".

SYNTHETIC FUELS CORPORATION AMENDMENTS OF 1983

This bill would broaden the lending authority of the Synthetic Fuels Corporation to include district heating and cooling and municipal waste to energy projects. District heating/cooling is defined as an integrated pipeline system which provides hot water, chilled water, or steam from a heating or cooling source to one or more unaffiliated users for residential, commercial, or industrial heating or cooling. As defined in the bill, the heating or cooling source used for the district heating/cooling system would not be eligible for assistance.

A municipal waste to energy project is defined as any facility, or portion of a facility, primarily used for the production of biomass fuel—gaseous, liquid, or solid fuel—(and by-products) from municipal waste; or the combustion of municipal waste for the purpose of generating steam or forms of useful energy, including industrial process heat, mechanical power, or electricity (including cogeneration). (This is the same definition as that used in Section 203(15) of the Energy Security Act, P.L. 96-294.)

The bill has 3 major components:

Broadens the lending authority of the Synthetic Fuels Corporation to include district heating/cooling. These projects would be eligible for all forms of financial assistance available from the Corporation.

Amends Section 132 of the Energy Security Act, relating to loans made by the Synthetic Fuels Corporation, by adding a new section—Section 132a—authorizing price support loans for municipal waste to energy projects. The price support loan would be based on the difference between a "standard support price" and the average cost of conventional fossil fuel over a 12-month period to the buyer of energy produced from municipal waste. The "standard support price" is defined as the cost of imported No. 6 fuel oil on January 1, 1983. The price support is the lesser of the difference stated above, or $2.00 per million BTU. (The price support loan definition is substantially the same as that originally defined in Section 234 of the Energy Security Act, P.L. 96-294.)

Requires the Board of Directors of the Synthetic Fuels Corporation to assure that the Corporation is organized and staffed so as to effectively evaluate, process and review applications for district heating/cooling and municipal waste to energy projects.●

By Mr. HATCH (for himself and Mrs. HAWKINS):

S. 2078. A bill to amend the Public Health Service Act to provide assistance to States to plan, develop, establish, expand, or improve State and local resources and referral systems for the dissemination of information concerning dependent care services; to the Committee on Labor and Human Resources.

DEPENDENT CARE RESOURCE AND REFERRAL ACT OF 1983

Mr. HATCH. Mr. President, today Senator HAWKINS and I are pleased to introduce "The Dependent Care Resources and Referral Act of 1983." This legislation provides interested States with a one-time grant to develop means of providing families with information on dependent care services within their own communities.

Despite the social and economic forces which foster change in our contemporary family structure, a recent national survey revealed that a good family life remains the No. 1 social value for Americans, ranking in our national hierarchy of values above physical health, self esteem, and freedom of choice.

One of the most dramatic changes for both the family and for the civilian work force was the entrance of women into the labor market in unprecedented numbers. Labor participation by women has doubled since 1930. Currently, 52 percent of all working aged women are employed. Additionally, there are approximately 10 million American families maintained solely by women.

These women face continuing economic stress. Women who are single heads of households because of divorce have an initial 29 percent loss of income after the divorce, and after a year their income has dropped 73 percent. Other single heads of households face similar economic stress.

In the face of these shifting economic and social realities and with so many parents working, there emerges the central question: Who takes care of our children while the family works?

In 1947, only 19 percent of women with children worked. Today 53 percent of all children in this country have mothers in the job market. Newsweek cited that "In 1980, 45 percent of mothers with preschool children were working at jobs away from home, up fourfold from three decades before." That affects about 7.5 million infants and toddlers. Therefore, the need for child care for the children of working parents has greatly increased over the past 20 years and is expected to continue into the 1990's. More mothers are entering the work force than ever, and more are remaining at work during their child-rearing years. For many single parents of small children, child care services enabling the parent to work are a necessity.

But the caring does not end when the children are raised and on their own. Many American families are faced with difficult choices when older family members become ill or incapacitated.

Many families would choose to provide the supportive services themselves, but often fail due to the high costs, both financially and emotionally, that long term home care can require.

Respite and adult day care are two services often mentioned by these families as the most helpful in allowing them to continue working and maintaining as normal a life as possible while caring for older or disabled family members at home. Families need assistance in locating appropriate care givers, learning where services are located and the costs and transportation needs involved.

I have learned that many families throughout the country are searching for dependent care information within their local community. Many families are not aware of their options. The resources needed by families include a wide range of alternatives from "in home care" by a family member to "other home care" neighborhood and/or institutional care. Most families are seeking information regarding the types of care, the availability of care, the costs of care and the transportation to and from facilities.

The Federal Government should not be in the business of providing or even assuring the availability of child care services for every working parent. Nor do I advocate the Federal Government pay the tab for day-to-day dependent care services. Providing these services is best left to local and community efforts, including the work of the voluntary, church, and the private sector. An appropriate Federal response is to increase information resources and improve access to existing dependent care services. That is why Senator HAWKINS and I are introducing the Dependent Care Resources and Referral Act of 1983. Resource and referral services are scant, but where they exist they have effectively increased parental awareness of child care options.

Greater consumer knowledge will result in greater cooperation among dependent care providers, both public and private to improve quality and variety of dependent care services. These resources and referral programs meet the needs while providing an educational service and improving relations between private and public sectors of the community. This legislation, while modest in budget, can provide one-time grants to States a proper Federal impetus to address a lack of available information on existing and new dependent care programs.

This legislation amends the Public Health Service Act to create a block grant for the development of resource and referral programs within States; $15 million is appropriated over the next 5 years and States may apply for their allotment only once. The resources and referral program shall make information available to the community on types of dependent care, including home based, church, community, private sector, employer based and within institutional settings. The program shall include information about the cost of such care, the location of and transportation to and from the care site, the hours of operation and dependents eligible to enroll. This Federal money shall not be used to duplicate existing services and may only be used for start-up costs of the system.

Mr. President, with more women in the work force than ever before, the needs of familes have altered. As chairman of the Senate Committee on Labor and Human Resources, I have scheduled a full committee hearing to further address the changes in the family for November 16, having already held a preliminary hearing on November 8.

In addition, Senator DENTON, my distinguished colleague from Alabama, who chairs the Human Services Subcommittee, has held 4 days of hearings entitled the "Broken Family." These hearings have further highlighted the needs of families in our society.

At these hearings Senator DENTON and I heard some startling statistics:

Fully 59 percent of children born in 1983 will live with only one parent at some time before they reach the age of 18.

More than 50 percent of the children in families headed by a female live in poverty, compared with only 8 percent in husband-wife families.

A recent census report found that 8.4 million women nationwide had custody of their children in 1981, yet less than half had been awarded child support. Of those entitled to payments, only 47 percent received the full amount—an average of $40 per week. Another 25 percent got partial payments, 28 percent got nothing. The disinclination of many men to help support their children is often cited as a major reason that more women are falling into poverty.

Through these subcommittee hearings, I have derived a greater understanding of these issues. I intend to introduce legislation in the next few weeks to reduce the pain made evident by these statistics. My hearings on November 8 and 16 will further underscore the need to address the so-called "feminization of poverty" with better training programs and more private sector support. In addition, this legislation I am introducing today, "The Dependent Care Resource and Referral Act of 1983," is the first of that package.

I am pleased Mrs. HAWKINS is joining me today in the introduction of this bill. She has also played a major role in educating our body on critical issues supporting families. I urge my colleagues to join Senator HAWKINS and me in supporting this bill.

Mrs. HAWKINS. Mr. President, I am pleased to join Senator HATCH in cosponsoring legislation to provide Federal assistance to the States for the extablishment of resource and referral programs for dependent care. This legislation, the Dependent Care Resource and Referral Act of 1983, would provide $15 million for allotments to the States to establish resource and referral systems for dependent care which would provide information on the availability, types, costs, and location of dependent care services.

The workstyles and lifestyles of families are changing as increasing numbers of women enter the work force for financial as well as social reasons. This trend toward both parents working has placed increased burdens on those parents who now have demanding work responsibilities as well as demanding family responsibilities. But there is no reason why either work or family has to suffer as long as our institutions are flexible enough to adapt to these changing circumstances. But to insure that both these responsibilities are balanced, we must provide families with information about all the dependent care options available to them so they can choose the service that is best suited to their particular needs.

Not all working parents can utilize the traditional 9-5 center based care of a commercial childcare facility. Legislation that I introduced earlier this year, the Medical Facilities Dependent Care Act was prompted by conversations I had with nurses and other health care professionals who encountered great difficulty in finding dependent care services that met their unusual and erratic work schedules. Many hospitals, faced with recruitment and retention difficulties of these highly skilled professionals have established employer-sponsored childcare programs in an effort to recruit and retain their labor force. Many hospitals have on-site centers but others have established vending or contracting out services with existing childcare centers in the community. Other hospitals have experimented with family-based day and night care, infant care, sick child care, and intergenerational dependent care.

Not all of the nurses with whom I spoke were caring for children. Many were in need of adult dependent care for elderly parents who lived with them. Adult daycare is a growing phenomenon, with at least 600 adult day care centers currently in operation in the United States, 32 in Florida alone. But the existence of these centers and other forms of care for the elderly dependent is not widely known. This information is crucial to an individual faced with making a decision regard-

ing institutionalizing his or her elderly parent.

Mr. President, I am pleased that Senator HATCH, chairman of the Senate Labor and Human Resources Committee has introduced this legislation. I know that he recognizes the importance of adequate childcare services to enable working parents to handle both their work and family responsibilities. I believe that this legislation will improve the ability of families to choose the dependent care service best suited to their needs by making them more aware of the variety of different dependent care services available in their communities.

The Labor and Human Resources Committee has scheduled a hearing on November 16, 1983, which will highlight many of the private sector childcare programs that have been developed to meet the growing and diverse needs of working parents. These private sector inititives in behalf of children and families need to be encouraged and their existence need to be more widely publicized. Today, dependent care is not limited to children, nor is it restricted to center-based care. Families today can choose from a wide range of dependent care services that are designed to meet the changing needs of today's families. I believe that the resource and referral legislation that I join Senator HATCH in sponsoring will play a major role in enabling more families to adapt to the changes in today's culture. I urge my fellow Senators to join me in supporting this legislation.

ADDITIONAL COSPONSORS

S. 571

At the request of Mr. ROTH, the name of the Senator from Idaho (Mr. MCCLURE) was added as a cosponsor of S. 571, a bill to amend the Federal Property and Administrative Services Act of 1949 to make Federal surplus property more accessible to local emergency preparedness and volunteer firefighting organizations and to authorize and direct the Federal Emergency Management Agency to recommend available Federal surplus to the Administrator of the General Services Administration, and for other purposes.

S. 772

At the request of Mr. HATCH, the names of the Senator from Vermont (Mr. LEAHY), and the Senator from Missouri (Mr. EAGLETON) were added as cosponsors of S. 772, a bill to promote public health by improving public awareness of the health consequences of smoking and to increase the effectiveness of Federal health officials in investigating and communicating to the public necessary health information, and for other purposes.

S. 1059

At the request of Mr. DENTON, the names of the Senator from South Carolina (Mr. THURMOND), and the Senator from Mississippi (Mr. COCHRAN) were added as cosponsors of S. 1059, a bill to provide that it shall be unlawful to deny equal access to students in public schools and public colleges who wish to meet voluntarily for religious purposes and to provide district courts with jurisdiction over violations of this Act.

S. 1090

At the request of Mr. WALLOP, the name of the Senator from North Carolina (Mr. EAST) was added as a cosponsor of S. 1090, a bill to establish a National Outdoor Recreation Resources Review Commission to study and recommend appropriate policies and activities for government agencies at the Federal, State, and local levels and for the private sector, to assure the continued availability of quality outdoor recreation experiences in America to the year 2000, and for other purposes.

S. 1113

At the request of Mr. D'AMATO, the names of the Senator from North Dakota (Mr. BURDICK) and the Senator from South Dakota (Mr. PRESSLER) were added as cosponsors of S. 1113, a bill to amend the Internal Revenue Code of 1954 to provide that tax-exempt interest shall not be taken into account in determining the amount of social security benefits to be taxed.

S. 1145

At the request of Mr. DENTON, the name of the Senator from Nebraska (Mr. EXON) was added as a cosponsor of S. 1145, a bill to recognize the organization known as the Catholic War Veterans of the United States of America, Inc.

S. 1325

At the request of Mr. MCCLURE, the names of the Senator from Nebraska (Mr. EXON) and the Senator from Michigan (Mr. RIEGLE) were added as cosponsors of S. 1325, a bill to amend the Internal Revenue Code of 1954 to provide financial relief to State and local governments by eliminating a requirement that would result in a duplicative mailing each year.

S. 1537

At the request of Mr. DANFORTH, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 1537, a bill to provide additional authorization of appropriations for certain programs for fiscal year 1984, and each of the 4 following fiscal years.

S. 1613

At the request of Mr. TRIBLE, the name of the Senator from North Dakota (Mr. BURDICK) was added as a cosponsor of S. 1613, a bill to amend title 10, United States Code, with respect to the provision of medical benefits and post and base exchange and commissary store privileges to certain former spouses of certain members or former members of the Armed Forces.

S. 1772

At the request of Mr. MATSUNAGA, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 1772, a bill to amend title XVIII of the Social Security Act to provide for direct medicare reimbursement for services performed by registered nurse anesthetists.

S. 1833

At the request of Mr. CHILES, the name of the Senator from Maryland (Mr. SARBANES) was added as a cosponsor of S. 1833, a bill to amend title 38, United States Code, to authorize the VA to furnish each veteran with a compensable service-connected disability, such drugs and medicines as may be prescribed by any licensed physician for treatment of the service-connected disability.

S. 1857

At the request of Mr. DURENBERGER, the names of the Senator from Oregon (Mr. PACKWOOD) the Senator from Massachusetts (Mr. TSONGAS) were added as cosponsor of S. 1857, a bill to amend title Internal Revenue Code of 1954 to remove certain impediments to the effective philanthropy of private foundations.

S. 1913

At the request of Mr. HUDDLESTON, the name of the Senator from Rhode Island (Mr. PELL) was added as a cosponsor of S. 1913, a bill to provide for improvements in the school lunch and certain other child nutrition programs.

S. 1992

At the request of Mr. BENTSEN, the names of the Senator from Hawaii (Mr. MATSUNAGA) and the Senator from Colorado (Mr. ARMSTRONG) were added as cosponsors of S. 1992, a bill to amend the Internal Revenue Code of 1954 to simplify and improve the income tax treatment of life insurance companies and their products.

SENATE JOINT RESOLUTION 160

At the request of Mr. BYRD, the name of the Senator from Minnesota (Mr. BOSCHWITZ) was added as a cosponsor of Senate Joint Resolution 160, a joint resolution to designate the week of October 17, 1983 through October 24, 1983, as "National Adult Continuing Education Week."

SENATE JOINT RESOLUTION 161

At the request of Mr. CHAFEE, the name of the Senator from Alabama (Mr. DENTON) was added as a cosponsor of Senate Joint Resolution 161, a joint resolution to designate the week of April 15, 1984, through April 21, 1984, as "National Child Abuse Prevention Week."

SENATE JOINT RESOLUTION 176

At the request of Mr. BOSCHWITZ, the names of the Senator from South Dakota (Mr. ABDNOR), the Senator from Arkansas (Mr. BUMPERS), the Senator from Alabama (Mr. DENTON), the Senator from Connecticut (Mr. DODD), the Senator from Minnesota (Mr. DURENBERGER), the Senator from Ohio (Mr. GLENN), the Senator from Hawaii (Mr. INOUYE), the Senator from Indiana (Mr. LUGAR), the Senator from Hawaii (Mr. MATSUNAGA), the Senator from Idaho (Mr. McCLURE), the Senator from Idaho (Mr. SYMMS), and the Senator from South Carolina (Mr. THURMOND) were added as cosponsors of Senate Joint Resolution 176, a joint resolution to designate the week of October 16, 1983 through October 22, 1983, as "National Fetal Alcohol Syndrome Awareness Week."

SENATE JOINT RESOLUTION 181

At the request of Mr. BENTSEN, the names of the Senator from Florida (Mr. CHILES), the Senator from Arkansas (Mr. PRYOR) and the Senator from Texas (Mr. TOWER) were added as cosponsors of Senate Joint Resolution 181, a joint resolution to provide for the awarding of a gold medal to Lady Bird Johnson in recognition of her humanitarian efforts and outstanding contributions to the improvement and beautification of America.

SENATE CONCURRENT RESOLUTION 62

As the request of Mr. MATTINGLY, the name of the Senator from Virginia (Mr. TRIBLE) was added as a cosponsor of Senate Concurrent Resolution 62, a concurrent resolution to direct the Commissioner of Social Security and the Secretary of Health and Human Services to develop a plan outlining the steps which might be taken to correct the social security benefit disparity known as the notch problem.

SENATE CONCURRENT RESOLUTION 72

At the request of Mr. MOYNIHAN, the name of the Senator from Massachusetts (Mr. TSONGAS) was added as a cosponsor of Senate Concurrent Resolution 72, a concurrent resolution calling on the President to appoint a special envoy for Northern Ireland.

SENATE CONCURRENT RESOLUTION 74

At the request of Mr. TSONGAS, the name of the Senator from Alabama (Mr. DENTON) was added as a cosponsor of Senate Concurrent Resolution 74, a concurrent resolution to encourage and support the people of Afghanistan in their struggle to be free from foreign domination.

SENATE CONCURRENT RESOLUTION 80

At the request of Mr. DOLE, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of Senate Concurrent Resolution 80, a concurrent resolution expressing the sense of the Congress that the President should take all steps necessary to bring the question of self-determination of the Baltic States before the United Nations, and for the other purposes.

SENATE RESOLUTION 149

At the request of Mr. DODD, the name of the Senator from Michigan (Mr. LEVIN) and the Senator from Florida (Mr. CHILES) were added as cosponsors of Senate Resolution 149, a resolution to express the sense of the Senate that the laws which insure equal rights with regard to education opportunity for women should be maintained.

SENATE RESOLUTION 201

At the request of Mr. PRESSLER, the name of the Senator from Idaho (Mr. SYMMS) was added as a cosponsor of Senate Resolution 201, a resolution expressing the sense of the Senate concerning the use and/or provision of chemical warfare agents by the Soviet Union.

AMENDMENTS SUBMITTED

NATURAL GAS POLICY ACT

McCLURE AMENDMENT NO. 2524

Mr. McCLURE proposed an amendment to the bill (S. 1715) to amend the Natural Gas Policy Act of 1978, to protect consumers from those price increases that would occur because of market distortions as a consequence of current regulation of natural gas prices, to permit natural gas contracts to reflect free market prices, to provide for a phased deregulation of natural gas prices in order to achieve a free market by a date certain, to eliminate incremental pricing requirements for natural gas, to eliminate certain restrictions on the use of natural gas and petroleum, and for other purposes, as follows:

On page 38 following line 18 insert the following:

"SEC. 302. The Natural Gas Policy Act of 1978 is amended by adding the following new section:

"'SEC. 603.—LOCAL DISTRIBUTION COMPANY AUTOMATIC PURCHASED GAS COST SAVINGS PASSTHROUGH REQUIREMENTS

"'GENERAL RULE.—Any purchased gas cost savings received by any local distribution company shall be automatically and immediately passed through by such local distribution company to all gas consumers on a volumetric basis.'".

JOHNSTON AMENDMENT NO. 2525

Mr. JOHNSTON proposed an amendment to the bill S. 1715, supra; as follows:

Add at the end of amendment number 2524 (Mr. McCLURE) the following:

"'(a) PURCHASED GAS COST SAVINGS SUBJECT TO AUTOMATIC PASSTHROUGH.—For the purposes of this section, any reduction in the amounts paid by a local distribution company for the purchase of natural gas from any interstate pipeline as a result of section 601(c)(3)(G), or any other reductions in amounts paid for natural gas by a local distribution company, shall be deemed a purchased gas cost savings.

"'(b) COMMISSION RULES.—Within sixty days of the enactment of this section, the Commission shall promulgate such rules as may be necessary to provide for the automatic passthrough to customers of local distribution companies of the purchased gas cost savings specified in subsection (b).

"'(c) PROHIBITION ON OFFSETTING MODIFICATIONS IN RATES AND CHARGES.—Any modification of the method of allocating costs to the rates and charges in effect on the date of enactment of this section of such local distribution company, which has the effect of creating any offset in the rates and charges for natural gas to any customer served by such company for the amount of any purchased gas cost savings received by such local distribution company, is prohibited.

"'(d) ADDITIONAL ENFORCEMENT AUTHORITY.—In addition to such enforcement authority as may be available pursuant to section 504(b)(1), the Secretary, the Commission, or, on the request of the Secretary of Energy or the Commission, the Attorney General, may institute a civil action for injunctive or other equitable relief as may be appropriate to assure compliance with the provisions of this section requiring the passthrough of purchased gas cost savings received by any local distribution company. Such action may be instituted in any district court of the United States in the State in which such local distribution company conducts business or in the District Court of the United States for the District of Columbia.

"'(e) PREEMPTION OF STATE OR LOCAL LAW.—The requirements of this section shall preempt and supersede any provision of State or local law to the extent such provision of law would preclude the passthrough of any purchased gas cost savings pursuant to the provisions of this section, or prevent the application of the requirements of this section.'"

"SEC. 303. The Natural Gas Policy Act of 1978 is amended by inserting in Sec. 504(b)(1) after "Except as provided in paragraphs (2) and (3)," the phrase "and section 603(e),"."

FURTHER CONTINUING APPROPRIATIONS, 1984

ARMSTRONG AMENDMENT NO. 2526

Mr. ARMSTRONG proposed an amendment to the joint resolution (S.J. Res. 194) making further continuing appropriations for the fiscal year ending September 30, 1984, and for other purposes; as follows:

At the end of the joint resolution, add the following language:

Since it is contrary to the laws of the United States to import into the United States "all goods, wares, articles and merchandise mined, produced or manufactured wholly or in part in any foreign country by convict labor or/and forced labor; and

Since the Department of State, in its Report to the Congress on Forced Labor in the USSR (February, 1983) stated that forced labor is used "to produce large amounts of primary and manufactured

goods for both domestic and Western export markets; and

Since the provisions of 19 U.S.C. 1307 have not been enforced with respect to goods entering the United States from the Soviet Union;

Therefore it is the sense of the Senate that the officials responsible for the enforcement of 19 U.S.C. 1307 should:

(a) Use existing statutory authority to prevent the import of any product or material produced in the Soviet Union unless it was produced without the use of forced labor, and

(b) The Secretary of the Treasury should submit a report to Congress of the articles from the Soviet Union for which entry documents have been filed and the disposition of such requests.

KASSEBAUM AMENDMENT NO. 2527

Mrs. KASSEBAUM proposed an amendment to the joint resolution, Senate Joint Resolution 194, supra; as follows:

At the appropriate place in the joint resolution, add the following new section:

SEC. . Funds appropriated or otherwise made available for fiscal year 1984 by this joint resolution or any other law shall be available notwithstanding section 15(a) of the State Department Basic Authorities Act of 1956 and section 701 of the United States Information and Exchange Act of 1948, as amended until November 18, 1983.

DENTON AMENDMENT NO. 2528

Mr. DENTON proposed an amendment to the joint resolution, Senate Joint Resolution 194, supra; as follows:

At the end of the joint resolution, add the following:

SEC. 111. None of the funds appropriated by this Act shall be available to pay for an abortion or to pay, after the last day of the current contract term applicable in the case of any Federal employees health benefits plan, for the administrative expenses in connection with any Federal employees health benefits plan which provides any benefits or coverage for abortions.

DENTON AMENDMENT NO. 2529

Mr. DENTON proposed an amendment to amendment No. 2528 proposed by him to the joint resolution, Senate Joint Resolution 194, supra; as follows:

On line 3, beginning with "to pay for", strike out all through line 8, and insert in lieu thereof the following: ", (1) to pay for an abortion, except where the life of the mother would be endangered if the fetus were carried to term, or (2) to pay, after the last day of the current contract term applicable in the case of any Federal employees health benefits plan, for the administrative expenses in connection with any Federal employees health benefits plan which provides any benefits or coverage for abortions, except any such plan which provides benefits or coverage for an abortion only in the case of a mother whose life would be endangered if the fetus were carried to term.".

BUMPERS AMENDMENT NO. 2530

Mr. BUMPERS submitted an amendment intended to be proposed by him to the joint resolution, Senate Joint Resolution 194, supra; as follows:

At the appropriate place in the joint resolution, add the following new section:

SEC. . None of the funds appropriated under this Act shall be available to the Secretary of Agriculture to implement or enforce that portion of any regulation, ruling, policy, or administrative determination which allows the inclusion of projected production determinations from payment-in-kind or land diversion program participation, or any source other than actual production, in making a single enterprise production loss determination for the 1983 crop year under section 1970 of Title 7, U.S.C.

GLENN AMENDMENT NO. 2531

Mr. GLENN submitted an amendment intended to be proposed by him to the joint resolution, Senate Joint Resolution 194, supra; as follows:

At the end of the joint resolution, add the following:

That (a)(1) subchapter I of chapter 81 of title 5, United States Code, is amended by inserting after section 8147 the following new section:

"§ 8148. Death benefits for law enforcement officers and firefighters

"(a) For the purpose of this section—

"(1) 'law enforcement officer' means an employee—

"(A) the duties of whose position include performing work directly connected with—

"(i) the control of crime or juvenile delinquency:

"(ii) the enforcement of the criminal laws; or

"(iii) the protection of Federal officials, public buildings or property, or foreign diplomatic missions; and

"(B) who, at the time the personal injury referred to in subsection (b) of this section is sustained, is—

"(i) engaged in the detection of crime;

"(ii) engaged in the apprehension of an alleged criminal offender;

"(iii) engaged in the keeping in physical custody of an alleged or convicted criminal offender; or

"(iv) assaulted or subjected to the conduct of criminal activity in the line of duty;

"(2) 'firefighter' means an employee the duties of whose position include performing work directly connected with the control and extinguishment of fires and who, at the time the personal injury referred to in subsection (b) of this section is sustained, is engaged in such work in the control or extinguishment of a fire or other emergency operation;

"(3) 'child' means any natural, illegitimate, adopted, or posthumous child or stepchild of a deceased law enforcement officer or firefighter (as defined in paragraphs (1) and (2)) who, at the time of such law enforcement officer or firefighter's death, is—

"(A) 18 years of age or under:

"(B) over 18 years of age and a student; or

"(C) over 18 years of age and incapable of self-support because of physical or mental disability;

"(4) 'dependent' means substantially reliant for support upon the income of the deceased law enforcement officer or firefighter;

"(5) 'intoxication' means a disturbance of mental or physical faculties resulting from the introduction of alcohol, drugs, or other substances into the body; and

"(6) 'detection of crime' means the physical pursuit, investigation, or interviewing of any individual at a crime scene, but shall not include laboratory investigation, studies, or other similar acts of a nondangerous nature.

"(b)(1) In any case in which the Secretary of Labor determines, under regulations prescribed pursuant to this section, that a law enforcement officer or firefighter has died as the direct and proximate result of a personal injury inflicted by an outside force and in the line of duty, the Secretary shall pay a benefit of $50,000 as follows:

"(A) if there is no surviving child of such law enforcement officer or firefighter, to the surviving spouse of such law enforcement officer or firefighter;

"(B) if there are one or more surviving children and a surviving spouse, one-half to the surviving children in equal shares and one-half to the surviving spouse;

"(C) if there is no surviving spouse, to the surviving children of such law enforcement officer or firefighter in equal shares; or

"(D) if none of the above, to the dependent parent or parents of such law enforcement officer or firefighter in equal shares.

"(2) In any case in which the Secretary determines, upon a showing of need and prior to taking final action, that the death of a law enforcement officer or firefighter is one with respect to which a benefit will probably be paid, the Secretary may make an interim benefit payment not exceeding $3,000 to the individual entitled to receive a benefit under paragraph (1) of this subsection.

"(3) The amount of an interim payment to any individual under paragraph (2) of this subsection shall be deducted from the amount of any final benefit paid to such individual.

"(4) In any case in which there is no final benefit paid, the recipient of any interim payment under paragraph (2) of this subsection shall be liable for repayment of such amount. The Secretary may waive all or part of such repayment, considering for this purpose the hardship which would result from such repayment.

"(5) The benefit payable under this section shall be in addition to any compensation or other benefit that may be due under this subchapter or from any other source, but shall be reduced by payments authorized by section 12(k) of the Act of September 1, 1916, as amended (D.C. Code, sec. 4-531(1)).

"(6) No benefit paid under this section shall be subject to execution or attachment.

"(7) No benefit shall be paid under this section—

"(A) if the law enforcement officer or firefighter's death was caused by the intentional misconduct of the law enforcement officer or firefighter or by such law enforcement officer or firefighter's intention to bring about such death;

"(B) if voluntary intoxication of the law enforcement officer or firefighter was the proximate cause of death; or

"(C) to any individual who would otherwise be entitled to a benefit under this section if such individual's actions were a substantial contributing factor to the law enforcement officer or firefighter's death.

"(c) The Secretary may prescribe rules, regulations, and procedures to carry out the purpose of this section. Such rules, regulations, and procedures will be determinative of conflict of laws and issues arising under this section. Rules, regulations, and procedures prescribed under this section may in-

clude regulations governing the recognition of agents or other persons representing claimants under this section before the Secretary. The Secretary may prescribe the maximum fees which may be charged for services performed in connection with any claim under this section before the Secretary, and any agreement in violation of such rules and regulations shall be void.".

(2) The table of sections for chapter 81 of title 5, United States Code, is amended by inserting after the item relating to section 8147 the following new item:

"8148. Death benefits for law enforcement officers and firefighters.".

(b)(1) Section 8101(9) of title 5, United States Code, relating to definition of "child", is amended by inserting after "means" the following: ", except as provided in section 8148(a)(3) of this title,".

(2) Section 8101(12) of such title, relating to definition of "compensation", is amended by striking out "Fund, but this does not in any way reduce the amount of the monthly compensation payable for disability or death;" and inserting in lieu thereof the following: "Fund, except that—

"(A) this paragraph does not in any way reduce the amount of the monthly compensation payable for disability or death; and

"(B) such term does not include benefits paid under section 8148 of this title;".

SEC. 2. The authority to make payments under section 8148 of title 5, United States Code (as added by the first section of this Act), shall be effective only to the extent provided for in advance by appropriation Acts.

SEC. 3. The amendments made by this Act shall take effect October 1, 1983, and shall apply with respect to injuries sustained on or after such date.

HEINZ (AND OTHERS) AMENDMENT NO. 2532

Mr. HEINZ (for himself, Mr. GLENN, Mr. RANDOLPH, Mr. SPECTER, Mr. HOLLINGS, Mr. SASSER, Mr. PERCY, Mr. RIEGLE, Mr. LUGAR, Mr. MOYNIHAN, Mr. EAGLETON, Mr. NUNN, Mr. CRANSTON, Mr. DIXON, and Mr. MELCHER) submitted an amendment intended to be proposed by them to the joint resolution, Senate Joint Resolution 194, supra; as follows:

At the end of the joint resolution, add the following new section:

SEC. . Notwithstanding any other provision of this joint resolution, of the funds appropriated by this joint resolution to the United States Customs Service—

(1) at least $4,240,000 shall be used to provide direct investigatory manpower positions which are to be devoted to the enforcement of those customs laws against fraud that involve the importation of steel, and

(2) at least $260,000 shall be used to purchase 4 mobile chemical spectrometers.

CIVIL RIGHTS COMMISSION EXTENSION

SPECTER AMENDMENT No. 2533

Mr. SPECTER (for himself and Mr. BIDEN) proposed an amendment to the bill (H.R. 2230) to amend the Civil Rights Act of 1957 to extend the life of the Civil Rights Commission, and for other purposes, as follows:

On page 1, line 3 through line 2 on page 3: strike all after the word "That" and insert in lieu thereof the following: this Act may be cited as the "Commission on Civil Rights Authorization Act of 1983".

SEC. 2. (a) Section 101 of the Civil Rights Act of 1957 is amended to read as follows:

"ESTABLISHMENT OF THE COMMISSION ON CIVIL RIGHTS

"SEC. 101. (a) There is created in the legislative branch of the Government a Commission on Civil Rights (hereafter in this Act referred to as the 'Commission').

"(b) The Commission shall be composed of eight members as follows:

"(1) four shall be appointed by the Speaker of the House of Representatives on the recommendation of the Majority Leader and the Minority Leader, no more than two of whom shall be of the same political party; and

"(2) four shall be appointed by the President pro tempore of the Senate upon the recommendation of the Majority Leader and the Minority Leader of the Senate, no more than two of whom shall be of the same political party.

Not more than four of the members shall at any one time be of the same political party.

"(c) The Commission shall select a Chairman and a Vice Chairman from among its members annually. The Vice Chairman shall act as Chairman in the absence or disability of the Chairman, or in the event of a vacancy in that office.

"(d) Members of the Commission shall be appointed for a term of eight years, except that as designated by the Speaker of the House of Representatives and the President pro tempore of the Senate the first and second Commissioners appointed shall serve two-year terms, the third and fourth Commissioners appointed shall serve four-year terms, and the fifth and sixth Commissioners appointed shall serve six-year terms. A Commissioner may be reappointed.

"(e) Any vacancy in the Commission shall not affect its powers and shall be filled in the same manner, and subject to the same limitation with respect to party affiliations as the original appointment was made.

"(f) A member of the Commission may continue to serve until his successor has taken office as a member of the Commission.

"(g) A majority of the Commission shall constitute a quorum.

"(h) The Speaker of the House of Representatives and the President pro tempore of the Senate jointly may remove a member of the Commission only for neglect of duty or malfeasance in office.".

"(b) Section 102 of the Civil Rights Act of 1957 is amended by adding at the end thereof the following new subsection:

"(m) The provision of subchapter II of chapter 5 of title 5 of the United States Code, relating to administrative procedure and freedom of information, shall, to the extent not inconsistent with this section, apply to the Commission established under this Act.".

(c) Section 104(c) of the Civil Rights Act of 1957 is amended to read as follows:

"(c) The Commission shall submit reports to the Congress at such times as the Commission or the Congress shall deem desirable.".

(d) Section 105(a) of the Civil Rights Act of 1957 is amended to read as follows:

"(a)(1) There shall be a full-time staff director for the Commission who shall be appointed by majority vote of the Commission.

"(2)(A) Effective November 29, 1983, or on the date of enactment of this Act, whichever occurs first, all employees (other than the Director, the members of the Commission and the special assistants thereof) of the Commission on Civil Rights are transferred to the Commission established by the amendment made by section 2(a) of the Commission on Civil Rights Authorization Act of 1983.

"(B) Upon application of any individual (other than the Director, a member of the Commission or a special assistant thereof) who was an employee of the Commission on Civil Rights established by the Civil Rights Act of 1957 on September 30, 1983, the Commission shall appoint such individual to a position the duties and responsibilities of which and the rate of pay for which, are comparable to the duties, responsibilities and rate of pay of the position held by such employee on September 30, 1983.

"(C) Any employee transferred under subparagraph (A) or appointed under subparagraph (B) shall be deemed to have been employed by the Government without a break in service for purpose of chapter 35 (retention preference), 55 (pay administration), 63 (leave), 81 (insurance) and 89 (health insurance) of title 5, United States Code.

"(3) Within the limitations of its appropriation, the Commission may appoint such other personnel as it deems advisable.

"(4) The Commission shall, not later than 90 days after the date of enactment, establish by regulation a personnel management system for the Commission which shall be consistent with the personnel management system established under section 732 of title 31, United States Code.".

(e) Section 106 of the Civil Rights Act of 1957 is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 106. There are authorized to be appropriated $12,180,000 for each of the fiscal years 1984, 1985, 1986, and 1987.".

SEC. 3. (a) Effective thirty days after the date of enactment of this Act, files, records, and balances of appropriations of the Commission on Civil Rights are transferred to the Commission established by the amendment made by section 2(a) of this Act.

(b) To the extent not inconsistent with the amendments made by this Act, the Commission established by the amendment made by section 2(a) of this Act shall be bound by all rules issued by the Civil Rights Commission established by the Civil Rights Act of 1957 which were in effect on September 30, 1983, until modified by the Commission in accordance with applicable law.

BIDEN AMENDMENT NO. 2534

Mr. BIDEN proposed an amendment (which was subsequently modified) to amendment No. 2533 proposed by Mr. SPECTER (and Mr. BIDEN) to the bill H.R. 2230, supra; as follows:

Strike out all after line 4 on page 1 and insert in lieu thereof the following:

SEC. 2. (a) Section 101 of the Civil Rights Act of 1957 is amended to read as follows:

"ESTABLISHMENT OF THE COMMISSION ON CIVIL RIGHTS

"SEC. 101. (a) There is created in the legislative branch of Government a Congression-

al Commission on Civil Rights (hereafter in this Act referred to as the 'Commission').

"(b) The Commission shall be composed of eight members as follows:

"(1) four shall be appointed by the Speaker of the House of Representatives on the recommendation of the Majority Leader and the Minority Leader, no more than two of whom shall be of the same political party; and

"(2) four shall be appointed by the President pro tempore of the Senate upon the recommendation of the Majority Leader and the Minority Leader of the Senate, no more than two of whom shall be of the same political party.

Not more than four of the members shall at any one time be of the same political party.

"(c) The Commission shall select a Chairman and a Vice Chairman from among its members annually. The Vice Chairman shall act as Chairman in the absence or disability of the Chairman, or in the event of a vacancy in that office.

"(d) Members of the Commission shall be appointed for a term of eight years, except that as designated by the Speaker of the House of Representatives and the President pro tempore of the Senate the first and second Commissioners appointed shall serve two-year terms, the third and fourth Commissioners appointed shall serve four-year terms, and the fifth and sixth Commissioners appointed shall serve six-year terms. A Commissioner may be reappointed.

"(e) Any vacancy in the Commission shall not affect its powers and shall be filled in the same manner, and subject to the same limitation with respect to party affiliations as the original appointment was made.

"(f) A member of the Commission may continue to serve until his successor has taken office as a member of the Commission.

"(g) A majority of the Commission shall constitute a quorum.

"(h) The Speaker of the House of Representatives and the President pro tempore of the Senate jointly may remove a member of the Commission only for neglect of duty or malfeasance in office.".

(b) Section 102 of the Civil Rights Act of 1957 is amended by adding at the end thereof the following new subsection:

"(m) The provision of subchapter II of chapter 5 of title 5 of the United States Code, relating to administrative procedure and freedom of information, shall, to the extent not inconsistent with this section, apply to the Commission established under this Act.".

(c) Section 104(c) of the Civil Rights Act of 1957 is amended to read as follows:

"(c) The Commission shall submit reports to the Congress at such times as the Commission or the Congress shall deem desirable.".

(d) Section 105(a) of the Civil Rights Act of 1957 is amended to read as follows:

"(a)(1) There shall be a full-time staff director for the Commission who shall be appointed by majority vote of the Commission.

"(2)(A) Effective November 29, 1983, or on the date of enactment of this Act, whichever occurs first, all employees (other than the Director, the members of the Commission and the special assistants thereof) of the Commission on Civil Rights are transferred to the Commission established by the amendment made by section 2(a) of the Commission on Civil Rights Authorization Act of 1983.

"(B) Upon application of any individual (other than the Director, a member of the Commission or a special assistant thereof) who was an employee of the Commission on Civil Rights established by the Civil Rights Act of 1957 on September 30, 1983, the Commission shall appoint such individual to a position the duties and responsibilities of which and the rate of pay for which, are comparable to the duties, responsibilities and rate of pay of the position held by such employee on September 30, 1983.

"(C) Any employee transferred under subparagraph (A) or appointed under subparagraph (B) shall be deemed to have been employed by the Government without a break in service for purpose of chapter 35 (retention preference), 55 (pay administration), 63 (leave), 81 (insurance) and 90 (health insurance) of title 5, United States Code.

"(3) Within the limitations of its appropriation, the Commission may appoint such other personnel as it deems advisable.

"(4) The Commission shall, not later than 90 days after the date of enactment, establish by regulation a personnel management system for the Commission which shall be consistent with the personnel management system established under section 732 of title 31, United States Code.".

(e) Section 106 of the Civil Rights Act of 1957 is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 106. There are authorized to be appropriated $12,100,000 for each of the fiscal years 1984, 1985, 1986, and 1988.".

SEC. 3. (a) Effective thirty days after the date of enactment of this Act, all files, records, and balances of appropriations of the Commission on Civil Rights are transferred to the Commission established by the amendment made by section 2(a) of this Act.

(b) To the extent not inconsistent with the amendments made by this Act, the Commission established by the amendment made by section 2(a) of this Act shall be bound by all rules issued by the Civil Rights Commission established by the Civil Rights Act of 1957 which were in effect on September 30, 1983, until modified by the Commission in accordance with applicable law.

GRATUITY TO ADELE C. OSTRANDER

MATHIAS AMENDMENT NO. 2535

Mr. BAKER (for Mr. MATHIAS) proposed an amendment to the resolution (S. Res. 265) to pay a gratuity to Adele C. Ostrander, as follows:

On page one, line 5, strike out "one year's" and insert in lieu thereof "eight and one-half months' ".

NOTICES OF HEARINGS

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 the nomination of Helmuth A. Merklein, of Texas, to be an Assistant Secretary of Energy for International Affairs.

The hearing will be held on Thursday, November 10, beginning at 10:30 a.m. in room SD-366 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, U.S. Senate, 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.

SUBCOMMITTEE ON ENERGY AND MINERAL RESOURCES

Mr. WARNER. Mr. President, I would like to announce for the information of the Senate and the public that the oversight hearing regarding the strategic petroleum reserve scheduled before the Subcommittee on Energy and Mineral Resources for Thursday, November 10 will begin at 9 a.m. instead of 11 a.m. as previously announced. The hearing will be held in room SD-366 of the Dirksen Senate Office Building.

In addition, the oversight hearing regarding coal use by the Nation's railroads scheduled before the subcommittee for November 28 in Roanoke, Va. will begin at 11 a.m. instead of 10 a.m. as previously announced.

For further information regarding these hearings you may wish to contact Mr. Roger Sindelar of the subcommittee staff at 224-5205.

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. HELMS. Mr. President, I wish to announce that the Committee on Agriculture, Nutrition, and Forestry will conduct a hearing on Tuesday, November 15, 1983, at 10 a.m., in room 328-A Russell Senate Office Building.

The purpose of the hearing will be to take a historic look at Soviet agriculture: The failure of collectivization, the human cost of collectivization, and the continuing Soviet agricultural problems. Current Soviet agricultural production will be examined in comparison to production in other Asian and European countries.

The hearing will focus on the Soviet state-induced famine of 1932-33 which took the lives of an estimated 7 million Ukrainians. The Ukrainian-American community is commemorating the 50th anniversary of the famine.

Anyone wishing further information, please contact the Agriculture Committee staff at 224-0014 or 224-0017.

SUBCOMMITTEE ON SOIL AND WATER CONSERVATION, FORESTRY, AND ENVIRONMENT

Mr. JEPSEN. Mr. President, I wish to announce that the Subcommittee on Soil and Water Conservation, Forestry, and Environment of the Committee on Agriculture, Nutrition, and Forestry will conduct a hearing on Wednesday, November 16, 1983, at 10

a.m. in room 328-A, Russell Senate Office Building.

The purpose of the hearing is to receive testimony on S. 1610, a bill to establish the wilderness areas in Wisconsin.

Anyone wishing further information please contact the Agriculture committee staff at 224-0014 or 224-0017.

SUBCOMMITTEE ON AGRICULTURAL PRODUCTION, MARKETING, AND STABILIZATION OF PRICES

Mr. COCHRAN. Mr. President, I wish to announce that the Subcommittee on Agricultural Production, Marketing, and Stabilization of Prices of the Committee on Agriculture, Nutrition, and Forestry will conduct a hearing on Wednesday, November 16, 1983, at 2 p.m. in room 328-A, Russell Senate Office Building.

The hearing is in regard to the operation and management of the Federal Crop Insurance Corporation.

Anyone wishing further information, please contact the Agriculture Committee staff at 224-0014 or 224-0017.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet during the session of the Senate on Wednesday, November 9, to hold a hearing on the Carter Presidential Library proposal.

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

COMMITTEE ON ARMED SERVICES

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Wednesday, November 9, at 10 a.m., to receive testimony on the organization of the military departments and their relationship with other Department of Defense and executive branch agencies.

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

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet during the session of the Senate on Wednesday, November 9, to consider NRC authorizations for fiscal year 1984-85.

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

COMMITTEE ON THE JUDICIARY

Mr. ABDNOR. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Wednesday, November 9, 1983, in order to receive testimony concerning the following nominations: Elizabeth V. Hallanan of West Virginia, to be U.S. district judge for the southern district of West Virginia.

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

ADDITIONAL STATEMENTS

REMEMBERING ESCUADRON 201

● Mr. GLENN. Mr. President, this Friday is the day we dedicate to remembrance of our war veterans, and no one needs reminding of the patriotic and courageous wartime service of Hispanic Americans. They have been among the first to answer the call of duty in defense of our Nation and of the freedom we hold so dear.

Now, on Veterans Day, the American GI Forum of the United States, an organization founded by Hispanic Americans in 1948, would like us also to remember the contingent of Mexican fighter pilots who fought side by side with our military forces in the China seas and off the Philippine Islands during World War II.

These Mexican nationals, members of the Mexican Air Force Fighter Squadron 201, were attached to the American 58th Fighter Group, 5th Air Force. The 332 officers and men of "Escuadron 201" saw combat in the Philippine and Formosan air offensives and were assigned to protect American troopships against enemy attacks. They are the only Mexican military unit to have served and fought outside of Mexico.

All surviving members of "Escuadron 201" are honorary members of the American GI Forum, a nationwide veterans family organization. Since the end of World War II, membership in this patriotic organization has grown and includes veterans of the Korean and Vietnam wars. The American GI Forum should be congratulated for recognizing the need to commemorate the contributions made by Mexican fighter pilots by the establishment of a National Museum in Mexico.

I, too, wish to salute our neighbors to the south for joining our fight for freedom during those dark days of World War II.●

THE DEFICIT CHALLENGE—REMARKS TO THE NATIONAL MEAT ASSOCIATION

● Mr. DOLE. Mr. President, on Tuesday evening, November 8, I had the pleasure of addressing the National Meat Association on the subject of Federal budget deficits, the risks they pose to economic recovery, and the challenge they present for those of us in public service. The members of the association, like all business leaders across the country, are rightly concerned that our failure to come to grips with the problem of massive deficits endangers their efforts to build a better future for themselves and their families.

Government has to set an example, not just follow a trend. The American people expect discipline and responsible action from the Congress and the President. Until we provide leadership to tackle our fiscal crisis, we should not be surprised if our citizens remain skeptical of Government and politicians.

Mr. President, I hope that my remarks to the National Meat Association on the subject of the budget deficit may be of interest to Members, and I ask that the text of my November 8 speech be printed in the RECORD at this point.

The speech follows:

REMARKS OF SENATOR BOB DOLE

THE DEFICIT—CHALLENGE AND RISK

The time is past for talk about the deficit. This is the time for action by Congress and the President to legislate real, significant reductions in the massive outyear deficits that threaten the stability and durability of the economic recovery. The people will not take any of us seriously—Democrats or Republicans—unless we can mobilize to deal with our most serious domestic problem. The budget deficit, and its relation to the fate of economic recovery, ought to be at the top of our legislative agenda—not just an excuse for campaign rhetoric. We need substantive action to reduce the deficit, now.

WHY NOW

There are differing views as to when the deficit becomes a severe problem—there is virtually no disagreement that deficits of the size we are contemplating do pose a serious threat. Some say a faster recovery will bring on "crowding out" fairly soon, as the Government competes in the credit markets. Others say a faster recovery will boost profits and incomes, thereby increasing Federal revenues and helping to reduce the deficit. There are no definitive answers to this question. Therefore our obligation is to choose the most prudent course—the course most likely to keep the recovery on track.

The right course—the only sensible course—is to act as soon as possible to reduce the deficit. If we are not certain how soon the deficit will threaten recovery, clearly we ought to act now in order to minimize the risk that problems will arise sooner rather than later. We know that as recovery proceeds, at some point deficits continuing at a $200 billion-plus level will either drive interest rates up or lead to renewed inflation. Neither of those results is acceptable: Both would make a mockery of the real substantial progress President Reagan has made in getting the economy back on a sound footing. To delay action on the deficit would mean no real change until 1985—and that may be too late.

THE RISKS WE FACE

There should be little doubt that we are already running into some problems because of our failure to act on the deficit. Amid the many favorable, and welcome, reports of economic advance—higher industrial production, rising consumer confidence, and declining unemployment—there are also some less welcome trends. The uptick in interest rates we have seen since last spring is cause of real concern, and there is no way to be

certain it will not continue. The prime rate is back up to 11 percent—not a big increase, but a severe disappointment when the economy so desperately needs a clear downward trend in real interest rates. In May, 91-day Treasury bills were yielding 8.04 percent. Yesterday they were at 8.83 percent. In addition, and most important for the homebuyer and the critical housing industry, mortgage rates are up in the 13 to 13½ percent range.

None of these changes, in and of itself, is going to throttle the recovery. That is not the concern. But taken together, these upward-creeping interest rates raise the specter of a return to the unacceptably high double-digit rates of recent years. Those who remember the 21 percent prime rate are not eager to see it back again.

Even if everything else is going well in the economy, higher interest rates mean lower capital formation and long-term growth; more pressure for raising domestic barriers to free trade; and further escalation of Federal deficits, since we are obliged to pay the mounting interest costs on the burgeoning debt. These effects, taken together, are extremely bad news for our basic industries, where the need to upgrade heavy plant and equipment means a high degree of sensitivity to interest cost. Furthermore, the stronger dollar that results from higher U.S. interest rates makes it more difficult for our basic industries to compete with low-cost imports. As Charles Schultz has said, closing the deficit gap would be the best industrial policy imaginable.

Basic industries are not the only element of our economy that will suffer if the deficits are not brought down. All economic progress would be retarded, because higher interest costs bring less investment, a lower rate of capital formation—that means less growth over the long term, fewer jobs, and slower growth in our standard of living. The risk of "disinvestment" in this country is real: It must be dealt with. If it is not faced up to by cutting the deficit, we may embark on a low-growth path that could condemn many citizens to poverty who might otherwise be able to find productive and useful employment.

So it should be clear that the economic goals we all share—stable, sustained growth, free international markets, an improved trade balance, more productive jobs, low inflation—are put at risk by our failure to act on the deficit. Sooner or later the job will have to be done. The longer we wait, the more acute the crisis will be, and the more bitter the medicine we will have to take. Each month of delay means more outstanding debt, and that debt has to be financed. Financing costs just for the increment we will add to the debt amount to $100 billion over five years. This compounding of the debt problem must be stopped, and if we wait, the size of the spending cuts and tax increases needed to bring the deficit in line with reality will continue to mount. Every dollar of deficit reduction put off until 1985 will require $1.15 in deficit-reduction efforts to achieve the same result we could—and ought to—achieve right now.

ACTION TO DATE

There is plenty of blame to be shared for our failure to make a meaningful impact on the deficit, and there are plenty of people to share it. It is not just the White House, it is not just the Congress, it is not just the favored constituencies and special groups that we all like to please. All of us, together, are responsible—and all of us must come up with a solution.

The 1984 budget adopted by Congress is a good example of this problem. Even if fully implemented it would not have the necessary dramatic impact on the deficit. Furthermore, it is not a balanced package: $12.8 billion in reconciled spending cuts, compared with $73 billion in reconciled tax increases, is not anyone's idea of fairness or balance, especially when spending is running at 25 percent of GNP. Indeed, apart from reconciliation, the net effect on the 1984 budget would be to increase nondefense spending by $1 billion. And if we enacted all of the proposals provided for in the so-called contingency fund, we would increase spending by about $10 billion in 1984. That is why I, and 10 other members of the Finance Committee, voted against the budget resolution. It was not balanced between spending and revenues and it was not fair.

But the budget is just one sign of the inertia that has gripped Congress and the administration. Congress has been only too willing this year to accommodate special interests, rather than show the spirit and discipline it mustered, at least to some degree, in 1981 and 1982.

THE PRESIDENT AND THE SPEAKER

The Reagan administration has been correct in criticizing Congress for its inaction on spending. I have said so for nearly two years. But no one is free from responsibility for this problem, and both the President and the Speaker of the House need to help us by showing a little more flexibility. Some do not want tax increases, and some do want spending cuts. But of necessity we are going to need some of each, and we might as well face that fact. Many are willing to try to accommodate the President in acknowledging his spending and tax priorities in putting together a deficit reduction package. Similarly, we recognize that the Speaker has his own priorities, which have to be reckoned with in reducing the deficit. But I believe we can work these things out if the President, the House and Senate leadership, all are willing to negotiate. The danger is that if everyone rules too many things out of bounds, there will be no common ground left for reaching a deficit-reduction agreement.

We in the Finance Committee, as my colleagues know, have been trying to put together a deficit reduction package effective in January, 1985, that would match the tax increases in the budget resolution with equivalent dollar-for-dollar reductions in spending. That would cut the deficit by about $150 billion over three years—not as much as we may need, but a major shift in the trend of the deficit. We are trying to do it on a bipartisan basis—we are trying to see that everyone gives a little—we are trying to achieve the kind of balance and fairness necessary to forge a consensus.

The President has often mentioned that the budget is the responsibility of Congress, and that he would not interfere in congressional budget-making. That is why we hope he will be sympathetic to our efforts to put together a realistic budget.

We are also, I might add, trying to reflect the priorities the President has set down. Secretary Regan said yesterday that the President might take seriously a deficit-reduction package that makes tax increases contingent on spending reductions. We are trying to do that. The Secretary also indicated that the spending reductions would have to be "sizeable". We are trying to do that too—$75 billion over three years. That would match the tax increases in the budget resolution and split the difference 50-50 between taxes and spending. We hope, as Secretary Regan indicated might happen, that the deficit falls as low as $125 billion by fiscal year 1986. But $125 billion is still a huge figure—and there is no certainty whatever that it will be achieved by economic growth alone. The fact remains that acting to reduce the deficit now will do the most to insure economic growth at a sustainable pace. So we ought to agree that swift action on the deficit is the way to prosperity.

TO DO THE JOB

To do the job on the deficit we are all going to have to give some. There are not the votes to do it all with spending cuts, so we must balance spending and revenues in a package. On the revenue side, we would prefer to proceed along the tax-reform route that succeeded last year. But if there are not the votes to do that, we have to consider other revenue sources. If everyone demands a perfect package, we will have no deficit reduction at all. Flexibility is the key to a good package, a fair package, that really cuts spending while boosting revenues in an equitable way. We can touch the sacred cows if we agree on the overall, compelling need to reduce the deficit.

Let us not underestimate the stakes. Economic recovery is on track. Reducing the deficit will build on the strong base of economic progress that has been established, and avoid the kind of crisis that could bring all our efforts to nothing. Inflation has been running about 3 percent—we want to keep it there, or even lower it. Interest rates still are well below the record levels of the Carter years—we want to bring them lower still. Employment is rising, with unemployment down to 8.8 percent, and we have to sustain that downward trend. Housing starts are well over last year's levels, and the auto industry is having a good year. The economy is growing at a rapid clip, more rapid than most analysts predicted. Our goal in the finance committee is to sustain this progress and keep recovery going.

Major deficit reduction now is not a reversal of course. It is the only way to stay on course and avert a renewed economic crisis. We have had enough of crisis management where the economy is concerned—it is time we showed the leadership to get ahead of economic developments, rather than sit on the sidelines and wait for problems to arise. In any event the deficit problem is here, now—it must be dealt with, now.

It will take bold leadership to attack the deficit. There are a lot of political risks involved. But leadership can make the difference. The American people understand the problem and the need for everyone to pitch in. They will respond to a balanced, bipartisan, fair assault on the deficit. Our civic, business, and labor leaders are crying for action. So are our allies, our trading partners, and the world investment community. Exercising leadership is the best policy, and the best politics as well.●

SEVERANCE TAXES AND FISCAL DISPARITIES

● Mr. DURENBERGER. Mr. President, earlier this week, when the Senate was considering the debt limit bill, my colleague from Illinois (Mr. DIXON) proposed an amendment to limit the ability of States to levy a severance tax on coal, oil, and natural gas. The Senator withdrew his amend-

ment before I had an opportunity to speak on it, so I would like to take just a few minutes now to address this very important matter.

The amendment of the Senator from Illinois would have prohibited States from imposing severance taxes on coal, oil, and natural gas, except to "recover the public costs directly attributable to the energy extraction activities," whatever that means. As written, the amendment presumed that each State had already set its severance tax rates at precisely this point by 1978. Under the amendment, States would have been prohibited from increasing their severance taxes on these energy resources above their 1978 level, as adjusted for inflation, unless the State could demonstrate that such an increase was necessary to cover "directly attributable costs." This amendment was identical to S. 463, the Severance Tax Equity Act, which Senator DIXON introduced earlier this year.

I would have opposed this amendment had it been brought to a vote, and I want to go on record now that I will oppose any such proposal if it arises again. Now, this calls for some explanation, since I am closely identified with the effort to limit States' severance taxes on coal extracted from Federal land. Indeed, I was the principal sponsor of a bill to do just that in the last Congress (S. 178).

The reason I oppose the approach taken in S. 463 is simple. It seeks to address the growing problem of fiscal disparities among States with a drastic solution, while other more appropriate solutions are readily available. I share the concern of my good friend from Illinois over the growing problem of fiscal disparities. It is a disease of our Federal system of government that will incapacitate it eventually if not properly treated. However, the solution proposed by S. 463 is a cure with effects on the Federal system equally as undesirable as the disease itself. In fact, the solution proposed by this legislation strikes directly at the roots of Federalism—the unfettered authority of the States to tax.

This authority is a cherished right of the States and has been restricted by Congress and the Courts only in those cases where the exercise of State taxing authority conflicts with the Constitution. Under article I, section 10, for example, States may not levy a tax on imports or exports, except to cover the cost of carrying out their inspection laws. Likewise, the Court found in the famous case of McCulloch against Maryland that the supremacy clause (article VI, clause 2) gives the Federal Government the right to limit or eliminate State taxes on the Federal Government.

The limitation on State taxing authority contemplated in S. 463 goes well beyond such narrow bounds. It runs directly counter to all our notions of the proper National-State relationship in the American Federal system. By adopting this approach we would be correcting a slow-acting malady, which we have time to address by other desirable actions, with a direct body blow to the Federal system that would shake its very foundation.

But, having dismissed the drastic solution proposed in S. 463 as unsound, we are left to face the very troubling dilemma of fiscal disparities—the wide variability in the ability of States to raise revenue. This is a problem I have spoken to repeatedly on the floor of the Senate over the past several years. I cannot overstress the dire consequences for our Federal system if these disparities are left to grow unchecked.

There are solutions to the fiscal disparities problem—solutions that will have the effect of strengthening the Federal system. No single solution is perfect or complete. Each is limited in its ability to address the problem, but taken together, there are a number of things that can be done to smooth out the worst of the disparities in revenue-raising capacity. Let me go through a partial list at this time.

First, we could adopt the approach I proposed in the last Congress in S. 178 to place a limit on the amount of severance taxes a State may levy on an energy resource extracted from Federal land. The ability of States to levy a tax on these resources derives from an explicit statutory grant of authority contained in the Mineral Leasing Act of 1921. Few constitutional scholars doubt that a limitation of this authority falls well within the doctrine put forth in McCulloch against Maryland. In fact, the explicit mention of the right of States to levy these severance taxes in the 1921 act is clear evidence that Congress meant to forego its right to prohibit this taxation. It is entirely appropriate in light of the changed circumstances of the 1980's for Congress now to limit the authority it granted almost 60 years ago.

Another reasonable action Congress might take in this regard deals with the Federal royalties shared with States. Under the Mineral Leasing Act of 1921, not only were States granted the authority to levy severance taxes on resources extracted from Federal land within their boundaries, they also were guaranteed a share of any royalties the Federal Government might collect on these resources. Some States receive significant revenues from these shared Federal royalties. Congress might reasonably withhold a State's share of Federal royalties when it insists upon levying excessive severance taxes on resources extracted from Federal land.

Along with shared royalties, States that contain Federal mineral lands, grazing lands, national park and forest lands, wilderness areas, and water resource projects also receive payments in lieu of taxes (PILT) from the Federal Government. Such payments are made under the rationale that this type of so-called open-space Federal land is especially burdensome on State and local governments because it is neither taxable nor otherwise revenue generating. If States insist upon levying excessive severance taxes on resources taken from these Federal lands, however, they become quite lucrative as revenue sources and hence it would make perfect sense for Congress to withhold PILT payments along with Federal royalties in these cases.

A third approach to addressing the problem of fiscal disparities is one I have been advocating ever since I came to the Senate. We can revise Federal aid formulas to take better account of fiscal disparities. There are currently about 25 allocation formulas distributing approximately $40 billion that attempt to take States' fiscal capacity into account in distributing Federal aid. The problem is, all of these formulas measure fiscal capacity in a very poor way—they use the State's per capita income. The shortcomings of using per capita income as a measure of fiscal capacity have been well documented, and there is a readily available alternative to income that more accurately reflects States' true revenue raising capacity. It is called the representative tax system (RTS). It was developed over 20 years ago by the Advisory Commission on Intergovernmental Relations (ACIR) and has been found superior to per capita income by numerous scholars, the General Accounting Office and the Congressional Budget Office. Furthermore, it is a tested system. The Canadian Government already uses it to distribute aid to its provinces.

I have made the point repeatedly, but let me reiterate it. Per capita income neglects the ability of States to raise a significant portion of their revenues through severance taxes and other exportable taxes such as sales and gambling taxes on tourists. When capacity is measured by per capita income, energy-rich States appear considerably less well off than they are, and thus receive more Federal aid than they should. The RTS corrects this problem by giving a truer measure of States' relative revenue raising capabilities. I ask to have printed in the RECORD a clear explanation of the RTS by an associate director of ACIR, Mr. John Shannon. It cuts through the complexity of the system and debunks many of the myths surrounding the RTS.

The beauty of this partial solution to the fiscal disparities problem is that it does not interfere with the economy or tax sovereignty of the various States. It permits the national economy to evolve in a natural and efficient

manner and seeks only to correct the inequities that result.

The final alternative I would like to suggest is that Congress create a State revenue-sharing program designed specifically to reduce the worst fiscal disparities among States. I have already introduced a bill that would do just this, S. 700. I urge my colleagues to look closely at this legislation.

Not only would such a program address fiscal disparities, it would do so in a manner designed to lay the foundation for a genuine New Federalism. By establishing a State revenue-sharing program that puts a fiscal base under every State, regardless of its fiscal capacity, it would be possible to design a federalism reform package that would permit a real sorting-out of responsibilities among levels of government.

At this time, Mr. President, I also ask to have printed in the RECORD a paper by Gov. Richard Snelling of Vermont in which he pursues this idea in some detail.

Before closing, let me talk frankly to my colleagues from the energy producing States about this matter of fiscal disparities. If they would only recognize the legitimate concerns over fiscal disparities and would help us work toward solutions of the type I have suggested involving improved Federal formulas and other Federalism reforms such as a State revenue sharing program, the steam would go out of the efforts to impose drastic solutions to restrict States' tax authority. I submit that fiscal disparities will continue to grow, and at some point the problem will become so severe that Congress will react. My fear is that once we arrive at this point, the reaction will be closer to the approach put forward in S. 463 than the more modest solutions I have suggested here. This is not a prospect I look forward to. I value federalism too much as an overriding principle of government.

We have a choice. We can address the problem of fiscal disparities in a prudent manner, and thereby strengthen our Federal system for years to come; or we can wait until the problem is of such magnitude that it calls forth a drastic solution likely to weaken or debilitate the Federal system. I think the choice lies really with the representatives of the energy-producing States. I extend an invitation to my colleagues from these States to work with me in this endeavor. Our common interests in preserving the Federal system far outweigh any regional differences we may have.

I ask to have printed in the testimony of April 6, 1983, by Mr. John Shannon and the paper of August 20, 1983, by Governor Snelling be included in the RECORD; an editorial on this subject that appeared in the Dallas Morning News on September 20, 1983, and my subsequent reply to it.

The material requested to be printed in the RECORD is as follows:

TESTIMONY OF DR. JOHN SHANNON, ASSISTANT DIRECTOR, U.S. ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS, APRIL 6, 1983

Mr. Chairman, I appreciate this opportunity both to present the Commission's position on Revenue Sharing and to respond to your request for a description of the Representative Tax System as a means of measuring the tax capacity of states.

GENERAL REVENUE SHARING RENEWAL

On the issue of General Revenue Sharing (GRS), the Advisory Commission on Intergovernmental Relations has had a long and firm record of support. At its recent meeting in Charleston, South Carolina, the Commission reaffirmed that support with an endorsement that reads as follows:

Over the last two decades, the Advisory Commission on Intergovernmental Relations has consistently supported the general revenue sharing concept and has endorsed three principles to govern this program.

To ensure adequate coverage, the Commission has recommended that states and local governments be made direct program beneficiaries.

To ensure program certainty, the Commission has urged the use of a permanent trust as the funding mechanism.

To ensure funding adequacy and growth, the Commission has called for sharing of a constant percentage of the federal personal income tax base.

The point must be emphasized that the Commission did not recommend any basic changes in the formula for distributing GRS funds. However, many persons interested in formula changes have suggested, among other things, a switch from the current per capita income measure to the Representative Tax System approach for estimating the tax capacity of the states.

THE REPRESENTATIVE TAX SYSTEM FOR MEASURING STATE TAX CAPACITY

Over the last 20 years, a series of ACIR information reports have emphasized both the inadequacies of the per capita income approach and the need for building a better yardstick. In fact, our earliest report on this subject dates back to 1962; it first presented an alternative yardstick—the Representative Tax System—for measuring state tax capacity.[1]

That pioneering staff effort made a strong impression in Canada. As the Canadian representative, Mr. Clark, will probably point out in his testimony, the 1962 report played a part in the Canadian Parliament's decision to begin distributing federal equalization aid to the provinces using the Representative Tax System method for estimating provincial tax wealth.

In March of 1982, the Commission found that the use of a single yardstick, resident per capita income, to measure fiscal capacity seriously misrepresents the actual ability of many governments to raise revenue. In short, this misrepresentation results in a systematic overstatement or understatement of the ability of many states to raise revenue.

Mr. Chairman, I would like to make several observations that are intended both to explain the Representative Tax System (RTS) concept and to respond to certain charges leveled against it by its critics.

First, the Representative Tax System is a sophisticated yardstick for measuring the relative tax capacity of each of the 50 state-local systems. It answers this question: How would each of the 50 states rank on a tax productivity scale if every state applied identical tax rates (national averages) to each of the 26 commonly used tax bases.[2]

Second, this Representative Tax System yardstick was created because the present measure used by the Congress—state per capita income—has three serious deficiencies. These shortcomings can be summarized as follows: the per capita income measure significantly understates the tax wealth of energy rich as well as tourist rich states and overstates the tax wealth of several frostbelt states confronted with declining economic bases.

TABLE 1.—EXTREMES OF OVER- AND UNDER-ESTIMATION OF STATE-LOCAL TAX CAPACITY BY THE CONVENTIONAL PER CAPITA INCOME MEASURES (1981)[1]

	RTS tax capacity index [2]	Per capita income index [3]	Using per capita income, tax capacity is: Underestimated	Over estimated
State:				
Alaska	324	131	−193	
Wyoming	216	111	−105	
Nevada	148	110	−38	
New Mexico	114	81	−33	
Texas	132	102	−30	
Oklahoma	127	98	−29	
North Dakota	124	97	−27	
Louisiana	117	91	−26	
Montana	114	90	−24	
West Virginia	90	80	−10	
New York	89	109		+20
District of Columbia	111	129		+18
Rhode Island	80	97		+17
Connecticut	110	122		+12
Maryland	98	109		+11
New Jersey	105	115		+10
Massachusetts	96	106		+10

[1] States with deviation of 10 or more percentage points.
[2] Based on the ACIR–NIE representative tax system approach.
[3] The per capita measure of personal income currently used in Federal formulas.

Source: ACIR staff estimates (U.S. average equals 100).

Third, the Representative Tax System has been unjustly criticized as being biased in favor of big spending states. Notwithstanding these dogged assertions, the Representative Tax System approach does not discriminate in favor of the heavy taxing states and against light taxing states. The relative capacity rating for each state does not depend on its taste for public goods and services. Moreover, the tax capacity index for each state would be the same whether all the representative tax rates (national averages) used in the calculation were cut in half or doubled.

It is the tax effort factor in the General Revenue Sharing formula—not the tax capacity measure—that works in favor of a heavy spending state such as New York. For example, if the tax effort factors were stripped out of the GRS formula and the

[1] ACIR *Measures of State and Local Fiscal Capacity and Tax Effort*, M-16, Washington, D.C., 1962. See also ACIR, *Measuring the Fiscal Capacity and Effort of State and Local Areas*, M-58, 1971; ACIR, *Tax Capacity of the Fifty States: Methodology and Estimates*, M-134, March 1982; and ACIR, *Tax Capacity of the Fifty States, Supplement: 1980 Estimates*, June 1982.

[2] Appendix A provides a step-by-step description of the technique used by ACIR in constructing its Representative Tax System and Appendix B sets forth the representative tax bases (or proxies) and the representative tax rates (national averages).

Representative Tax System measure were substituted for the per capita income yardstick, the relatively light spending state of Texas would receive an additional $10 million in GRS funds while the heavy spending state of New York would have its 1983 General Revenue Sharing allotment cut by approximately $90 million.

Fourth, some who oppose introduction of the Representative Tax System claim that its utilization should wait until there is a comparable breakthrough on the expenditure side to ensure that both revenue capacity and expenditure needs are adequately weighed. Unfortunately, this counsel of perfection is the counsel of interminable delay. It is difficult enough to measure state revenue capacity; it is virtually impossible to get agreement on what constitutes legitimate expenditure needs.

Fifth, the Representative Tax System approach has been criticized as being too complex. There is no question but that the Representative Tax System yardstick is far more complicated than is the per capita income measure. There is, however, the obvious rejoinder—for every complex problem there is an answer that is neat, simple, and wrong. The very neat and simple per capita income measure produces the wrong answers for many of the energy rich states, for some of the tourist states, and for several Frostbelt states.

Sixth, although the RTS has some data imperfections, it still stands out as a far more accurate yardstick of state tax capacity than does the per capita income measure. There is no question that the RTS has certain data problems—the most important being the lack of annual property tax valuations. Nevertheless, on a scale of 1 to 100, I would score the accuracy of the RTS measurement at least 90 and the per capita income measure no more than a 70. In my judgment, a B+ performance should be favored over the D− performance every day of the week.

Mr. Chairman, this concludes my remarks.

APPENDIX A

RTS METHODOLOGY

For each of the 26 tax bases included, a representative ("average") tax rate is calculated. That rate is then applied to the tax base available for such taxation in each state. This multiplication shows the amount each state would collect if it levied that tax at the "average" national rate. The 26 separate tax collection calculations for each state can then be added to get the total tax capacity of each state and the states can be compared on a per capita basis. Each of these steps in the measurement process is described and illustrated below.

Step 1—Compute 26 representative tax rates according to the nationwide tax collections of all states and localities and the nationwide tax base amounts.

For example, the representative general sales and gross receipts tax rate of 6.5 percent (1980) was obtained by dividing the $51,175,484,000 state and local general sales and gross receipts tax collections by national retail sales of $791,261,640,000 (excluding food or drugs). The representative rates for each of the 26 tax bases are shown on Attachment B.

Step 2—Determine the hypothetical per capita yield for each tax in each state by applying the representative (average) tax rate to that state's actual tax base.

For example, when applied to the Mississippi sales and gross receipts tax base of $5,935,123,000, the 6.5 percent representative sales and gross receipts tax rate produced $152 per capita. However, in a tourism rich state like Navada with a tax base of $7,347,051,000, the 6.5 percent rate produced $593 per resident. More spectacularly, although the representative rate of 4.98 percent on the value of oil and gas production produced an average of $19 per U.S. resident, in Alaska it produced $1,167 per resident.

Step 3—Determine the hypothetical tax wealth or capacity for each state by adding together the per capita yields for each of the 26 taxes.

The 26 representative base times rate calculations together produced an average of $949 per U.S. resident (1980), whereas for Mississippi, the poorest state, the yield was $658 per resident, and for Alaska, the richest, the yield was $2,463 per resident.

Step 4—Index the results for each state to the U.S. average, $949; an index of 100 corresponds to the U.S. average per capita tax yield.

For example, Mississippi, with a per capita yield of $658, has an index of 69.3, meaning that Mississippi has only 69.3 percent of the average tax capacity. For Alaska, the index is 259.7, denoting capacity 259.7 percent of the U.S. average in 1980.

APPENDIX B.—INFORMATION UNDERLYING THE REPRESENTATIVE TAX SYSTEM FOR STATE AND LOCAL GOVERNMENTS FOR 1980

Tax	State-local tax collections		Tax base		Representative tax rate
	Billions of dollars	Percent of total	Amounts (millions)	Description	
1. General sales or gross receipts	$51.2	23.7	$791,261.6	Retail sales and receipts of selected service industries	6.5 percent.
2. Selected sales	26.5	12.3			
a. Motor fuel	9.8	4.6	115,968.0	Fuel consumption in gallons	$.08 per gallon.
b. Distilled spirits	1.6	.8	449.9	Consumption of distilled spirits in gallons	$3.63 per gallon.
c. Beer	.8	.4	117.8	Consumption of beer in barrels	$4.65 per barrel.
d. Wine	.2	.1	471.8	Consumption of wine in gallons	$.39 per gallon.
e. Tobacco	3.9	1.8	29,184.5	Cigarette consumption in packages	$.13 per package.
f. Insurance	3.1	1.5	$199,158.0	Insurance premiums for life, health, property and liability insurance	1.5 percent.
g. Public utilities	6.0	2.8	$200,862.0	Revenues from electric, gas, and telephone companies	3.00 percent.
h. Parimutuels	.7	.3	$13,802.1	Parimutuel turnover from horse and dog racing	5.23 percent.
i. Amusements	.3	.1	$28,279.0	Receipts of amusement and entertainment business	1.07 percent.
3. License taxes	7.7	3.3			
a. Automobiles	3.2	1.5	120.9	Private automobile registrations	$26.42 per registration.
b. Trucks	2.1	1.0	32.2	Private truck registrations	$66.14 per registration.
c. Motor vehicle operators	.4	.2	145.3	Motor vehicle operators' licenses	$2.69 per license.
d. Corporations	1.4	.6	2.71	Number of corporations	$512.58 per corporation.
e. Alcoholic beverage	.2	.1	.271	Licenses for the sale of distilled spirits	$666.79 per license.
f. Hunting and fishing	.4	.2	62.2	Number of hunting and fishing licenses	$6.71 per license.
4. Individual income	41.4	19.2	$247,386.3	Federal income tax liability	16.72 percent.
5. Corporate income	13.5	6.3	$214,634.0	Corporate income	6.29 percent.
6. Property	68.3	31.7			
a. Residential	37.4	17.3	$2,955,168.0	Market value of residential property	1.27 percent.
b. Commercial-industrial	22.0	10.2	$1,561,570.0	Net book value of inventories, property, plant and equipment of corporations	1.41 percent.
c. Farm	4.1	1.9	$670,075.0	Market value of farm real estate	.61 percent.
d. Public utilities	4.9	2.3	$398,744.3	Net book value of fixed assets for electric, gas, and telephone companies	1.22 percent.
7. Estate and gift	2.0	.9	$6,484.5	Federal estate and gift tax receipts	31.54 percent.
8. Severance	4.9	2.3			
a. Oil and gas	4.2	2.0	$84,981.8	Value of oil and gas production	4.98 percent.
b. Coal	.4	.2	$21,650.3	Value of coal production	2.14 percent.
c. Nonfuel minerals	.2	.1	$26,098.0	Value of nonfuel mineral production	.78 percent.
U.S. total	215.5	100.0			

Note.—Detail may not add to totals due to rounding.
Source: ACIR.

APPENDIX C.—1981 REPRESENTATIVE TAX SYSTEM ESTIMATES (PRELIMINARY) COMPARED TO PERSONAL INCOME

Region and State	Per capita tax capacity	Index: Tax capacity	1981 personal income per capita	Income index
New England:				
Connecticut	$1,131	109.9	$12,816	122.2
Maine	815	79.2	8,535	81.4
Massachusetts	988	96.0	11,128	106.1
New Hampshire	982	95.5	9,994	95.3
Rhode Island	827	80.4	10,153	96.8

APPENDIX C.—1981 REPRESENTATIVE TAX SYSTEM ESTIMATES (PRELIMINARY) COMPARED TO PERSONAL INCOME—Continued

Region and State	Per capita tax capacity	Index: Tax capacity	1981 personal income per capita	Income index
Vermont	864	84.0	8,723	83.1
Mideast:				
Delaware	1,143	111.1	11,095	105.8
Washington D.C.	1,142	111.0	13,539	129.1
Maryland	1,009	98.0	11,477	109.4
New Jersey	1,077	104.7	12,127	115.6
New York	916	89.0	11,466	109.3
Pennsylvania	931	90.4	10,370	98.8
Great Lakes:				
Illinois	1,070	103.9	11,576	110.3
Indiana	932	90.6	9,720	92.7
Michigan	990	96.2	10,790	102.9
Ohio	971	94.4	10,313	98.3
Wisconsin	935	90.9	10,035	95.7
Plains:				
Iowa	1,053	102.3	10,474	99.8
Kansas	1,125	109.3	10,813	103.1
Minnesota	1,030	100.1	10,768	102.6
Missouri	947	92.1	9,651	92.0
Nebraska	996	96.8	10,366	98.8
North Dakota	1,271	123.5	10,213	97.4
South Dakota	888	86.3	8,833	84.2
Southeast:				
Alabama	766	74.5	8,219	78.3
Arkansas	839	81.6	8,044	76.7
Florida	1,040	101.1	10,165	96.9
Georgia	838	81.4	8,934	85.2
Kentucky	843	82.0	8,420	80.3
Louisiana	1,200	116.6	9,518	90.7
Mississippi	737	71.6	7,408	70.6
North Carolina	818	79.5	8,649	82.4
South Carolina	774	75.2	8,039	76.6
Tennessee	812	79.0	8,447	80.5
Virginia	969	94.1	10,349	98.6
West Virginia	926	90.0	8,377	79.8
Southwest:				
Arizona	913	88.7	9,754	93.0
New Mexico	1,170	113.6	8,529	81.3
Oklahoma	1,310	127.3	10,247	97.7
Texas	1,359	132.1	10,729	102.3
Rocky Mountain:				
Colorado	1,160	112.8	11,215	106.9
Idaho	891	86.6	8,937	85.2
Montana	1,168	113.5	9,410	89.7
Utah	890	86.5	8,313	79.2
Wyoming	2,227	216.4	11,665	111.2
Far West:				
California	1,186	115.2	11,923	113.6
Nevada	1,523	148.0	11,576	110.3
Oregon	1,019	99.0	10,008	95.4
Washington	1,020	99.1	11,277	107.5
Alaska	3,333	323.8	13,763	131.2
Hawaii	1,076	104.6	11,036	105.2
U.S. average	1,029	100.0	10,491	100.0

Source: ACIR staff.

APPENDIX D.—TRENDS IN STATE TAX CAPACITY, SELECTED YEARS 1967–81

State	Tax capacity index				
	1967	1975	1979	1980	1981 (preliminary)
New England:					
Connecticut	117	110	108	112	110
Maine	81	84	80	80	79
Massachusetts	98	98	93	96	96
New Hampshire	110	102	96	97	96
Rhode Island	91	88	84	84	80
Vermont	88	94	85	84	84
Mideast:					
Delaware	123	124	109	111	111
Washington, D.C.	121	117	110	111	111
Maryland	101	101	99	99	98
New Jersey	107	109	102	105	105
New York	108	98	89	90	89
Pennsylvania	91	98	93	93	90
Great Lakes:					
Illinois	114	112	112	108	104
Indiana	99	98	98	92	91
Michigan	104	100	104	97	96
Ohio	100	103	101	97	94
Wisconsin	94	98	99	95	91
Plains:					
Iowa	104	106	108	105	102
Kansas	105	109	109	109	109
Minnesota	95	97	105	102	100
Missouri	97	96	97	94	92
Nebraska	110	106	100	97	97
North Dakota	92	101	109	108	124
South Dakota	91	94	95	90	86
Southeast:					
Alabama	70	77	76	76	75
Arkansas	77	78	77	79	82
Florida	104	102	100	100	101
Georgia	80	86	81	82	81
Kentucky	80	85	85	83	82
Louisiana	94	97	103	109	117
Mississippi	64	70	70	69	72
North Carolina	78	84	82	80	80
South Carolina	64	77	76	75	75

APPENDIX D.—TRENDS IN STATE TAX CAPACITY, SELECTED YEARS 1967–81—Continued

State	Tax capacity index				
	1967	1975	1979	1980	1981 (preliminary)
Tennessee	78	84	81	79	79
Virginia	86	93	93	95	94
West Virginia	75	89	92	94	90
Southwest:					
Arizona	95	92	91	89	89
New Mexico	94	92	103	107	114
Oklahoma	102	98	108	117	127
Texas	98	110	117	124	132
Rocky Mountain:					
Colorado	104	106	110	113	113
Idaho	91	89	91	87	87
Montana	105	103	113	112	114
Utah	87	86	87	86	87
Wyoming	141	153	173	196	216
Far West:					
California	124	110	116	117	115
Nevada	171	145	154	154	148
Oregon	106	100	106	103	99
Washington	112	98	103	103	99
Alaska	99	154	217	260	324
Hawaii	99	110	103	107	105
U.S. average	100	100	100	100	100

Source: ACIR staff.

THE ONE AND THE MANY—SERVING NATIONAL PURPOSES THROUGH 50 DIVERSE STATES

(Remarks of Richard A. Snelling, Governor of Vermont, annual meeting of the Western Governor's Policy Office, Bismarck, N. Dak., Aug. 20, 1983)

As governors or lay citizens, almost all Americans have experienced severe frustrations with this country's federal system. At the same time we place ultimate faith in this system and rely on it for most governmental processes. These two outlooks, frustration and faith, reflect great issues very much needing discussion.

The greatest federalism challenge of all is to get governmental budgets under control and at the same time support essential public services at nationally expected levels with equitable distribution of cost among all states and citizens. The nation cannot afford fiscally to continue to run $200 billion annual deficits, economically to burden the people of some states with gross overtaxation, or humanely to balance budgets through drastic cutbacks in welfare, environmental, developmental, and other domestic services.

Through managed restraint in fiscal policies, fairer allocation of the burden of taxes among the states, and more extensive decentralization of the delivery of public services, not only to the states but through them to counties and local governments, America must both get its finances in order and promote a satisfying life for all Americans. Within this framework, such fundamental goals as these should be addressed: Local discretion to deal with local problems; certitude that state-administered national programs are equitably conducted; state-level capacity to integrate multitudinous activities into comprehensive programs; fair incidence of the cost of national services on the residents and resources of all states.

I

Concerns like these are central themes of the American experience, hard nuts which we as a unified yet diverse people have had to crack and recrack in almost every generation. We are not approaching, indeed may already have entered, another period in which these great issues must be openly faced and reasonably re-resolved.

America is poised to move either toward renewed centralization of domestic power in the federal government or toward expanded reliance on the states and their subdivisions. The states, particularly their governors, should be at the heart of decision-making in this transition, ready to grapple with whatever need be faced, no matter how threatening or controversial.

If the states fail to position themselves in this way, the decisions will be made by others, most likely to state-level detriment. Most important, the states should be willing as states to adjust the domestic cost burden among themselves in such a way as to avoid either massively enlarged direct federal provision of domestic services, the starvation of those services through underfinancing, or greatly aggravated maldistribution of the state-local tax burden.

The issues are already on the table, placed there by dissatisfaction with governmental cumbersomeness and overkill, by President Reagan in his New Federalism proposals (no matter whether we agree or not with the specifics), by the Congress in its consideration of federalism matters in the debate on renewing Revenue Sharing. Governors should grab these issues, nettles and all, discuss them and research them, fight over them if need be, establish common positions, and then go out to do battle together for them. As a first step, now, it will be useful to review the following: the federalism fundamentals about which Americans agree; the present-day realities of the federal system; the problems this system poses vis-a-vis the fundamentals; and the lines along which these problems might eventually be solved.

As preliminary to this review, a word about "sorting out" is in order. This approach to federalism reform, proposed by the President in 1982 and diligently pursued by the governors, failed. Why? Because, as the history of the negotiations suggests, sorting-out was fatally flawed in its preoccupation with "no winners, no losers". The only way that functions and taxes could be realigned consistent with that preoccupation was through holding all states harmless. This required, not more equitable burdens on wealthier states, but larger federal assistance to states disadvantaged by the swap as to their capacities or new responsibilities—a roadway toward larger budgets, not toward restrained spending with fairer financing.

II

Since its beginnings, America has been a federated land, even before it was so recognized, with separate colonies sharing common roots, with thirteen and then eventually fifty states grouped under a common constitution, with great diversity of peoples and geography held together by superior common interests. Thus it is today, a tradition of separateness combined with nationhood reflected in an overarching consensus among state leaders about governance in the United States. These "shared views" are key elements of that consensus:

(1) Nationwide Americans have an accepted set of goals and standards, hard to articulate but nonetheless real, about floors of decency for everyday living; about environmental amenities as to land and air and water; about the physical facilities of the nation in roads, water systems, airports, and the like; about the education of our children and the health of our citizens; indeed about most aspects of the basic framework of American life.

(2) Governments—federal, state, county, local—are appropriate instruments, along with private enterprise and voluntary organizations, for advancing these goals and enforcing appropriate standards. The federal government provides a proper forum for the national articulation of goals and standards.

(3) Agreed purposes and service expectations should be broadly drawn so they can be implemented in different ways in different places, both recognizing and encouraging diversity rather than standardization in American ways of life.

(4) For most public services, as varied as housing, clean water, child nutrition, and law enforcement, the states and their local and regional subdivisions, close to end-of-the-line needs, are preferable over direct federal services as the instruments by which national goals are served.

(5) The financing of nationwide public services, even with these services being state and locally performed, should be substantially federal, drawing properly on the national economy to help meet national objectives.

(6) The needs and capacities of the states relative to financing their share of the costs are diverse, calling for some equalization of burden on in-state resources through differential allocations of federal grants.

(7) The overall cost of domestic public services for national as well as strictly state or local purposes must be realistically, and preferably rationally, related to what national and subnational economies will bear, requiring in short that the suit of services

be cut to the cloth of resources, not just to needs.

This list, though perhaps not all encompassing or all accepted, embraces the basic national and subnational components of cooperative federalism. They make up what most Americans envision about how our federal-state-local system should ideally function.

III

How does real-life federalism, 1983, stack up against that vision? Not very well, many would agree. National goals, while internalized and expressed in programs, are not clearly or comprehensively articulated. Nor is there a clear, consistent, logic-based division of roles among governmental levels for the financing or performance of various services.

In short, American federalism, objectively not visionarily viewed, is today a hodgepodge of accommodations, imperfections, anachronisms, inefficiencies, inequities, and inconsistencies. Yet somehow, a tribute to the ultimate rightness of the federal design, the system does deliver great varieties and quantities of public service throughout our supra-continental nation. The tragedy, the challenge if you will, is that we could do so very much better—and it is this, the sense of falling short, that drives, or will drive, this time of transition in American governance.

Instead of a few broadly stated purposes, with simple standards, financed with sensibly homogeneous block grants, there are 441 distinct federal domestic assistance programs, even after the elimination and pulling together of some 100 separate grants in the last couple of years. Again, despite recent progress, there is still much detailed regulation from federal administrators on how programs are conducted, not just broad supervision toward the achievement of ends. Yes, there is major federal financial participation in many domestic programs, some $93 billion worth in fiscal 1983, but it is almost infinitely divided among programs, not substantially consolidated into blocks or into General Revenue Sharing.

Unfortunately, federal assistance does not in a consistent or comprehensive fashion take into account the differential needs or capacities of the states as to state-conducted national services. A variety of need indicators are used, often including population as a basic measure, but usually not finely tuned to the problems addressed. And, as to capacity, only 29 of the 441 federal grants, about a third of the grants as to total dollars, include an indicator, in every case per capita income, a simplistic and incomplete guide to capacity.

The gross inadequacy lies in the maldistribution of the state-local fiscal burden in relation to capacity. As an analogy, we have come within the individual states to accept that all citizens must have a basic educational minimum, locally provided, regardless of the fiscal resources of particular communities. Through various equalization arrangements, the states have pursued this principle. Also, with equalization, they have served another principle, namely that the cost burden must not be allocated in gross unevenness. Communities are free with their own resources to go beyond the minimum, but no community is to be pauperized by it.

Similar principle might well be applied to the battery of domestic services which constitute a minimum national standard of decency. To support this minimum, no citizens in any particular state should have to pay grossly more in relation to their capacity than citizens of other states. This is not to argue now for the Representative Tax System (RTS) developed by the Advisory Commission on Intergovernmental Relations (ACIR) or for any other particular way in which these principles should be observed. But, as public finances grow tighter and tighter, equalization of some sort becomes necessary both for financing and for fairness. As citizens of a single great commonwealth, the United States, can we indefinitely accept in good conscience an uneven distribution of the burden for performing national services?

IV

The question can be even more broadly stated: Ought we remain content with a system so far at variance from our ideal? One approach to that question is to consider more specifically some of the particular problems of the system and the possibilities of doing something constructive about them. The problems are surely not in any respect simple, quite the contrary. But on matters of such moment, those listed below, that ought not deter us.

(1) The inadequate, uneven articulation of national goals. Many individual programs are authorized with limited statements of purpose. Broader goals are implied, too, for congeries of programs in such areas as welfare, environment, transportation, and economic development. But can we, and if we can, ought we not, by national action get clearly before us what we as a nation seek in each great area of this sort? Such articulation is a pre-requisite for comprehensive block grants for each such area.

(2) The need for performance standards, objective yet broad, preferably as to end results, not simply as to program activities. If states are really to have wide discretion in operations toward objectives, the objectives must be clearly, even if possible quantifiably, stated. Then, federal program audits can focus on what has been accomplished, not on how. But can such standards really be drawn in any fields? In more physical fields, miles of roads maintained, for example, probably yes. But in personal welfare areas, child nutrition, for example, is it being, can it be, done? Such a task, the articulation of standards, is certainly worth much more trying than it so far has been given.

(3) Confusion, inequity, and inadequate measures as to service needs. Misunderstandings abound in this regard, for example, as between need and capacity, need and effort, need and activity. Need is differentiated from these other concerns in having to do with the direct-life circumstances which call for public action, e.g. with extent of illiteracy, numbers of malnourished children, units of substandard housing, population pressure on recreational space, volume and composition of solid waste, rates of various kinds of crime, and miles of potholed roads. Need is an end to be met, not the cost, methods, or activity to meet it.

All the federal grant formulas, including that for General Revenue Sharing, consider need in some degree, often as elementally as just gross population differentials. However, the relevance, sophistication, and fairness of indicators varies greatly from program to program, quite understandably in a nation so large and diverse as ours—partly urban, partly rural, partly industrial, partly agrarian. And the larger questions, relating need in gross measures to block grants, have scarcely been addressed.

If we are to have a truly needs-oriented grant-in-aid system, one in which there is large discretion in the way needs are met, this area requires much work. To some extent, indicators of low capacity, notably per capita income, may run in the same direction as indicators of need, but they are not satisfactorily congruent.

(4) Unsatisfactory recognition, even non-recognition, of capacity-to-pay differences among the states. Resident per capita income, unrefined and unmodified, is flawed as a capacity indicator since it does not take into account non-resident, non-income resources which some states have in substantial measure while others have scarcely none. Thus, for example, recreational magnet states like Nevada or Vermont are able to tax non-residential resources more lucratively than are low-tourism states. Similarly, energy-rich states like Oklahoma have stronger non-income resources than do energy-poor states like Mississippi.

When comparative state-by-state capacities are measured with these non-resident, non-income considerations taken into account, the relative positions of the states vis-a-vis a national norm for the states are considerably different than from a similar calculation considering only per capita income. The capacity measure developed by ACIR as part of the Representative Tax System gets at the overall capacities of the states by calculating the revenues that each state would raise if each used, with a few exceptions, all the taxes at average national rates that any state uses.

There are imperfections in the RTS measure, of course, e.g. differential impacts of different taxes on future tax base, but it does appear to be the best presently available comprehensive state-by-state revenue capacity measure. Comparing ACIR rankings with per capita income rankings, differences do stand out, for example, as for the State of Washington, which ranks among the nation's top ten states in per capita income but comes in near the mid-point, 24th, with the ACIR measure.

All this is not to argue for the substitution, today, of the ACIR measure for per capita income, nor to suggest some other measure which might be better than either. Rather, we should note that there are real differences among the states in the resources, in relation to population, on which each can draw to meet the state-and-local costs of carrying out national programs. Whether measured by income-only or comprehensively, Tennessee and Vermont, for example, show up as low capacity states while California and Connecticut on both measures stand out as high capacity. It seems both unjust and ineffective to lay substantially heavier burdens on the residents of some states than on those of others to finance the state-local role in delivering national services.

Even though present grants-in-aid tend toward equalization in some states, we have a very long way to go for bearable equity. And, as government budgets across the board are increasingly squeezed, witness the huge federal deficit and the shortfalls this year in almost all states. The pressure for fairly distributing state-and-local burdens and for raising what must be raised wherever it can best be raised will surely increase. These are undeniable reasons why capacity considerations in grant formulas constitute one of the major problems of federalism.

(5) Poor understanding, perhaps overstress, on fiscal effort in relation to state fiscal positions. To begin, effort and capac-

ity are quite separate though related matters. Effort has to do with how strongly a government is drawing on its tax base, not with the size (capacity) of the base per se.

General Revenue Sharing rewards high effort in the above sense as one of the components in its allocation formulas. Most categorical and block grants require matching—some unit of state-or-local outlay for specified counterpart amounts of federal participation—and in this way states that put up more money for particular programs, i.e. "make a greater effort", are also rewarded. Effort, in the pure sense of collections related to capacity, is taken into account in ACIR's work on its Representative Tax System but (and this is important) effort is not part of the capacity measurements and need not be part of any introduction of RTS into federal grant formulas.

Conceptually, the core question about effort in relation to a model intergovernmental system is whether it should be a determinant at all of the amount of federal monies going to different states. Spending more on particular programs in order to bring more federal dollars into a state is not in itself a direct indicator that a state is necessarily doing more about a particular problem, certainly not that it is necessarily being more effective in dealing with a problem. In some states, heavy matching may indicate ample resources, in others real sacrifice to attack real problems, while low matching (even low tax-to-capacity effort) may reflect effective administration, or simply capacity so low that normal leeway for effort is not available.

The point of all this is that the extent to which and the way in which effort, more realistically "matching", should be a component in grant formulas deserves to be questioned. Another concept would be that each state for each major functional area, perhaps for its services across-the-board, has a responsibility, not a carrot-induced "choice," to do what must be done at whatever cost and in whatever ways best suit its circumstances to carry out its part in executing national-goal programs within its boundaries. The amount it would get in federal assistance would be determined by need and capacity, and it would be free on its own with its own resources, unmatched, to go beyond its standard responsibility as part of the Union, offering such additional or more intensive services as it wished. A heroic idea, perhaps, but one that would lead to greater decentralization and fruitful diversity, with national programs still carried out through the states, than most of us could scarcely now conceive to be possible.

(6) An overburden of detail, multiplicity, and inappropriateness in federal grant administration. This is an old story, familiar to all of us, and one in which the story is not quite as sad as a few years ago. With the 1981 block grants and the anti-regulatory efforts of the Reagan Administration, the pendulum swing toward tighter and tighter supervision of more and more separate grants programs has at last been checked, actually reversed. But, even within the confines of the still largely categorical system, much headway remains to be made. As noted at recent NGA meetings, state government, no longer the last refuge of "good-time Charlies," is today professionally competent to handle whatever comes our way.

V

What can governors do about these problems? As regards some elements of the puzzle, particularly the matter of federal overcontrol, governors are already doing considerable through their national and regional organizations. But what about the more fundamental problems—things like standards, capacity, effort? Here are a few ideas on this, all geared basically not to making landmark changes now but to going down the road of commitment, discussion, negotiation toward such changes.

To begin, the general nature of the problems and of the solutions already seems sufficiently clear and understood to enable governors to take positions of principle on them now. It was for that reason, not to commit NGA to RTS, that proposals were recently considered within NGA to have governors accept the desirability of capacity equalization of some kind as part of NGA federalism policy.

Beyond this, the national and regional staffs of governors should be encouraged, indeed directed, to give major attention to the fundamentals raised here. The results of this work should be brought to the discussion tables, and governors should not shy away when their cherished preconceptions are challenged. For example, even the states' long fight against any limitation on the federal tax deductibility of state and local taxes might merit some "give" if important ground for the states could be gained thereby.

Governors should be prepared not only to state their positions but, where advantages might be gained, to work in a give-and-take way with their federal and local governmental brethren—with the Congress, the President, local governmental groups, federal program executives. A most important venture of this sort now looms sizable on the Congressional horizon—the possibility that Congress this fall in dealing with Revenue Sharing will adopt an amendment calling for a major federal study of federalism issues, jointly by Treasury, Commerce, GAO, and ACIR, a study not just of RTS but of the whole range of great intergovernmental questions. This is something, especially if full state and local participation is guaranteed, which governors should vigorously support.

Finally, a word about regional groups like WESTPO, the Western Governors Conference, the New England Governors Conference, and others. Groups like this, bringing together governors in the way this meeting has, are crucial vehicles for consideration of intergovernmental matters. Even more, they provide influential forums of policy setting and program coordination intermediate between the individual states and the federal government.

* * * * *

In essence, the theme of federalism debate should be the motto on the Great Seal of the United States—"E Pluribus Unum" out of the Many, One. But the emphasis, today, the desirable emphasis for federalism reform, should be a bit more on the Many, how to sustain their strength diversely but equitably, than on the One.

This paper does not get deeply into the fiscal technicalities of federalism, of which there are a great many, but these must of course be addressed as the great issues are explored. The main thing now is for the governors to "reason together" on these issues, too long held back on the national agenda. History is on the move. Governors should be with it, not off to the side.

[From the Dallas Morning News, Sept. 20, 1983]

LOVE THOSE TAXES

Very clever, these Frost Belt congressmen; and very persistent in their attempts to keep the federal cash pouring in. Witness the proposal of Sen. David Durenberger, R-Minn., to start calculating federal aid in accordance with a state's ability to raise its taxes, rather than in accordance with income, as the case is now.

Under Durenberger's system, the higher a state's taxes (hence the more limited its capacity to raise them), the more federal aid it would get: meaning that Southern and Western states, for forbearing from soaking the taxpayers, would lose federal assistance to high-taxing states like New York and New Jersey.

Just what this country needs—encouragement for the delusion that taxes, far from being too high, aren't high enough.

Though the reasons for the economic decline of the Northeast are complex, not the least of them is the steep state and local taxes that finance a generous range of social services—and steer businessmen to lower-tax states.

Durenberger's state, Minnesota, had in 1981 the 11th highest level of state and local taxes—$1,170, thanks to unbroken decades of "socially conscious" government. Still, Minnesota thinks it hasn't enough money. Has the state's congressional delegation stopped to think that there might be a connection here?

HEY, DON'T BLAME ME

To the editors: Your Sept. 20 editorial, "Love Those Taxes," has a valid point to make about the need to improve the allocation of federal aid to states. However, by taking potshots at me, you've shot yourself in the foot.

I am a longstanding ally of Texas in the quest to stop the practice by which high-taxing, high-spending states are "rewarded" with more federal aid, and lower-taxing states are penalized with less. That practice is no proposal of mine; it's been going on for years. It happens because federal aid is based partly on how heavily a state taxes its citizens. That's not a regional issue; it's just plain bad policy. By touting it as a Frost Belt vs. Sun Belt issue, you threaten the very reforms you desire.

My proposal deals with an entirely different factor in the federal aid equation. A state's share of aid also depends on the state's ability to raise its own revenues, and the current method of measuring that ability is flawed. It considers only the per-capita income of a state's citizens, under the assumption that the higher the income the more revenues can be raised (through a personal income tax).

As a state with no personal income tax, Texas well knows there are many other ways to raise state revenues: property tax, sales tax, excise tax, severance taxes on natural resources. I propose to use a well-proved system that takes all of a state's options into account when measuring its revenue-raising ability. It isn't "Durenberger's system," as you call it, but a system developed over 20 years by a federal advisory commission and already being used by the Canadian government. It doesn't reward high taxing.

You have a justifiable gripe, but you've mislaid the blame on me and my native Frost Belt. Are you so itchy about the snowy North that you can't see when we're

on your side? Perhaps the sun was in your eyes.

DAVE DURENBERGER,
Chairman, Subcommittee on Intergovernmental Relations.
Washington, D.C.●

EFFECTS OF FEDERAL BUDGET DEFICITS ON THE MIDWEST AND OUR BASIC STEEL INDUSTRY

● Mr. QUAYLE. Mr. President, on October 16 and 23, the Times of Hammond, Ind., published a series of thoughtful articles on the effects of our current Federal budget deficits on the economy of the Midwest and our basic steel industry.

The Times believes that there are five factors, all directly affected by Federal Government policies, which must change before the long-term economic prospects of the Midwest region can be expected to improve. These are:

First, the Federal deficit;
Second, the strong U.S. dollar;
Third, trade imbalance;
Fourth, fair trade laws; and
Fifth, U.S. tax laws.

Mr. President, economic improvement in the Midwest directly depends on the health of our basic steel industry. U.S. steel companies, as the Times points out, have been hurt by increased steel imports into the United States. This increase in steel imports can be explained by high interest rates in the United States and the consequent strength of the U.S. dollar—these serve to make imports cheaper in the U.S. market. U.S. steel companies, in addition, have been hurt by unfair trading practices conducted by some of our trading partners. The U.S. steel industry deserves vigorous enforcement of our trade laws; private American steel firms cannot be expected to compete successfully with subsidized foreign government-sponsored industries.

The Times believes that the key to economic recovery is to trim the Federal deficit. Recognizing that cuts in defense will not cure our budget difficulties, the Times notes that nondefense spending has increased from 9.5 percent of GNP in 1960 to 12.3 percent in 1970 and up to 17.9 percent in 1982. The Times analyzes the components of the Federal budget and makes some suggestions as to how to cut Federal spending. I ask that these suggestions be reprinted in the RECORD.

The suggestions follow:

DEFICITS IN MULTI-BILLIONS WILL NOT QUIT

The federal government ended its fiscal year Sept. 30 with a deficit of more than $200 billion—almost double the record of $111 billion in the previous fiscal year.

And another big deficit is looming in the fiscal year just started. This is the budget that candidate Ronald Reagan told us in 1980 he would balance if he were elected president.

There is no talk of balancing budgets now, nor any time in the near future. In fact, there is a national debate going on whether $200 billion deficits really do matter much at all. Administration economists and their allies say they don't. Most other economists say they do.

We think the administration's position is self-serving. Even if deficits aren't hurting other sectors of the economy, they are surely hurting the industrial sector because they keep interest rates up.

Although interest rates have come down from about 21 percent to 10–11 percent since President Reagan took office, they are still too high to finance the capital improvements needed in basic manufacturing industries such as steel, machine tools and construction equipment. The rates are not expected to change much between now and November, 1984.

Presently, more than 75 percent of the nation's net private savings are being used to pay for the deficits. So even if heavy industry went ahead with capital spending projects at the current rates, its borrowing needs would soon collide with that of the government's, sending interest rates back up into the teens or beyond.

As long as that situation continues, the nation's industrial sector will not be able to participate fully in the recovery.

WEAKER DOLLAR WOULD HELP RECOVERY

Reducing the deficits will not only bring down interest rates, it will weaken the dollar and eventually improve our balance of trade.

Both of these developments would allow industrial America to compete more effectively with the rest of the world. Here's why:

Foreign investors are being induced to convert their money into dollars to take advantage of U.S. interest rates which are higher than any other industrial nation's.

The over-valued dollar has made American goods expensive to buy abroad and foreign goods inexpensive to buy here. The result will be a record high U.S. trade deficit this year—between $60 billion and $70 billion, according to the government's own spokesmen.

Worse, the dollar's value forces steel and other basic American industries to compete with one hand tied behind their backs. A less expensive dollar would have the opposite effect—foreign goods would become more expensive in this nation and American goods would become less expensive abroad.

In short, a cheaper dollar would encourage American exports and discourage imports. For instance, consumers at home and abroad would find that price differentials between American and foreign cars of comparable quality would be reduced by about a third.

But here, again, the only way to bring down the dollar is to reduce interest rates by cutting the deficits.

RECORD DEFICITS CAN'T BE TAXED AWAY

Three essential elements account for the huge U.S. budget deficits: taxes, defense spending and entitlement programs.

Taxes are the way the nation pays for its government. So one way to cut deficits is to raise taxes.

But the problem with raising taxes is that it's neither economically nor politically possible to raise them enough to bring the deficits down to a manageable level.

The President's Private Sector Survey on Cost Control (the Grace Commission) reports that if the government tried to bring the runaway deficits to heel solely through tax policy, it would have to raise taxes so high that they would become confiscatory.

To make its point, the Grace Commission points out that if the government put a 100 percent tax on each dollar that every citizen earned over $75,000, it would only pay for running the government a little over two weeks.

Politicians who say deficits can be controlled simply by socking it to the rich are not being candid—they are ducking the issue.

Most of the money in this nation is in the hands of people who earn between $15,000 and $50,000 a year. A tax increase designed to pay off the deficits would, by necessity, have to come out of their hides.

Nonetheless, a small tax increase might be useful in helping to cut the deficits if it was done in conjunction with other programs—programs designed to cut domestic spending.

Even more useful would be tax reform, perhaps a flat-rate tax or value added tax. They would be less painful, and fairer, than raising personal and business taxes again.

SOME IDEAS ON HOW TO CUT SPENDING

There are some ideas being bandied about in Congress now that could help reduce the deficits. One idea is to give the president "line item" veto power.

Presently, the president must accept or veto a budget measure in its entirety. If he could veto parts of it, the wasteful parts, billions of dollars could be saved. Newsweek magazine estimates that $75 billion a year is wasted on "pork barrell" projects.

A line-item veto could eliminate most of that spending, and congressmen could not be blamed for the consequences. They could tell their constituencies that they voted for the measure, but the president vetoed it.

Another reform would have the government go to a capital budget system, whereby it distinguished between spending as an investment and spending that cannot be recovered. It is a tool that businesses use to assess their liabilities and assets.

It would not add a nickle to the budget, but it would enable the government to plan its budget. Most public works expenditures are based almost entirely on political considerations (pork barrel). The federal government has no inventory of its physical investments; no assessments of the condition or capacity of its existing facilities and no comprehensive plan for maintenance, repair and new construction.

If the government had a clearer knowledge of what it was spending its money on, it would have a better idea of how and where to spend it to do the most good. A more intelligent method of spending the nation's money could also help reduce the nation's deficits.

Congress is a unique institution in that it can spend money it doesn't have. If everybody could do that, we'd probably all run up huge deficits.

But past extravagances have caught up with Congress and the country. Congress must be encouraged to find the will to say "no" to the special interests, to discipline itself, to get its spending priorities in order. It will take cooperation and sacrifice from all sectors of the economy.

Congressmen try to respond to their constituencies. When was the last time you asked your congressman to cut spending?●

DEATH OF THOMAS M. BRADLEY

● Mr. SARBANES. Mr. President, Maryland and America have lost a dedicated fighter for the people, Tom Bradley, president of the Maryland-District of Columbia AFL-CIO, who died suddenly on Thursday, October 27, 1983. Tom was a man of great decency and compassion and a strong leader in the struggle for a just society. I was privileged to have him as my close friend and I grieve at his death. His wise counsel and warm friendship, his unshakable belief in human dignity, and his fighting spirit, will be deeply missed.

Tom Bradley was not only the leader of the 425,000 members of the Maryland-District of Columbia AFL-CIO, but was also a champion of the causes of all working men and women. He worked tirelessly and unstintingly for a society in which all should have a place in the Sun. He believed in opportunity, in fairness, in respect for one another—in short in the values that make for a just and decent society. Marylanders of all rank have lost a true leader. My wife, Christine, joins me in mourning the loss of a dear friend and in extending our sympathies to Jean Bradley and to the four Bradley children, Tom, Jr., Kathleen, Karen, and Caroline.

Mr. President, two close friends of Tom Bradley's, Dr. Chester Wickwire, chaplain of the Johns Hopkins University and Ted Venetoulis, a columnist for the Baltimore News American and former Baltimore County executive, offered moving tributes at the funeral. I ask that these tributes be printed in the RECORD at this point.

The material is as follows:

EUOLOGY OFFERED BY DR. CHESTER WICKWIRE, OFFICE OF THE CHAPLAIN, THE JOHNS HOPKINS UNIVERSITY

At this time of falling colors, of seasons readying to turn, we remember the life of Thomas M. Bradley and feel the harsh interruption of our relationships; we mourn his death, and try to measure the meaning of this vital life that was suddenly brought to a halt last Thursday, October 27.

We are also compelled to think about our own death and ponder the significance of our existence. Shakespeare said, "We cannot hold mortality's strong hand," and "We all owe God a death."

A Japanese haiku reads:

A world of grief and pain,
flowers bloom even then,
the world is after all
as the butterfly,
however that may be.

From the Bible:

"We wait for the day to breathe and the shadow to flee."
"Death shall have no dominion."
"Love is as strong as death."
"Many waters cannot quench love."
"I will lift up my eyes to the hills from whence cometh my help; my help comes from the Lord."

Today as we are diminished by our loss we know that the sting of death cannot deny or hide the impact and achievement of Tom Bradley. Your presence here is eloquent witness to his life and to the place he holds in your memory.

He was in the line of Old Testament prophets who cried out, "Let justice roll down like waters." He was uniquely in the tradition of those who would bring good news to the poor, proclaim liberty to captives and set free the oppressed. He believed that the laborer deserves his wages, and that none should labor in vain.

He had been touched by the life and writings of Thomas Jefferson who said "I know of no safe depository of the ultimate powers of the society but the people themselves."

Tom Bradley knew who he was, where he began, and where he left off. Bright, informed, committed, he was leading the 425,000 member Maryland-D.C. AFL-CIO in a period of which it might be said in the words of a Bob Dylan song, "The times are a changing."

Responding to a tough challenge, Tom's was a major role in the creation of an additional benefits program, getting public employees recognized in the labor movement, increasing unemployment compensation benefits (a little at a time), and the creation of the State Employment and Training Department.

In a time extraordinarily difficult for labor, a time which was taking its toll on Tom, he remained completely dedicated to the cause of workers. An imaginative articulate battler, he was also pragmatic and realistic, capable of bringing people together for give and take and conciliation.

He had earned the respect of the entire community, not only as a strong leader of labor, but also as a sensitive servant of people and causes. I saw him giving vital support to the AFL-CIO Teamsters Annual Golf Tournament for the benefit of the Johns Hopkins tutorial project, collecting money and food for out of work miners and their families, and clothes for needy migrants.

Unpretentious and very human, he could have sung with Jackson Brown,

"When you come to feel that you're the only child
Take good care of your brother, and remember to be kind
When the pain of another will serve you to remind that there are those who feel themselves exiled,
On whom the fortune never smiled."

Tom Bradley was always helping the underdog on whom fortune never smiled.

Encouraging coalitions of concerned persons and groups, he gave vigorous endorsement to political candidates who he believed would help realize his vision of a fairer Maryland, his dream of an America where the promise of the country for everyone could be achieved.

His dream for labor and for the state and country was a hard dream to achieve. It meant for him long weary hours, vigorous debate and heavy stress. A Moses-like figure, needed, supported, and appreciated by area Unionists, recognized in and out of labor for his integrity and good judgment, he will be much missed.

In this trying time for labor, for the cause of the poor, for civil and human rights, Tom enjoyed not only the backing of the Union and important figures in the world of politics and in the community, he was also sustained by the loving support of his wife, Jean, his son, Tom Jr., and three daughters, Kathleen, Karen, and Caroline, his mother Adelae, his brother, Paul, and Dee, his mother-in-law. He encouraged each of them to grow as persons. Their home was a place of care, friendship, and renewal. Tom Bradley was very proud of his family.

Being in Tom's presence on many occasions, I know that he was a compassionate man who never lost his child's heart; he had an engaging sense of humor, liked to sing and, could play pinochle. Whether on a weekend trip to Roanoke Rapids during the J. P. Stevens boycott, at a rally, or in his home, Tom taught me much I could never learn around Hopkins. He was a good friend.

He went to Colt games in good times and bad, even when the team was 2 and 12, saying one ought to stick when the going gets rough. He liked college basketball where he said the game was played under the hoop, not above it as in the pro game. He played the game of life on the floor.

When Goethe was near death he said, "Light, the world needs more light." Later, he said, "No, warmth, the world needs more warmth." Tom brought a selfless warmth to relationships. He was comfortable with the meeting with governor or mayor, members of the Senate or Congress, on dancing with his wife, Jean at the White House, a few years ago, or trying to help someone at the bottom of the economic ladder.

His faith and hope were clearly apparent in the hospital. He did not turn his face to the wall but made friends and brightened the atmosphere in the ward. When many cards and flowers came to him, he wept, not from fear of death, but in gratitude for the gift of love and friends. Even in the hospital he could not forget his loyalties and so he convinced a hospital attendant to vote for Mondale, encouraged the nurses to organize, reminding them that while they received $7.50 an hour, organized checkers in food stores were receiving $11.00 an hour. He tried to help a man with white lung get compensation.

Although, in his struggle, Tom did not realize all his dreams, he left a pattern which says that meaning is found in the quality of life. That life which is best employed we honor most.

Matthew Arnold, in troubling times wrote lines which are appropriate now.

Is it so small a thing
To have enjoyed the sun,
To have lived light in the spring,
To have loved, to have thought
To have done
To have advanced true friends,
and beat down baffling foes?

Thomas Bradley left a rich legacy of memory and example of how to live, of standing, walking together, looking outward together in the same direction.

Within our sea of faith and doubt
Reading between the unpublished lines
of his life
There is undoubted evidence that
Tom Bradley had faith
in our potential,
And believed that there are enduring
values worth the struggle.

As we toll time for this life
Taken by time's sea,
Aware the sea too holds
a claim on us,
The good memorial offering is
to well fill our days
To stand together
(To support Jean, Tom Jr., Kathleen, Karen, Caroline, Adelae, Paul, and Dee),
Avoid islanding each other
Though death at last performs this act.

Saying with T.S. Eliot
"not fare well
But fare forward"
"We are the music while the music lasts"
"We are only undefeated
because we have gone on trying."

EULOGY OFFERED BY THEODORE VENETOULIS, COLUMNIST, BALTIMORE NEWS AMERICAN

We gather here this memorable morning to pay tribute to a fallen crusader . . . to an individual who stood in life as a symbol for all of us who believe that a free society, like a family, must care for its own . . . and who now in death, stands as an inspiration for those of us who also believe that a free society must behave fairly and openly.

And as I look before me at this sea of somber faces—I see not only his beloved family, who will suffer his loss more than any of us . . . I see Tom's colleagues in the labor movement . . . I see supporters in the political world . . . I see those who sat across from him at the bargaining table, or sat next to him in hearing rooms . . . famous and familiar faces. But out in the distance I also see the faces of people none of us might know—the face of the workers for whom he argued . . . the consumers for whom he fought . . . the unemployed for whom he rallied—the young and old—the poor and forgotten—the volumes of voiceless Americans who knew that Tom Bradley was their champion . . . and who somehow sensed the magic of this man who dedicated his life not to the gaining of personal wealth, but to the sharing of society's opportunities . . . not so that his family could live in splendor, but that his workers could live in pride.

This dedication to his profession and his career required that he be wiser than those he faced—which inevitably he was. It required that he be tougher than the battle he had to fight—which he inevitably was . . . and it required that he be more pragmatic than the dreams he pursued—which often he wasn't.

It was that quality of chasing dreams, climbing mountains, of relentlessly arguing for an improved life for people who often needed so little to improve their lives that separated Tom Bradley from the crowd that plays in the public arena . . . who so often let their anxieties violate their principles. Tom Bradley never did.

The public saw Tom Bradley clipping credit cards to hold down interest rates . . . they saw him holding picket signs to hold down interest costs . . . they saw him chastizing Presidents, Governors, State Senators, business leaders who were greedy, labor leaders who were equally greedy.

And some of us saw him working behind the scenes bringing together those who could resolve an issue before it became one. When he knew I knew the owner of a hotel that was about to be struck, he called and asked me to set up a meeting. "These guys are about to go to war," he said, "and it's over nothing." Bringing together a Mayor with an unfriendly union chief—he would maintain the trust of both. Bringing together the head of a utility with a consumer advocate he kept the confidences of both. Supporting one candidate over another he somehow kept the respect of both. Because when Tom Bradley gave his word he meant it . . . when he asked you to do something, you knew it was the right thing to do.

But it was his family, his wonderful wife Jean; his children—Tom, Jr.; his daughters Kathleen, Karen and Caroline; his brother and mother-in-law, Dee and his mother—who saw him as he really was—a gentle, firm, easy going and sensitive human being who would agonize over the aging of their dog, Mac . . . a father who was there during any hardship . . . a pushover who once seeing a wounded bird on the street, pulled his car to the side and gently cared for the distressed bird a tender, witty, funny man whose entrance in a room inevitably filled it with warmth. They knew a man who could have the guts to slash at a President's economic program in front of television cameras, and who had the power to force a Governor to hold special sessions, but who, privately would wonder timidly if Rick Dempsey might autograph a score card for his grand kids.

Tom Bradley will live in the memory of his colleagues because he lifted the labor movement from a second class outfit that relied on the politicians for handouts—to a first class fighting machine that elected the politician it chose to elect. To be buttonholed by Tom Bradley was to be buttonholed by an institution that at the press of a button could smother your office with telegrams, letters and telephone calls—or at the sound of an election, field an army of envelope stuffers and door knockers.

The machinists in Maryland are paid better today because he lived . . . public employees receive fringe benefits they might never have gotten, because he lived . . . consumers are safer because he lived, Baltimore County has a collective bargaining law, the State has a labor department because Tom Bradley lived—hard hats and farmers . . . welfare mothers and small businessmen are better off because Tom Bradley passed through this earth and made a couple of stops in the steps of the State House, the corridors of Annapolis, the offices of Mayors and executives, the club houses of politicians and civic advocates.

The record will show that Tom Bradley died because of a heart attack.

But those of us who knew him, know the records will tell only a medical story.

Nothing could stop the heart of Tom Bradley—a heart big enough to carry the burden of anyone out of work . . . anyone living in a senior citizens home or a housing project or standing behind an assembly line . . . anyone who was the victim of greed or inequity or deception and did not have the power to speak on their own . . . a heart large enough to contain the hopes and dreams of his family and friends, of every member of our community.

Nothing could stop that heart—nothing did.

It was Emily Dickinson who wrote the words that so fit our friend Tom—

"Because I could not stop for death . . . He kindly stopped for me;
The carriage held but just ourselves
And Immortality . . ."

Immortality for a west Baltimore machinist? Why not?

For what was finally stilled in this man was merely his body—not his spirit. In this moment of final rest he looms larger than the movement he led and will now walk side by side with great heroes he cherished—the Walter Ruethers and George Meaneys . . . the Franklin Roosevelts and Hubert Humphreys, the Martin Kings and John Kennedys.

To Tom Bradley, this partisan dreamer, this man of enormous trust and extraordinary gentleness, whose presence invaded our hearts and conquered our hopes, we say simply Good Night, Tommy—and as the Irish Folk song weeped . . . "We hardly knew ye . . ."●

THE GROWTH OF LOBBY GROUP ACTIVITIES

● Mr. DURENBERGER. Mr. President, many of my colleagues have remarked lately about what seems to be a tremendous increase in the amount of lobby group activity on Capitol Hill. We all seem to be getting more mail, more telegrams, more phone calls, and more personal visits from lobby group representatives.

Journalists have noted this phenomenon and characterized it as the era of "single-issue politics" and "me-first factionalism."

But this issue—the perceived significant growth of lobby group activity—had, until recently, not been subject to confirmation by a rigorous, systematic analysis.

Now, two political scientists from Boston College, Kay Lehman Schlozman and John T. Tierney, have documented this growth in a study whose findings were recently published in the Journal of Politics. Using data gleaned from interviews with a representative sample of 175 Washington-based organizations, the two authors concluded that "the apparent explosion in group activity is not illusory * * *." Not only is there significantly more lobby group activity now than in the past, but there is more of all types of activity; not only traditional person-to-person direct lobbying, but also more lobbying using high-technology techniques such as computers for direct mail grassroots lobbying.

As noteworthy as these findings are, the Schlozman-Tierney study is also important because it is the first systematic study of Washington lobbyists in 20 years.

Among the more significant findings of the Schlozman-Tierney study are the following:

That 88 percent of the study's respondents indicated that their lobby groups had become more active in recent years;

This high level of activity was common to different types of organizations: corporations, trade associations, unions, and public interest groups;

The increase in lobby group activity reflected an increase in virtually all kinds of lobbying techniques. Groups were not only more heavily involved with traditional person-to-person lobbying, but also with techniques using high technology, such as the use of computers to generate mail for grassroots lobbying campaigns;

Contrary to past thinking, lobby groups believed that large quantities of mail generated by a group—no matter how orchestrated such mail may appear—are effective in influencing voting decisions;

Lobby groups have become increasingly more professional with respect to their uses of research and technical information as a technique for influence;

Increased levels of activity can be traced to the growth and intrusion of Government in American society and to procedural and institutional changes in Congress.

Mr. President, Professors Schlozman and Tierney will testify on this important subject in hearings before the Governmental Affairs Committee, November 15, 1983.

I request that the Schlozman-Tierney article be printed in the RECORD.

The article follows:

MORE OF THE SAME: WASHINGTON PRESSURE GROUP ACTIVITY IN A DECADE OF CHANGE

(By Kay Lehman Scholzman, Boston College; John T. Tierney, Boston College)

[Interviews with government affairs representatives in a random sample of 175 Washington lobbying organizations support the popular impression that the volume of pressure group activity has skyrocketed over the past decade. There are many more groups now active on the Washington scene. Moreover, nearly all of them have increased their use of many different kinds of lobbying techniques—not simply, as might be expected, those facilitated by the revolution in electronic technologies or those encouraged by closer representative/constitutent relations, but also traditional forms of lobbying. Among the various factors responsible for this explosion in interest group activity are the internal changes in congressional organization since 1974.*]

The past two decades have been an era of pervasive change in American politics. Political scientists have been admirably sensitive to various modifications in the conduct of our politics. But if they have noted and documented the alterations in the voting habits of citizens, the financing of campaigns, the staffing of Congress, or the structure of the bureaucracy, they have paid less attention to the realm of pressure group activity.

This neglect of interest groups in assessing the contemporary political scene is perhaps ironic, for interest groups once figured prominently in the scholarly understanding of the American political process, and some of the most provocative academic interpretations of American politics since the turn of the century place competition among these groups at the heart of the political process. Following the tradition laid out early in the century by Arthur Bentley (1908), analysts of American politics during the 1950s—among them David Truman (1951), Earl Latham (1952), and Robert Dahl (1961)—characterized the political process not so much in terms of the static relations among institutions, as in terms of the dynamic relations among a plurality of contending groups.

It is not simply that scholars recognized the centrality of interest groups to policymaking in America. Rather, this empirical observation gave rise to a normative debate about the meaning of a vigorous group process for democratic governance. Champions of group politics argued that it enhances the mechanisms of representation, guaranteeing to ordinary citizens an effective voice in the halls of government; protects them from the coercive exercise of governmental power; precludes majority tyranny by accommodating the preferences of the most intensely concerned; ensures moderate policies and, therefore, political stability; and promotes political outcomes that approximate the public interest.

In the ensuing decade critics of the group process (Schattschneider, 1960; Olson, 1965; McConnell, 1966; Lowi, 1969) regarded much less optimistically pressure group dominance of policy. Oriented to justice rather than to liberty, and to change rather than to stability, these observers made a number of arguments to counter the advocates of interest group competition. They contended that, as interest groups usurp public authority, the boundaries between public and private spheres erode; that the resultant exercise of private power can be just as coercive—and much less accountable—than the exercise of public power; and that, because the pressure system is not universal, the interests of those groups not represented in the process—most notably, those of the poor and diffuse publics—are ignored in government policymaking. Given the degree to which such themes go to the heart of thinking about democracy, it is no wonder that a generation of academic observers of American politics took so seriously the role of interest groups.

Whether one's sympathies lie with the group theorists or their critics, this debate makes very clear that it matters crucially how active groups are in the political process. Therefore, it is central to know just how much group activity there is and what forms it takes. There have been several thoughtful treatments of interest groups in recent years (Wilson, 1973; Berry, 1977; Moe, 1980; Hayes, 1981). Unfortunately, however, with the exception of Walker (1981) and Gais, Peterson, and Walker (1982), there has been a paucity of new data collected—either of the systematic sort that Lester Milbrath (1963) amassed or of the in-depth kind that Bauer, Pool, and Dexter (1963) assembled two decades ago. Thus, although we have an old debate providing guideposts for the understanding of the republic's governance, we lack an empirical basis for judging whether the new realities accord with the old description. In this paper we use the results of our recently completed survey of 175 interest groups having offices in Washington to furnish descriptive data about changes in the Washington pressure group scene and to acquire some understanding of those changes. In particular, we use systematic data to probe how interest groups go about trying to influence the federal government. We assess not only how much group activity there is but also what kind; that is, we consider both the volume of group activity and the specific techniques employed. Furthermore, we shall probe the degree to which what we find constitutes change and inquire into the sources of any changes we isolate.[1]

AN EXPLOSION IN GROUP ACTIVITY?

In what Time called "an era of the strenuous clique and the vociferous claque" and Newsweek labeled an age of "Me-first factionalism," journalists and politicians have noted—and often lamented—the recent explosion in interest group activity.

Although journalists and politicians seem ready to declare this the age of "the imperial pressure group," their impressions have yet to be sustained by any systematically gathered data. After all, there is always the possibility that the expansion in group activity is merely illusory. It may be that the most successful lobbying traditionally has been that which is least overt—groups operating, largely unnoticed by the public, through regularized interactions with government officials. Perhaps what has happened is that a few noisy groups have arrived on the scene, exploiting new technologies (such as direct mail) and generating media coverage to bring their message to the public. Thus, perhaps what has changed is not the amount of activity but its visibility.

This line of argument also raises the possibility that we are witnessing both an expansion in group activity and a transformation of its character. Two of the principal changes in our larger political environment—the revolution in assorted electronic technologies and a reinforcement of the nexus between the congressman and his district—may well be giving rise not simply to more group activity, but to entirely new kinds of activity or at least to enhanced salience of some forms of activity at the expense of others.

Let us elaborate. We might reasonably expect recent developments in mass-communication and data-processing technologies to add new weapons to a pressure group's arsenal, facilitating its use of indirect forms of lobbying in order to influence the decisions of government officials. The electronic and print media make it easier than ever to reach not only the public at large but also special publics with messages specially designed to maximize their popular appeal. Given the sophistication and effectiveness of these communication technologies, we might expect to find organizations relying increasingly on methods such as direct-mail fund raising, efforts to generate letters and telegrams to public officials, and advertising campaigns in the media to explain positions on issues.

Similarly, we might expect the approaches taken by interest groups to be altered by the strengthening of the ties between the congressional representative and his district. Academic observers of Congress—among them, Ferejohn (1974), Mayhew (1974), Fiorina (1977), Fenno (1978), and Roberts (1981)—point to a cluster of phenomena to demonstrate that the modern legislator in recent times is not so much an instructed delegate as a parochial advocate, attentive both to the expressed preferences and the particularistic needs of constituents. Given this enhanced sensitivity to what the folks back home are telling legislators, we would expect interest groups to place special emphasis upon certain strategies and methods: for example, framing appeals to legislators in terms of the specific effects of a proposed measure upon their own districts; bringing influential constituents from the district to Washington in

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[1] In outlining our project in this way we are deliberately neglecting the important question of who is involved in the process. We are leaving for a subsequent paper the complicated—and perhaps more interesting—task of evaluating whether there has been a transformation in the nature of the interests that are represented by pressure groups, the question posed by Schattschneider (1961) about the nature of the "scope and bias of the pressure system."

order to present a case to their own representatives rather than relying upon the persuasiveness of their permanent Washington lobbyists; generating communications from constituents. Here, our expectations of the effects of changes in the nature of congressional representation reinforce our expectations of the effects of new technologies. Both point in the direction of increased salience of indirect lobbying techniques in which groups mobilize citizens at the grassroots to communicate with policymakers.

We can use the results of our recently completed survey of government-affairs representatives in a sample of 175 Washington-based organizations to shed light on these matters. In order to construct a sample in which large and active organizations would have a great probability of being selected than smaller, less active ones, we devised a somewhat unusual sampling procedure (elaborated in much greater detail in the Appendix). Twice a year the National Journal publishes an index listing the private organizations mentioned in its articles during the preceding six months. We assembled indexes over a four-year period (1977-80) and sampled randomly from them by line, thus giving the more frequently mentioned groups a greater probability of being selected. Of the 200 organizations chosen—corporations, trade associations, unions, professional associations, civil rights groups, and so on—we were able to contact and interview 175 of them. Within each organization we sought to interview the individual having the broadest understanding of that organization and its involvement in politics. The interviews included both open- and closed-ended questions and lasted roughly two hours each.

We use the results of our survey as the primary data base for the tripartite inquiry that follows. First, we consider whether there in fact has been an explosive increase of late in pressure group activity and also whether technological and political changes have led to particular increases in certain kinds of techniques. Second, we probe further into two specific features of contemporary group activity—an emphasis on grassroots lobbying and the enhanced professionalism of Washington representation—that have received particularly great attention. Finally, we draw further on our survey to explore the primary reasons for the growth in pressure group activity.

HOW MUCH ACTIVITY?

Our initial concern is to investigate changes over time in the volume of group activity and to determine whether the perceived growth spurt is real or illusory. We can take a first, tentative stab at these questions by considering data we assembled (using information in the Encyclopedia of Associations [1979] and in the various volumes put out by Moody's Investors Service) about the birth dates of over 2100 of the nearly 2700 organizations listed in the 1981 Washington Representatives directory as having their own offices in Washington. Fully 40 percent of these organizations have been founded since the beginning of the 1960s; in fact, 25 percent have been founded since the beginning of the 1970s.[2] Thus, there are clearly many new organizations on the scene. We should note, of course, that the total number of organizations active in Washington politics has probably not grown proportionately in the same period because some organizations have presumably gone out of business during the period. We know, after all, that some groups are meant to be temporary from the outset because their founders are concerned about a particular piece of legislation or an isolated regulatory matter. However, what we know about the tendencies of organizations to persist—coupled with the fact that organizations listed in one edition of the Washington Representatives directory have a high probability of appearing in successive ones—leads us to the conclusion that there are many more organizations around than in the past.

But that is only half the picture. Not only are there many new organizations, but there are many more organizations in Washington. In the past two decades there has been a massive immigration of organizations to Washington. There are no data, analogous to those just cited for organizational births, about when these organizations first established offices in the national capital. However, we do have such figures for most of the 175 organizations in our sample. Sixty-one percent of our organizations have opened a Washington office—often a national headquarters—since 1960, 38 percent since 1970. This indicates, presumably, the increased salience of national politics both to groups originally established for other purposes and to groups long active in politics whose political interests are now so compelling that they have established a permanent beachhead in Washington.

The figures just cited require further amplification. Our Washington sample, in fact, underrepresents younger organizations. While 40 percent of all organizations having Washington offices have been established since 1960, only 20 percent of the groups in our sample are so young. Given that we deliberately attempted to sample large and active organizations, this discrepancy is not surprising. Although many recently formed organizations—for example, Common Cause and the Business Roundtable—have quickly established a substantial Washington presence, it is hardly astonishing that, in seeking active and powerful groups, we also netted a disproportionate number of older ones. Since our sample underrepresents new organizations, it presumably also underrepresents the number of groups opening offices in Washington in the past two decades. However, we can arrive at a reasonable estimate of the number of new arrivals in Washington by weighting the data from our survey by the broader data we assembled on organizational birth dates. On the basis of those calculations, we speculate that roughly 70 percent of all groups have opened their Washington offices since 1960, and that just under half have established their Washington offices since 1970.

TECHNIQUES OF INFLUENCE

Let us look more directly at the level of group activity. In an effort to piece together a comprehensive picture of exactly what techniques groups use in their efforts to influence, either directly or indirectly, what goes on in government, we devised an encompassing list of 27 such techniques. We presented our respondents with this list and asked them to tell us, with respect to each one, whether or not the group uses it. We show the results of that inquiry in table 1 in which we list in descending order the proportion of groups using each of the 27 methods. At the top of the scale, virtually all our respondents, 99 percent of them, testify at hearings; 98 percent contact officials directly; and 95 percent talk shop with officials in informal settings. At the bottom, only 20 percent engage in protests and demonstrations. Surely, the nature of our sample affects the results shown in table 1. Given our deliberate attempt to sample active organizations, it is not surprising that table 1 shows a great deal of activity. Still, what is striking about the figures in table 1 is just how much interest groups do. Seventeen of these techniques are used by at least three-quarters of the groups, and 21 are used by at least half. Turning it upside down, we can cite figures not contained in table 1 to the effect that the median number of techniques used by a group is 17, and the modal number of techniques is 21.

TABLE 1.—*Percentage of Groups Using Each of Techniques of Exercising Influence*

	In Percent
1. Testifying at hearings	99
2. Contacting government official directly to present your point of view	98
3. Engaging informal contacts with officials at conventions, over lunch, etc	95
4. Presenting research results or technical information	92
5. Sending letters to members of your organization to inform them about your activities	92
6. Entering into coalitions with other organizations	90
7. Attempting to shape the implementation of policies	89
8. Talking with people from the press and the media	86
9. Consulting with government officials to plan legislative strategy	85
10. Helping to draft legislation	85
11. Inspiring letter-writing or telegram campaigns	84
12. Shaping the government's agenda by raising new issues and calling attention to previously ignored problems	84
13. Mounting grassroots lobbying efforts	80
14. Having influential constituents contact their congressman's office	80
15. Helping to draft regulations, rules, or guidelines	78
16. Serving on a advisory commissions and boards	76
17. Alerting congressmen to the effects of a bill on their districts	75
18. Filing suit or otherwise engaging in litigation	72
19. Making financial contributions to electoral campaigns	58
20. Doing favors for officials who need assistance	56
21. Attempting to influence appointments to public office	53
22. Publicizing candidates' voting records	44
23. Engaging in direct-mail fund raising for your organization	44
24. Running advertisements in the media about your position on issues	31

[2] It is interesting to note in this context that this growth has not been uniform across the various groups. Only 14 percent of the corporations have been established since 1960, 6 percent since 1970. The analogous figures for trade associations and other business groups are 38 percent since 1960, 23 percent since 1970; for professional associations, 30 percent and 14 percent; for unions, 21 percent and 14 percent; for public interest groups, 76 percent and 57 percent; for civil rights groups and organizations representing minorities, 56 percent and 46 percent; and for social welfare organizations and groups representing the poor, 79 percent and 51 percent.

25. Contributing work or personnel to electoral campaigns	24
26. Making public endorsements of candidates for office	22
27. Engaging in protests or demonstrations	20

It seems useful to digress to inquire whether different kinds of groups are specialists in different kinds of activities. Four kinds of organizations—corporations, trade associations, unions, and public interest groups—are sufficiently numerous in our sample to make possible further investigation. When we cross-tabulated these twenty-seven activities by these four categories of organizations, what was striking was the overall similarity among the four categories with respect to the various techniques they employ. (Table 4 upon which the following remarks are based is contained in the Appendix.) Among the most heavily used activities (those on the top half of the list, employed by at least 80 percent of all organizations), in only two cases do fewer than 70 percent of the organizations in a specific category use it. (Only 67 percent of the corporations report that they talk with people from the press and the media, and only 58 percent of the public interest groups indicate that they mobilize influential constituents to contact legislators.)

Further down the list some differences do appear. Public interest groups seem substantially less likely than the other kinds of groups to make financial contributions to candidates (partly, we assume, because of their tax-exempt status and the restrictions that places on their political activity). In addition, there are several techniques that seem to be employed more frequently by certain groups. Unions and public interest groups seem to be much more likely to publicize candidates' voting records and, not surprisingly, to engage in direct-mail fund raising. Furthermore, there are several techniques—donating manpower to campaigns, endorsing candidates, and engaging in protests—which are within the virtually exclusive preserve of the unions. Still, with respect to techniques used, it is the similarities across types of groups that are striking.

MORE ACTIVITY?

Of course, "a lot" of activity is not necessarily more activity. However, our data provide ample evidence not only of the large volume of group activity but also of recent expansion in that activity. Among the first questions we asked our respondents was an open-ended one inquiring about the changes over the past decade in the way their groups went about trying to influence what goes on in Washington. The question, not surprisingly, netted dozens of answers going off in many directions. However, the single most frequent reply—articulated by 32 percent of the respondents—was some variation of the simple theme of "We are more active than we used to be." [3] For example, the representative for a major peak association of businesses explained his organization's escalating political involvement by reference to the expanding range of matters that demand attention:

"There are more people in the act and more issues to deal with. For example, in the 93rd Congress, we had 40 issues; in the 94th, 71 issues; in the 95th, 101 issues; in the 96th, 132 issues. Hopefully, that's tapering off now."

Our open-ended question was followed immediately by a closed-ended item asking about changes in the group's level of activity over the past decade. A remarkable 88 percent of the respondents indicated that their groups had become more active in recent years. Nine percent said that their activity level was largely unchanged, and a mere three percent said that their activity had diminished.[4]

We can probe this issue further by returning to our list of 27 methods of political influence. Each time a respondent indicated that his group utilized a given technique, we inquired whether its use of that method had increased, decreased, or remained the same in recent years. We present the results in table 2 which shows, once again in descending order, the proportion of groups reporting increased use of a particular technique in recent years. Again there is a range: 68 percent of the groups in our sample are having more contact with people from the press and the media, while only 9 percent are engaging more frequently in protests and demonstrations. What is noteworthy, however, is how much increase there has been. In 14 of the 27 cases, at least half our respondents reported they were using a technique more in recent years. Viewed from another perspective, the median group reported increased utilization of 13, or just under half, of these methods.

The other side of this coin in perhaps even more striking. Our data on the proportion of groups reporting decreased use of a particular technique in recent years reveal a very narrow range: for each of the 27 techniques, the proportion of groups reporting a decrease in use was 5 percent or less. (The average across all 27 techniques was a decreased use by only 2 percent of the groups.)

MORE OR EVERYTHING?

On this basis we fell secure in concluding that the apparent explosion in group activity is not merely illusory, a by-product of the realization by a few groups that the media will cover whatever is noisy and interesting. In our introductory discussion, we posited that certain changes in the environment in which pressure groups operate—most importantly the revolution in electronic technologies and the strengthening of the connection between representative and constituency—would have the effect of not merely escalating group activity but transforming it. More specifically, we expected especially rapid rates of growth for certain techniques: those engaging the use of the media (for example, talking to people from the press and electronic media or running ads to publicize group positions); those facilitated by the use of computers (for example, direct-mail fund raising, communicating with organization members, and inspiring letter-writing campaigns); and those exploiting the links between legislator and constituency (for example, mounting grassroots lobbying efforts, alerting representatives to the effects of legislation on their districts, and arranging communications from influential constituents about policy matters).

TABLE 2.—*Percentage of Pressure Groups Using Each of Techniques More than in Past*

In Percent

1. Talking with people from the press and the media [1]	68
2. Entering into coalitions with other organizations	67
3. Contacting government officials directly to present your point of view [3]	67
4. Testifying at hearings [3]	66
5. Sending letters to members of your organization to inform them about your activities [1]	65
6. Presenting research results or technical information	63
7. Mounting grassroots lobbying efforts [1 2]	59
8. Inspiring letter-writing or telegram campaigns [1 3]	58
9. Engaging in informal contacts with officials—at conventions, over lunch, etc. [3]	57
10. Attempting to shape the implementation of polices	56
11. Helping to draft legislation	54
12. Shaping the government's agenda by raising new issues and calling attention to prevously ignored problems	54
13. Consulting with government officials to plan legislative strategy [3]	54
14. Having influential constituents contact their congressman's office [2]	52
15. Making financial contributions to electoral campaigns [2]	49
16. Alerting congressmen to the effects of a bill on their districts [2]	45
17. Helping to draft regulations, rules or guidelines	44
18. Filing suit or otherwise engaging in litigation	38
19. Serving on advisory commissions and boards	32
20. Engaging in direct-mail fund raising for your organization [1]	31
21. Attempting to influence appointments to public office	23
22. Doing favors for officials who need assistance [3]	21
23. Running advertisements in the media about your position on issues [1]	19
24. Publicizing candidates' voting records	19
25. Contributing work or personnel to electoral campaigns	18
26. Making endorsements of candidates for office	14
27. Engaging in protests or demonstrations	9

[1] Facilitated by modern electronic technology.
[2] Relevant to strong representative-consistent relationship.
[3] Classic direct lobbying.

Table 2 indicates differences among the techniques in the extent to which their use by interest groups has increased. However, superficial inspection of table 2 does not indicate selective increases among the clusters of techniques that are either electronically relevant or constituency-based. Certainly, at the top of the list is one method of influence for which we would anticipate huge increases in an electronic age—talking with people from the press and media. However, two others that might also be related to new communications technologies—engaging in direct-mail fund raising and running ads in

[3] This figure underrepresents the number of references to this theme because it does not include the many additional respondents who amplified this theme by citing some *specific* change, such as the growth of government activity, that has had the effect of increasing their involvement in politics. These responses will be discussed further below.

[4] We should point out that we are unsure of the effect of our sampling technique upon these figures. It is difficult to know whether, in systematically sampling organizations with high levels of Washington activity we also sampled organizations with increasing levels of Washington activity. We do not know whether the National Journal is systematically less likely to report on an active organization whose activity is, nonetheless, not growing. (See the Appendix for a discussion of related matters.)

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the media—are near the bottom. Techniques specified as particularly relevant to an era of close links between legislators and constituents seem anchored in the upper-middle ranges of the list, far from the bottom but not at the top.

To make some sense of these observations, we attempted to contrive some summary figures. We scanned the list 27 methods and designated six (indicated on table 2) that seemed clearly linked to electronic technology and five that seemed most clearly linked to a strong representative-constituent bond. (As anticipated by our earlier discussion, two techniques—mounting greassroots lobbying efforts and inspiring letter-writing campaigns—fell into both of these categories.) Then we specified five other techniques that seemed to conform to the classical stereotype of lobbying in Washington as it has been conducted for over a century. Finally, for each of these three broad categories, we found the average proportion of groups indicating increased use of the individual techniques in that category, with the following results:

Mean Percentage of Groups Using Techniques More Often

Electronically relevant techniques: 50%
Constituency-based techniques: 53%
Classic direct lobbying techniques: 53%

Let us not endow these figures with more meaning than they merit. We wish neither to reify these categories nor to maintain that our choice of which specific techniques belong in which categories is beyond argument.

What we have found, however, is substantiation of our earlier observation about the nature of the growth in pressure group activity—a variant of the theme "more of everything." We are not saying that there has been a uniform expansion across each of the many techniques groups employ. However, our expectation that the advent of television and computers or the importance of advocacy representation would tranform pressure group activity is not borne out. We did not find selective increases in either electronically related or constituency-based modes of interest group activity. Use of these forms of interest representation, of course, has skyrocketed, but so too has the use of the time-honored direct methods of contact and consultation.[5] Thus, the massive increase in group activity is built upon expanded use of all kinds of techniques.

Percentage of Groups for Whom Technique Consumes Time and Resources

	In Percent
1. Contacting officials directly (3)	36
2. Testifying at hearings (3)	27
3. Presenting research or technical info	27
4. Mounting grassroots lobbying (1, 2)	26
5. Shaping the government's agenda	20
6. Entering into coalitions	20
7. Consulting to plan legislative strategy (3)	19
8. Shaping implementation	17
9. Alerting reps to effects (2)	14
10. Sending letters to org. members (1)	12
11. Drafting legislation	12
12. Informal contacts (3)	10
13. Talking with people from the press and media (1)	10
14. Inspiring letter-writing campaigns (1, 2)	10
15. Making contributions to campaigns (2)	8
16. Drafting regulations	7
17. Having influential constituents contact (2)	6
18. Direct-mail fund raising (1)	5
19. Serving on advisory commissions	4
20. Filing suit	4
21. Running ads in the media (1)	3
22. Publicizing voting records	2
23. Contributing manpower to campaigns	2
24. Doing favors (3)	2
25. Engaging in protests or demonstrations	1
26. Influencing appointments	0
27. Making endorsements	0

MORE OF THE SAME

Our respondents—and the journalists who chronicle their doings—might read the foregoing and point out with a sigh that our statistical summaries reveal little of the texture of political life, that we have overlooked the many subtle changes in kind as well as degree of activity. We can use our respondents' answers to an open-ended question about changes in how their groups go about influencing what goes on in Washington to suggest some areas in which to investigate subtle alterations. As we have mentioned, the largest porportion of our respondents (32 percent) reported simply that their group was more active. However, shedding additional light on the significant ways in which group activity may have changed, roughly 20 percent of our respondents spoke of changes in the nature of grassroots lobbying, and another 20 percent pointed to what they regard as the enhanced professionalism of Washington lobbying, particularly as evidenced by a greater reliance on technical information.

To discern whether the changes identified by our respondents are in fact real, we needed a fuller understanding of the nature of group activity before the dawn of the new era. Accordingly, we consulted historical accounts of the Washington lobbying scene. We discovered that the absence of a systematic approach in the scholarly and journalistic works of previous eras would make it difficult to use these works to establish any kind of historical benchmark. We have no way of knowing whether the examples cited by these observers are typical or merely striking. Still, as we delved into this historical literature we were suprised to find precedents for techniques often considered unique to our modern era. Thus, we began to realize that we had found in our survey not only "more" but "more of the same."

GRASSROOTS LOBBYING

Grassroots lobbying it seems is not the invention of our era—one that enjoys the kind of data-processing and communications technologies that make this technique so easy to use. Rather, this is an ancient weapon in the pressure group arsenal. At the start of the century, without so much as a microchip to aid it, the Anti-Saloon League had a mailing list of over half a million people (Odegard, 1928, p. 76). Lest one assume that this powerful organization was unique in its resources, we find in the 1929 writings of Pendleton Herring every indication that this form of interest-group behavior was quite common at the time (Herring, 1929, p. 70).

Although it may be that the techniques of grassroots lobbying are less innovative than sometimes believed, the way grassroots communications are received and interpreted may have changed. The common wisdom among political scientists is that an official who gets even so much as a whiff of suspicion that communications have been orchestrated immediately discounts them. As a matter of fact, such stimulated communications have been labeled "probably the least effective and most relied on lobbying technique" (Zeigler and Peak, 1972, p. 153).

We asked our respondents about this problem with letter-writing campaigns. Because of the rich responses they provided, it is difficult to give statistical summaries of their replies. Nevertheless, several themes emerge with clarity. First, very few of our respondents said that because of the skepticism with which officials may greet such communications, their organizations eschew the use of grassroots lobbying techniques. Instead, groups seek ways to render those communications credible. Over two-thirds of the organizations using these methods mentioned attempts on their part to make the letters or contracts seem spontaneous and sincere. Typically, our respondents indicated that it helped to supply their members with a summary of salient points and to instruct them to compose their own letters, perhaps even to write in longhand. The comments of a vice president of Washington operations of a large membership organization indicate a typical approach:

"We try to avoid form letters. We send them the information and ask them to tailor to themselves and make it personal. It depends on the issues. Mass mailings work for the unions, but not for us."

In an interesting twist, the Washington bureau director of a leading civil rights group indicated that the more illegible and ungrammatical the letters generated by her organization, the greater the likelihood they would be taken seriously.

In addition, many of our respondents indicated that, if the communications arrive in sufficient quantity in congressional offices, they will be heeded no matter how orchestrated they seem. As the chief lobbyist for a large natural gas corporation (and son of a former congressman) told us:

"Members have to care about this mail, even if it's mail that is almost identically worded. Labor unions do this sort of thing a lot. The member [of Congress] has to care that *somebody* out there in his district has enough power to get hundreds of people to sit down and write a postcard or letter—because if the guy can get them to do *that*, he might be able to influence them in other ways. So, a member has no choice but to pay attention. It's suicide if he doesn't."

Confirmation of this view emerges from the results of a recent survey of Capitol Hill staff aides. The results of that study show that "orchestrated mail from constituents" ranks eleventh overall on a list of *ninety-six* types of communications that may influence the decisions of members of Congress (Staff, 1981, p. 7).

PROFESSIONALISM IN WASHINGTON REPRESENTATION

The other aspects of modern interest group politics that merited special mention from our respondents is the notion that the whole enterprise of Washington representation has become both more sophisticated and more professional. They indicated over and over that it was no longer sufficient just to know the right people. Now they must

[5] We can further substantiate this conclusion with additional evidence. We asked our respondents to scan the entire list and choose those three that consume the largest share of the group's time and resources. As shown by the data in the following table, the classic direct lobbying techniques (3) actually outrank the elctronically relevant (1) or constituency-based methods (2).

also marshall complicated and well-reasoned arguments. As the vice president of governmental affairs for an internatonal airline told us:

"The lobbying process has become more complex and requires more sophistication. The old boy network has broken down. Now a lobbyist has to be much more articulate about the issues."

Furthermore, lobbyists increasingly buttress their arguments with complex technical information and research findings that not only aid the government in making policy but help to present a group's case in favorable light. A senior lobbyist for a large chemcial company summed up the situation she and her colleagues face:

"Insofar as a great deal of the legislation we deal with is technical, we're doing a lot more providing of research results and technical information. We often think of ourselves as educators. Up until ten or twelve years ago, the issues were not so technical and complex. As the issues increased in technicality, on one congressman could be expected to know all the technical information about the issues. As a result, there is a greater reliance on staff by congressmen, and, in turn, the staffs rely on special interest groups for information."

This activity is clearly an important one, ranking high on our list of 27 techniques for exerting influence: 92 percent of our respondents indicate that they present research results and technical information as one of their activities; and 63 percent are doing more of it recently.

To some the corollary of the new sophistication and complexity of lobbying is a decline in the amount of the sleazy actfivity that we associate with lobbying in the era of the robber baron. According to the vice president for governmental affairs at a large corporation:

"To a large extent, the three B's—booze, bribes, and broads—have disappeared. Not altogether, you understand. But today a good lobbyist must have the ability to draw up factual information—a lot of it—in a short period of time for people on the Hill who want it. . . . Nowadays, taking somebody to a football game or a goose hunt just doesn't quite make it."

On this particular subject most of our other respondents were less forthcoming. Still, we can make a few observations. Most obviously, a more professional demeanor in presenting arguments and technical information does not preclude the use of illegal and quasi-illegal techniques.

With repect to outright bribery, nothing in our interviews contradicts the common wisdom among political scientists (for example, Milbrath, 1963, pp. 274-282) that there are so many legitimate avenues of influence in Washington politics that bribery is unnecessary. Nevertheless, our survey revealed that there was stil many transactions between lobbyist and politican at the penumbra of what is legal. For example, 56 percent of our respondents indicated that they do favors for officials who need assistance, although no one ranked it as as activity consuming a great deal of time and resources. Moveover, only 21 percent reported an increase in their use of this tactic. Still, they do perform favors, and no respondent indicated a decrease in this activity. In fact, we gathered quite a bit of anecdotal evidence of the kinds of services rendererd. For example, one corporate lobbyist admitted some regret at having lent the company limousine to a congressman for this daughter's wedding. Commenting more generally about the nature of some commonly used blandishments, the manager for government relations of a large professional association remarked:

"There not much of the illegal stuff but *a lot* of things that border on it: hunting lodges and fishing trips and golf vacations to Florida; big dinners. . . . What's the real difference between a $10,000 cash payment to a senator and arranging for and paying for a $10,000 dinner party to which the senator is free to invite his favored constituents and friends?"

What are we to make of this? It is clear that as congressional policymaking becomes ever more complex and specialized, there is greater demand for lobbying that is professional and substantively informed. However, a more professional posture and reliance on complex information does not preclude the use of favors or other techniques of influence that may be of more dubious legality. Although our conclusion is tentative, it is our impression that while the three B's have hardly disappeared, their usage does not seem to have accelerated as quickly as the employment of other techniques. Lest we consider this to be an entirely novel state of affairs, however, we can point out that a similar revolution was proclaimed over half a century ago when Richard Boeckel asserted that "the title 'legislative agent' [had acquired] something of a professional standing" and suggested that congressional efforts to register lobbyists constituted "a welcome recognition by Congress of the new dignity of their calling" (Boeckel, 1928, pp. 2-3). Thus, there is even precedent for the self-satisfaction with which many modern lobbyists seem to regard their vocation.

We have found instructive our brief foray into the historical accounts of Washington pressure politics: it has shown us that there is ample precedent for what often is proclaimed to be so new. What we see, in fact, is not only that there is more group activity now, but the same kinds of activities have been in use for many decades. Our remaining tasks is to try to understand why there is more pressure activity now.

WHY MORE ACTIVITY?

Useful as our data are in demonstrating an increase in interest group activity, they are less helpful in clarifying just why this expansion has taken place. However, we at least can draw some suggestions by looking at the remarks made by our respondents: in addition to the third of them who reported more activity over the past decade, many others pointed to some specific change in the Washington scene that had spurred them to increased efforts. These responses are useful for providing clues as to some of the sources of the recent escalation in pressure group activity.

We looked to see, for example, if our respondents mentioned that they are more active in recent years as a reaction to increased activity by groups they consider antagonistic to their interests. This explanation is posited often by group theorists who assume that groups will inevitably coalesce and act in defense of their own interests—especially in the face of organized threats.[6] Given the importance of this stimulus-response concept in group theory, we were surprised to find that only 5 percent of our respondents volunteered that they are more active today because their antagonists—whether business or public interest groups—are more active. Groups in fact may escalate their efforts in response to what their opponents do, but our results indicate that group representatives do not perceive this to be a cause for their actions.

GOVERNMENTAL ACTIVITY AS A SPUR?

A theme that arose more often—discussed by 14 percent of those replying to our open-ended question—is that because the government has grown so much and become so much more intrusive, their organizations have become more politically involved.[7] Commenting on the expanded scope of federal involvement, a lobbyist for a major corporation observed:

"More and more groups and companies have recognized the increasing size of government and have therefore stepped up their involvement. Economically, the government is much more important these days than it was ten years ago. Great Society legislation and the environmental and consumer laws have all combined to make companies feel they need to be more active in Washington."

The current administration, however, is trying aggressively to diminish the size of the federal government. In view of the connection some of our respondents drew between federal expansion and interest group activity, what can we expect to happen to pressure group activity as the government shrinks? Insofar as the retreat means withdrawal of support for their favored programs, we can expect even louder clamor from interest groups. Discussing budget cuts in a program from which the reader may have benefited, the executive director of a professional association to which the reader may belong remarked:

"Just in this past year the whole nature of our involvement has undergone change. The government's efforts to reduce social science funding through NSF by 75 per cent forced us to become more active. We even joined with ten other organizations to form the Consortium of Social Science Associations."

It is not surprising that government reductions would engender pressure activity as groups rise to defend subsidy programs from which they have benefited. But what about deregulation? Can we expect corporate political activity to constrict as the government lifts the regulatory crown of

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[6] This theme is a common one in the literature of group theorists of politics of the 1950's. Its most articulate exponent, however, is Truman (1951, chs. 1-3). We ought to mention in passing another possible source of increased activity to which our respondents gave no voice. Although the empirical evidence is ambiguous, it often is alleged that the vacuum created by weak parties invites pressure group activity. In their answers to our open-ended question 3 percent of our respondents did discuss the enfeeblement of the parties. However, in so doing they were making no direct connection between party weakness and their own activity. Rather, disregarding the directive of the question, they simply were commenting on how the Washington scene has changed. Nevertheless, it is not surprising that our respondents did not make this link. From the vantage point of an organization's office of government affairs in downtown Washington, even the most perceptive observer would not have the kind of perspective to make such global inferences.

[7] In this context it is interesting that although 13 percent of the membership organizations (that is, 13 percent of all organizations interviewed except corporations) rely upon federal grants or contracts for at least 10 percent of their budgets, no one mentioned this government subsidy as being a source of their organization's increased activity. Growth in government activity was always identified as being a hindrance to group interests and thus a spur to defensive activity; government actions were never mentioned as having sponsored group activity.

thorns that has (at least in the eyes of businessmen) rested so oppressively on the corporate brow? Before we leap prematurely to the conclusion that, if the government gets out of the business of economic regulation, corporations will get out of the business of political influence, let us consider what we learned in our interviews with four corporations in a recently deregulated industry, the airlines.

Although our respondents from all four airlines indicated that deregulation makes life easier for their companies, they all remain very active politically, utilizing an average of 20 out of our 27 techniques of political influence. (For all corporations in the sample the average was 18.) Not only are they very active, these companies are *more* politically active now. All four said that their activity had risen in recent years. Furthermore, on average they have increased their usage of 16 of the 27 techniques. (Across the sample, the corporate average was 13.) This is not to say, however, that nothing has changed. The issues have changed—from routes and fares to airports and airways. The principal target has changed—from the Civil Aeronautics Board to the Federal Aviation Administration. But our discussions with airline executives make clear that their corporations remain highly active politically, Thus, if the experience of the airlines is any indication, substantial deregulation may not result in a wholesale contraction in corporate attempts to influence government—at least not in the short run.

CHANGES IN CONGRESS

We were not surprised to be told that increased pressure group activity is fostered by new threats either from organizational opponents or from the government. After all, the literature on interest groups has long since raised these points. We were struck, however, when twice as many of our respondents—28 percent—attributed their increased activity to the reforms of congressional organization and procedure since 1974. The many changes on Capitol Hill over the past decade—the proliferation of subcommittees, the diminished importance of congressional staff, the greater number of policy entrepreneurs, the requirements for open meetings, the rapid turnover in congressional membership—have altered the environment of legislative lobbying and have left pressure groups bent on influencing officials with little choice but to escalate the range and volume of their activities. These changes in Congress have evoked more pressure activity primarily by multiplying the number of access points and expanding the variety of opportunities interested parties have to exert their political will. Because the patterns evidenced are somewhat intricate, we wish to elaborate.

In the aftermath of procedural reforms in Congress that diminished the powers of committee chairmen and multiplied the number of subcommittees, it is no longer possible for a group to make its case effectively by contacting only a few powerful legislators (see Davidson, 1981). Lobbyists must cultivate a broader range of contacts not only because there are more subcommittees whose jurisdictions touch each group's interests, but also because single committees and subcommittees no longer exercise as complete control over legislation as they once did. With the growing tendency to refer bills to multiple committees, and with the general relaxation of the norms inhibiting floor challenges to committees, threats to a group's legislative interests may come from anywhere in the chamber and at many more points over a bill's progression through the legislative labyrinth.[8]

By increasing the number of people with whom groups need to establish contacts, the expansion and professionalization of congressional staff also have led to more work for interest groups. Because staff members can provide valued access to the legislators and increasingly act as a policy-making force in their own right (Malbin, 1980), groups find it desirable to cultivate good working relationships with them.

Sunshine rules, which open once-secret meetings to public scrutiny, were mentioned—although substantially less frequently—by our respondents as having similar effects: creating new opportunities for influence and thereby escalating the work load. According to the legislative counsel for one of the major hospital associations:

"It's great for the lobbyists, but the members of Congress hate it. There in the back of the hearing room are all these lobbyists watching a markup session and giving a thumbs-up or a thumbs-down to specific wordings or provisions. It's a fishbowl for them."

A final development in congressional politics that has meant more work for many groups is the accelerated turnover in congressional membership. In 1971 the ratio of newcomers to veterans was 1.2 to 1. By 1981 that ratio had risen to more than 3 to 1. The rate of turnover by 1981 had led to a decidedly junior Congress. By 1981 a majority of House members had served six terms or less, and 54 percent of the senators were in their first term (figures from Ornstein, 1981, p. 374). Many of our respondents commented that the absence of institutional memory that follows from such a rapid turnover has forced them to intensify their educational efforts as they patiently inform, programmatically, ignorant legislators and their staff members about the purposes, operation, and benefits of cherished programs. The director of a feisty social welfare action group described the Sisyphean task this way:

"One problem is that half the Congress has served fewer than six years. Much of the case made for food programs in the late 1960s was made to people who are no longer on the Hill. Current members of Congress only see the success of those earlier efforts; they look around now and, finding less malnutrition, don't see there's still a problem. Consequently, our lobbying task is being willing to tell the same story time after time to one legislator after another—making them see that hunger and malnutrition are reduced now because those programs [food stamps, school lunches, etc.] are in place, and that we can't afford to eliminate them. You have to have stamina to tell the story over and over—to persuade people who don't understand."

Thus, in yet another way the impact of changes on Capitol Hill is to demand that a conscientious group augment its efforts.

We consider it worth noting that although the architects of the congressional reforms of the 1970s had many purposes in mind, inducing more vigorous pressure from groups was not among them. Had the reformers paid attention to the lessons of history, they would have realized that this unintended consequence has precedent. Writing in 1929, in terms foreshadowing today's literature, Herring pointed to changes in Congress that invigorated group activity and altered the scope and methods of lobbying. In particular, he cited the reform of rules of procedure in the House of Representatives in 1911 that broke up the power center and distributed control more generally in the House; he also pointed to the adoption, at about the same time, of open congressional committee hearings as being a spur to group activity (Herring, 1929, pp. 41–43).

What we have learned about the impact of changes in Congress upon interest group activity helps us to solve an earlier puzzle. To review briefly, we originally expected to find selective escalation in the use of certain group techniques—those facilitated by electronic technologies and those capitalizing upon the close relationship between representative and district. We did, indeed, uncover increased employment of those methods of influence. However, we also found enhanced use of old-fashioned methods of direct lobbying.

The foregoing analysis of the implications for pressure groups of congressional reforms helps to explain why. These changes, taken collectively, spell both more opportunities for influence and more work for interest groups: more policymakers with whom one must consult and to whom one must present a case; more freshmen and issue amateurs requiring education; more meetings to attend; more hearings at which to testify and present technical information; more campaigns demanding contributions. These developments imply an increase in virtually all of the techniques relevant to legislative influence. In particular, however, they imply an increase in the use of those techniques we associate with old-fashioned lobbying. Thus, we now understand why the employment of these traditional methods has risen as quickly as the use of the clusters of electronically related or constituency-based methods.

CONCLUSION

In this paper we have trained for the first time in two decades systematic data on the question of what Washington-based pressure groups are doing. We were able to assess the journalistic common wisdom that there has been recently a vast expansion in the amount of interest group activity; we have found that, indeed, such an expansion has taken place. Not only are there more groups active in Washington, but they are doing more. The explosion in pressure group activity, however, is not confined to those methods peculiarly appropriate to an age either of electronic media and data processing or of stronger links between legislators and constituents. Rather, the increase has taken place across all categories of interest group techniques, the old-fashioned as well as the modern. Hence, we concluded, "more of everything."

In addition, when we probed more deeply, we learned that for each much-vaunted alteration in the nature of group activity there is historical precedent. It is the dimension not the substance that has been modified. Hence, "more of the same." Finally, we looked into the possible sources of

[8] Our respondents' comments about the increasing number of committees and subcommittees they must deal with are germane to a subject we expect to treat in another context—theories about the dominance in the policy process of so-called subgovernments. Our findings suggest that self-contained and impermeable "iron triangles" have given way to many-sided polygons. Moreover, any such geometric metaphor is probably less appropriate than Hugh Heclo's (1978) concept of relatively more porous "issue networks" that are based on information and specialized knowledge.

this explosion in attempts to influence government and found the sources with government itself. Two developments seem to have fostered this growth: the tendency of the government to become involved in more and more areas of economic and social life; and the recent reforms in Congress which have multiplied the number of bases to be touched and meetings to be attended.

Because the modes of interest group activity have remained in balance—that is, because there have been no selective increases in certain forms of group influence relative to others—it might be argued that "more of the same" is really simply "the same." We disagree. We only need recall the normative underpinnings of the debate between the group theorists and their critics to understand that an expanded group process is fraught with implications for democratic governance. Even if there is more of all kinds of activity, not just some kinds, and even if there is precedent for that which is presumed to be innovation, we must take seriously the meaning of this proliferating activity. (This observation is particularly germane for the explosive growth of political action committees—a development that has received a great deal of both scholarly and journalistic attention.)

In the 1950's and 1960's academic analysts of American politics debated the implications for democracy of a political process in which private groups play a dominant role. Today a similar dialogue is taking place although the terms of the discussion are somewhat different and the discussants are less likely to be drawn from the ranks of political science. Still, as before, it is a matter of some contention whether a clamorous group process is salutary for democracy. To some, the cacophony of interest articulation is the fulfillment of the pluralist promise, indicating that many hitherto silent voices are being heard. In their view, to suggest that the din be hushed is to attack one of the most fundamental of liberties in a republic: the right of citizens, acting collectively, to appeal to government. To others, the cacophony is the application to politics of the "Medecade" philosophy: with the clamor comes an increasingly divided and fragmented society, a paralysis in national policymaking, and a politics in which statesmanlike concern with the common good yields to the tunnel vision of the narrowly interested.

Because the escalation in special-interest politics so complicates their lives, many members of Congress incline to the latter view. Their distaste for a politics of fractious interest groups is perhaps ironic since the structural and procedural reforms initiated by Congress itself appear to have played an important part in spawning more interest group activity. Whether or not members of Congress like the higher decibel level, they have to assume some of the responsibility for having raised the volume.

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APPENDIX—THE WASHINGTON REPRESENTATIVES SURVEY

Our sampling procedure bears elaboration. We wished to devise a technique that somehow would sample randomly from Washington interest group activity, not to sample Washington lobbyists or even the universe of organizations represented. In practical terms this meant that we wished to construct a sampling procedures in which the active and well-funded organizations that build a large Washington operation—for example, General Motors, the Petroleum Institute, or the American Medical Association—would have a greater probability of being selected than smaller, less active, and affluent groups like the Moped Association of America, the Forzen Pizza Institute, and the American Association of Sex Educators and Counselors.

We were able to locate a surrogate measure of a group's Washington activity by using the National Journal's Index to Private Organizations. Twice a year the National Journal publishes three separate indexes—one listing the subjects, one listing the names of individuals, and one listing the private organizations mentioned in its articles during the preceding six months. In any one index to organizations, the AFL-CIO might occupy several inches of column space whereas the American Hotel and Motel Association might merit only a single entry. We assembled indexes over a four-year period (1977-80) and sampled randomly from them by line, thus giving the more frequently mentioned groups a greater probability of being selected.

Not all the organizations listed in the National Journal's index have their own offices in Washington. We included in our sample only those organizations listed in Washington representatives—1981 (1981) as having their own Washington offices. We eliminated those having only Washington-based legal counsel or consultants. Practical consideration dictated this decision. We deemed full-time organizational employees to be more likely to be intimately involved in many aspects of the organization's affairs and also, as salaried employees, more likely than those who bill clients by the hour to share their time with us. Furthermore, focusing exclusively on organizational employees allowed us to obviate problems of professional/client confidentiality.

We also eliminated from the sample research organizations like the Gallup Poll, foreign governments, and foreign corporations (these two because the are legally barred from lobbying Congress directly), and representatives of American subnational governments such as the City of Provo, Utah, or the State of New Jersey. The issue of how to treat organizations of government workers is workers is somewhat complicated. We decided to exclude those who lobby on behalf of governments, such as the Council of Chief State School Offi-

cers, but to retain those who lobby on behalf of their own private interest as public employees, such as National Treasury Employees Union. What this meant in fact is that we eliminated organizations in which it is a governmental unit (state, regional authority, city, etc.) that joins, but included those in which the individual himself joins.

The resulting sample contained 200 organizations—corporations, trade associations, unions, professional associations, civil rights groups, public interest groups, and so on. We ultimately conducted interviews in 175 of these organizations. Our sample includes a broad range of organizations extending from the Liberty Lobby and the Child Welfare League to the Chamber of Commerce, the American Legion, and the United Mine Workers.

In selecting the person within the organization to interview we searched the personnel listing in the *Washington Representatives* directory for the one person whose job title indicated that he or she would have the broadest understanding of that organization's involvement in politics. If, after an introductory letter and follow-up phone calls, that person was unable or unwilling to be interviewed, we asked to be put in touch with someone else in the organization having extensive experience in the organization and a comprehensive knowledge of its Washington activity. These interviews lasted approximately two hours each. The questionnaire included both open- and closed-ended questions, and encompassed a wide range of subjects.

In order to ascertain what kinds of bias we had introduced by using our somewhat unusual sampling procedure, we conducted some further checks. Our concerns were dual: with respect to the various categories of Washington organizations, we wished to assess the effects, first, of having established as our sampling frame only those organizations mentioned in the *National Journal*, rather than all those listed in the *Washington Representatives* directory; and, second, of having increased the probability that more frequently mentioned organizations would be chosen. To do so we made an enumeration of the nearly three thousand organizations meeting our criteria that were listed in the directory as having Washington offices. We also chose an unweighted random sample of two hundred organizations from the *National Journal*. Table 3 allows us to compare the distributions thus obtained with the weighted sample we originally drew from the *National Journal*.

Our weighted sample of two hundred organizations—and the one hundred seventy-five we actually interviewed—do not differ appreciably from the random sample of *National Journal* organizations in terms of the distribution of organizations into rough categories. There are some differences between the various *National Journal* samples and the distribution of the universe of organizations having Washington offices; however, the differences are exactly the opposite of what we had expected. When we drew our weighted sample, we were dismayed that 54 percent of the organizations represented business and assumed that the *National Journal's* thorough coverage of economic affairs was responsible. In fact, although we oversampled corporations and undersampled trade associations somewhat, the overall total for business organizations was right on target. Contrary to our initial concerns that our sample did not capture sufficient numbers of the antagonists of business—unions and public interest groups—we actually oversampled these two categories substantially. (This is perhaps a consequence of the journalistic ethic of giving each side of the story more or less equal coverage, regardless of whether there is equal pressure activity on both sides.) We should note that our sample is deficient in professional associations and in groups that defied classification. All told then, our sample is quite representative of the categories of groups having offices in Washington.

TABLE 3.—THE WASHINGTON PRESSURE SYSTEM

[In percent]

	All organizations having DC offices	National Journal random sample	National Journal weighted sample	Actually interviewed
Corporations	22	52	30	30
Trade associations and other business	32	21	24	26
Professional associations	15	5	8	7
Unions	4	8	12	11
Public interest groups	3	4	4	5
Civil rights/social welfare	9	13	15	13
Other/unknown	16	10	8	7
Total	101	100	101	99
N equals	(2,694)	(200)	(200)	(175)

TABLE 4.—PERCENTAGE OF GROUPS IN EACH CATEGORY USING TECHNIQUES OF EXERCISING INFLUENCE

[In percent]

	Sample	Corporations	Trade associations	Unions	Public interest groups
1. Testifying at hearings	99	98	100	100	100
2. Contacting officials directly	98	100	97	100	100
3. Informal contacts	95	98	97	95	96
4. Presenting research results	92	94	89	90	92
5. Sending letters to members	92	85	97	95	86
6. Entering into coalitions	90	96	91	100	92
7. Shaping implementation	89	90	91	85	92
8. Talking with press and media	86	67	89	95	96
9. Planning legislative strategy	74	81	85	85	83
10. Helping to draft legislation	85	86	94	85	74
11. Inspiring letter-writing campaigns	84	83	89	100	83
12. Shaping the Government's agenda	84	79	77	85	100
13. Mounting grassroots lobbying	80	79	80	100	71
14. Having constituents contact	80	77	94	85	58
15. Drafting regulations	78	85	83	75	75
16. Serving on advisory commissions	76	74	74	95	67
17. Alerting Congressmen to effects	75	92	74	85	57
18. Filing suit	72	72	83	95	79
19. Contributing to campaigns	58	86	66	90	29
20. Doing favors for officials	56	62	56	68	46
21. Influencing appointments	53	48	49	80	47
22. Publicizing voting records	44	28	37	90	75
23. Direct mail-fund raising	44	19	37	65	75
24. Running ads in the media	31	31	31	55	33
25. Contributing manpower to campaigns	24	14	23	70	33
26. Endorsing candidates	22	8	9	95	25
27. Engaging in protests	20	0	3	90	25
Average number of techniques	19	18	19	24	19
N equals	(174)	(52)	(35)	(20)	(24)

SEVENTH ANNIVERSARY OF UKRAINIAN HELSINKI GROUP

● Mr. DOLE. Mr. President, 7 years ago today, on November 9, 1976, 10 Ukrainians met in Kiev to announce the formation of the Ukrainian Public Group to promote the implementation of the Helsinki accords. Recognizing that the Helsinki Final Act could become the foundation for an effective alternative to totalitarianism, this group, along with similar Helsinki monitoring groups in Moscow, Lithuania, Georgia, and Armenia, began to examine how the Soviet Government was living up to its Helsinki human rights commitments. Hundreds of letters from Ukrainians to the group attested not only to the need for its work but also to the repressive nature of the Soviet system. Instead of greeting this new endeavor, the Kremlin, in a vicious campaign, singled out the Ukrainian group for especially harsh treatment.

Despite arrests and harassment, the group expanded and continued its work of bringing human rights violations to public attention. The fact that the group continued to grow after additional harsh measures were undertaken to suppress it, is a testament to the moral courage of its members, all of whom had little doubt as to the fate that awaited them. Indeed, of the 36 living group members, 26 are currently imprisoned or in internal exile, 7 have been forced to emigrate to the West and 3 live under constant police surveillance. Many of those imprisoned were falsely charged with criminal offenses. Many are treated with particular callousness by prison and labor camp authorities. Also, the families of some prisoners have been relentlessly presecuted. Despite the efforts of many concerned governments, nongovernmental organizations and private individuals in the West, the Soviet Government persists in its attempt to isolate and silence the Ukrainian Helsinki monitors. Indeed, a number of them have been given additional sentences shortly before they were scheduled to be released.

Mr. President, it is imperative for us to remember these brave men and women. Their active defense of fundamental human rights, in the face of virtually unparalleled adversity, is an inspiration of all Americans who cherish the principles upon which this Nation was founded. To forget the members of the Ukrainina monitoring group is to forget the precious nature of our own freedom.

EFFORTS PERSIST ON GROUP'S BEHALF

The U.S. delegation to the recently concluded Madrid meeting of the conference on security and cooperation in Europe, repeatedly spoke out in behalf of the Ukrainian Helsinki group and specifically raised, in plenary statements, the cases of 15 of its imprisoned members. The Commission on Security and Cooperation in Europe, on which I serve as cochairman, continues its efforts on behalf of all the persecuted members of the Helsinki monitoring groups in the Soviet Union. It is our hope that the Soviet Government will act upon the pledges it made at Madrid and show that it is serious in pursuing the goal of true security and cooperation in Europe, of which human rights is an essential ingredient. I assure you, Mr. President, that we will not forget those who stand in the forefront of the effort to turn the noble ideas embodied in the Helsinki Final Act and Madrid concluding document into reality.●

DRUG ABUSE PREVENTION PROGRAM BY THE ELKS

● Mr. LAUTENBERG. Mr. President, today Kenneth V. Cantoli, grand exalted ruler of the Benevolent and Protective Order of Elks, will meet with Members of Congress to announce a new national campaign by the Elks in the field of drug abuse education. As part of this effort, drug awareness chairmen have been named in every State and training seminars will be conducted in all 2,250 lodges in the country. Public service announcements and a radio and newspaper series will further reach out to the public, and young people in particular, to warn them of the hazards of drug abuse. The Elks Foundation has allocated almost one-quarter of a million dollars to begin this program.

Mr. President, I am proud to say that Mr. Cantoli is a constituent of mine, from Hasbrouck Heights, N.J. I commend Mr. Cantoli and his fellow Elks for their outstanding leadership on this critical problem. To inform my colleagues of this important new program, I ask that Mr. Cantoli's remarks to Members of Congress be printed in the RECORD.

The material follows:

REMARKS OF KENNETH V. CANTOLI, GRAND EXALTED RULER, BENEVOLENT AND PROTECTIVE ORDER OF ELKS

I would like to take this opportunity to thank the Honorable Peter W. Rodino, Jr., and Matthew J. Rinaldo for arranging this event. You are most gracious hosts, gentlemen.

And I would like to thank all of you for spending this time with us. We are very proud of the strong representation our Order has in the Senate and House of Representatives. Over 80 of your colleagues in Congress are members of this great family of Elkdom.

As members, you are all well aware of the Order's contributions to this country over the past 115 years. In excess of $430 million has been given to worthy causes, agencies and services since the Order was founded in 1867. Each year national, state and local programs conducted by our 1.6 million members in the United States, focus on special projects that need assistance.

Last year we were once again among the leaders in educational support with over $1.7 million contributed in scholarships for worthy, needy students.

In that same year, we contributed over $5.6 million to youth programs.

The handicapped and needy received an additional $9.4 million from the Elks last year.

In all, our charitable contributions for 1982 exceeded $25 million and that does not include the millions of volunteer hours contributed by our members.

This year we are embarking on a new program—one that could prove to be the most important in the history of our Order. Last year the Elks conducted a national survey of mayors to determine the greatest areas of need for volunteer help in our nation's communities. In response to the findings of that survey, the Elks are undertaking a national drug awareness education program. We view this program as a long-term commitment in addition to the yearly special projects and other volunteer works of the Order.

Drug awareness chairmen have been named in every state and training seminars are being conducted now for those chairmen. They will duplicate that seminar for all of our 2250 lodges in the country, where members will be responsible for implementing the drug awareness education program in their local communities.

The Grand Lodge will produce Public Service announcements that will be distributed to radio and television stations throughout the country. It will also be sponsoring a six-part radio series and a six-part newspaper series on the hazards of drug abuse among our young people. For the first six months, the Elks Foundation has allocated almost one quarter of a million dollars to begin this program.

We believe drug abuse poses today's greatest threat to our country's most precious resource: its youth. Drug abuse destroys the potentials of tomorrow's leaders before those potentials can develop. If this trend is not reversed our citizens will be severely hampered in their ability to find and elect men and women of your caliber and talents to lead our country in the future.

Our businesses and industries will be restricted in finding and developing teams of executives, managers and employees.

Our educational institutions will suffer—in fact we are seeing the effects already in high schools. Students, suffering from the effects of short term memory loss as a result of getting high on drugs, have literally lost vital portions of their formal education. Facts, figures, insights and experiences are irretrievably gone; pushed out of recall by mind-dulling drugs.

We simply cannot allow this trend to continue. The Elks are committed, leader by leader, lodge by lodge, member by member, to eradicating the use of harmful drugs among our children. We greatly appreciate your support in our efforts to combat this insidious chemical intrusion in our society. The minds and bodies of our young people are at risk. Our moral fiber and national character is at stake. We urge your endorsement and assistance in this national effort.●

FINANCIAL INSTITUTIONS STABILIZATION PACKAGE

● Mr. HEINZ. Mr. President, today I have introduced two bills that will halt the unauthorized, steamrolling breakdown of the congressionally

mandated separation between banking and other financial services.

It is also my intention to introduce a third bill, which is an extension of S. 1532—a bill previously introduced by request by Senator GARN and cosponsored by myself, and Senators DODD and PROXMIRE—that imposes a 6-month moratorium on the breakdown of this legislative wall. I am withholding the introduction of this legislation for today, but ask that the text of this bill be included in the RECORD at the conclusion of my remarks.

Mr. President, it is possible that Congress would prefer an alternative to enacting this kind of temporary solution to the problem as I believe we should. Therefore, I am, as I indicated, introducing legislation constituting an alternative course of action for the Congress. This legislation would prevent the two most egregious circumventions of the Federal banking regulatory scheme.

The first measure I am introducing today would close the so-called nonbank bank loophole in Federal banking law. This bill redefines the term bank so as to prohibit nonbanking firms from acquiring a bank and then divesting themselves of either their commercial lending or deposit taking functons, and thereby evading Federal banking law.

To insure a balanced approach, I am also introducing a second measure; legislation to plug the other leak in the dike, the so-called South Dakota loophole. This legislation would prevent the use of State banking laws to circumvent congressionally established policy on the activities of bank and bank holding companies.

Mr. President, opinions may vary on whether, and to what degree if any, our Nation's various kinds of financial institutions should be allowed to merge, recombine or redefine the role of banking and nonbanking activities. But throughout several months of hearings this summer before the Senate Banking Committee, the most commonly expressed concern was over the recent action by several State legislatures to consider or enact laws explicitly designed to permit bank holding companies to undertake, through State-bank affiliates, activities otherwise barred under Federal law.

Speaking before our committee in April, Treasury Secretary Donald Regan, the administration's most vocal advocate of bank deregulation, said of this State activity:

> I think that as long as banks are going to come under the Federal deposit insurance framework, and as long as the Federal Government is going to be responsible * * * to help these banks if they get into trouble * * * then the Federal Government has a right to state what activities banks may or may not perform.

In September, Federal Reserve Chairman Paul Volcker described his concern to the committee this way:

> [W]e have seen initiatives taken in some States to provide sweeping powers for their own banks that go far beyond anything that the Congress has authorized either for banks or bank holding companies * * * We think that threatens not only to upset the balance between the two systems, but creates the possibility that by State initiatives * * * fundamental protection in Federal law would be undercut.

Only a little more than a year ago, Congress enacted the Garn-St Germain Act, which, among other things, limited the insurance activities of bank holding companies. In title VI of the Garn-St Germain Act, which originated as S. 207, cosponsored by Senators GARN, WILLIAMS, PROXMIRE, BENTSEN, NUNN, COHEN, and myself, Congress articulated a public policy which prohibited most bank holding company insurance activities—a policy intended to extend to the holding companies themselves and all their banking and nonbanking components. Legislation such as that enacted recently in South Dakota would circumvent the will and intent expressed in title VI of Garn-St Germain. This legislation would make clear that the limitations of Garn-St Germain, and those of the Bank Holding Company Act, extend to State banking affiliates of bank holding companies, even though State law may legitimately authorize free-standing State-chartered banks to engage in activities broader than those intended by Congress for bank holding companies.

Likewise, in connection with the securities and real estate activities of bank and bank holding companies, the Glass-Steagall Act has for 50 years defined public policy with respect to the separation between commercial and investment banking, and other commercial activities. It is possible that Congress may at some point decide to modify that policy. Nevertheless, that decision is for Congress to make—it is not a decision to be made by 1 or more of the 50 State legislatures especially where departures from Federal law are often based on reasons unrelated to what is best for this Nation's banking system as a whole.

I must emphasize that the issue of whether there are unintended loopholes in the Glass-Steagall Act and other legislation which permit State nonmember banks to engage, directly or indirectly, in such activities on their own is currently under review by the FDIC and is also the subject of litigation. Should it be finally determined by the FDIC or the courts that loopholes do exist in the Glass-Steagall Act or other laws which permit such activities, we will then be in a position to enact appropriate amendments to address any such loopholes on the basis of a full record developed before the FDIC and in the courts.

Mr. President, recent events have made legislative initiatives absolutely indispensable to the stability of the many institutions comprising the American financial system. It is equally indispensable to the exercise of Congress prerogative to mandate financial structure and regulation in accordance with longstanding public policy considerations. As I have noted on many occasions, my preference is for the so-called temporary moratorium. Whatever the form or wording, however, each piece of legislation that I have discussed today stands for the proposition, and the reality, that we in Congress can no longer afford to be passive witnesses to the crumbling of the American financial structure. The time for legislative action is most definitely now, and I urge all my colleagues to join me in this reassertion of the congressional prerogative.

The text of the proposed bill follows:

S. 2072

A bill to limit temporarily the acquisition of depository institutions and the commencement of certain new activities by State-chartered depository institutions 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. The effective date of this Act is the date of its enactment and this Act is hereby repealed on June 30, 1984.

SEC. 2. On or after the effective date of this Act, no company that is engaged directly or indirectly, including through a subsidiary, in any activity not permitted for a bank holding company under section 4 of the Bank Holding Company Act of 1956 shall acquire control of any insured bank, and no company shall acquire control of insured banks in more than one State without prior approval under the Bank Holding Company Act of 1956.

SEC. 3. On or after the effective date of this Act, no company that is engaged directly or indirectly, including through a subsidiary (other than an insured institution), in any activity other than an activity permitted for a multiple savings and loan holding company on the effective date of this Act under subsection (c)(2) of section 408 of the National Housing Act or for a bank holding company under section 4 of the Bank Holding Company Act of 1956 shall acquire control of any insured institution, except as provided in subsection (m) of section 408 of the National Housing Act.

SEC. 4. No company that acquires or acquired control of an insured bank or insured institution on or after June 23, 1983, shall retain control of such bank or institution on or after the effective date of this Act and engaged directly or indirectly, including through a subsidiary (other than an insured institution), in any activity other than an activity permitted for a bank holding company under section 4 of the Bank Holding Company Act of 1956 or for a multiple savings and loan holding company under subsection (c)(2) of section 408 of the National Housing Act, unless such insured institution was acquired pursuant to subsection (m) of section 408 of the National Housing Act. After the effective date of this Act, no company shall retain control of insured banks in more than one State that were acquired on

or after June 23, 1983, unless such banks were acquired with prior approval under the Bank Holding Company Act of 1956.

SEC. 5. On or after the effective date of this Act, no State-chartered depository institution may commence, either directly or indirectly, including through a subsidiary, any activity not previously and lawfully engaged in by that institution unless (a) such activity was authorized for that type of institution explicitly and not by implication by a State statute adopted, or by interpretation promulgated thereunder, prior to January 1, 1983; (b) such activity is permitted under section 4(c)(8) of the Bank Holding Company Act of 1956 for a bank hold company; or (c) such activity is explicitly authorized by a State statute, or interpretation promulated thereunder, and is performed exclusively in the State authorizing such activity for customers present in the State: *Provided, however,* That this section does not authorize the conduct of any activity currently prohibited to State-chartered depository institutions under section 20 or 21 of the Act commonly known as the Glass-Steagall Act. Nothing in this section shall prohibit a State-chartered savings and loan association of savings bank from engaging in any activity expressly permitted for a Federal savings and loan association or savings bank under the Garn-St Germain Depository Institutions Act of 1982.

SEC. 6. Any State-chartered depository institution that commenced, directly or indirectly, including through a subsidiary, on or after June 23, 1983, any activity that would have been prohibited by this Act if commenced after enactment of this Act shall, upon enactment of this Act, immediately terminate such activity.

SEC. 7. The provisions of this Act shall be enforced by the appropriate Federal agency under the Financial Institutions Supervisory Act of 1966 and for this purpose any company that controls an insured bank shall be treated as a bank holding company.

SEC. 8. For purpose of this Act, the term—

(a) "bank holding company", "company", "control", and "subsidiary" have the same meanings as provided in section 2 of the Bank Holding Company Act of 1956;

(b) "depository institution" has the same meaning as provided in section 19(b) of the Federal Reserve Act;

(c) "insured bank" has the same meaning as provided in section 3(b) of the Federal Deposit Insurance Act and shall also include any institution that is eligible to become an insured bank under section 5 of the Federal Deposit Insurance Act, and any institution that accepts deposits may withdraw by check or similar means for payment to third parties and engages in the business of making commercial loans. The term "bank" does not include a foreign bank having an insured branch or an institution expressly exempted under section 2(c) of the Bank Holding Company Act of 1956; and

(d) "insured institution" and "multiple savings and loan holding company" have the same meanings as provided in section 408 of the National Housing Act.●

LOBBYISTS AND THE IRONY OF CONGRESSIONAL SUNSHINE RULES

● Mr. DURENBERGER. Mr. President, as I announced in the RECORD of October 31, the Governmental Affairs Committee is planning oversight hearings on the 1946 Federal Regulation of Lobbying Act on November 15 and 16, 1983.

One reason I am interested in this area is the extent to which substantial growth in the area of lobby group activity can be traced to organizational and procedural changes in Congress. In a study documenting lobby group growth, two political scientists from Boston College found that recent open meetings rules create new opportunities for influence and thereby escalate the work load.

An October 31, 1983, editorial in the Washington Post highlighted this phenomenon. Commenting on the crowds of lobbyists in attendance at House Ways and Means Committee markups, the Post observed that the congressional open meetings policy enabled lobby groups to "make sure that the pressure they exerted on a Congressman in private does not get dissipated when his colleagues press for compromise." The Post concluded that, although open meetings rules usually worked well, sometimes the public interest could best be served by private deliberations.

While I believe it may be exaggerating the power of lobby groups, the Post provides verification of the Boston College study's finding and points up one of the areas that our oversight hearings will cover.

The issue is important because it illustrates an ironic side effect of the sunshine rules Congress enacted for itself in the 1970's. By opening meetings, heretofore, closed to the public, Congress also provided increased access for lobby groups. This procedural change and other changes, such as the proliferation of subcommittees and the rapid turnover of congressional membership, has left lobby groups, according to the authors of the Boston College study, "with little choice but to escalate the range and volume of their activities."

Our hearings will provide further details of this phenomenon as part of our stated goal of gathering information to educate Members of Congress and the public on how lobby groups operate in a modern democracy.

Mr. President, I ask that this editorial be printed in the RECORD.

The editorial follows:

[From the Washington Post, Oct. 31, 1983]

BEHIND CLOSED DOORS

Before the House of Representatives reformed its ways, revenue and entitlement bills were routinely rammed through the Ways and Means Committee by its powerful chairman. Frequently it took many months before outside observers could figure out exactly which private interests had managed to walk away with what. That didn't strike most people as a good way of guarding the public interest, and 1973 reforms required that all meetings be open to the public unless a committed majority voted to close a particular session.

Since then open doors have been the rule at Ways and Means markups. But the people who have walked through those doors have not typically been the general public; rather, they have been the same powerful lobbyists who work the congressional corridors. Now they can make sure that the pressure they exerted on a congressman in private doesn't get dissipated when his colleagues press for compromise.

With the spotlight on them, congressmen spend much more time worrying about the quality of their own performances that the quality of the legislation they ultimately produce. Even minor technicalities get bogged down because legislators are embarrassed to admit they don't understand what's going on. Compromises get worked out in hasty corridor meetings or rammed through committee on party-line votes—and they tend to break down when a bill comes to the floor. And in the final chaos of a big tax markup it is still impossible for the public (and even the staffers) to figure out what happened.

The tax bill that recently emerged from Ways and Means was marked up in closed session. It is not a big revenue-raiser, but many provisions required considerable political courage. Judged by the speed and outcome of the process, closed doors certainly seem to have worked in the public interest in this case. That's not to conclude that closed sessions should be the rule. When it comes to handing out public benefits, secrecy can work very much against the general interest—witness the pork-barrel grab typical of closed appropriation subcommittee sessions.

By and large, the current rule seems to work well. Open sessions should be the general practice. But if a majority of a committee's members feels that a closed session is more appropriate for a particular measure, they should be willing to vote on the record for that decision. If the thing gets out of hand, you can be sure there will be plenty of noise about it.●

ORDER OF PROCEDURE

Mr. BAKER. Mr. President, there are a few odds and ends that may be taken care of which may or may not have been cleared by the minority leader. We will know in a few moments.

In the meantime, I invite Senators who have remarks to make in morning business to do so now, and I will try to get the Senate out as soon as possible.

I remind Senators that tomorrow we have an order for the Senate to convene at 9 a.m.

ORDER FOR RECOGNITION OF SENATOR MOYNIHAN ON TOMORROW

Mr. BAKER. Mr. President, I ask unanimous consent that after the two leaders are recognized tomorrow under the standing order, the distinguished Senator from New York (Mr. MOYNIHAN) be recognized on special order for not to exceed 15 minutes.

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

SENATE PROCEDURE ON TOMORROW

Mr. BAKER. Mr. President, I ask unanimous consent that after the execution of the special order tomorrow, the time remaining before 10:15 a.m., be devoted to the transaction of routine morning business, in which Senators may speak for not more than 2 minutes each; that at 10:15 a.m., the Senate resume consideration of the pending business, which is the civil rights reauthorization bill.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. BAKER. Mr. President, I think the better part of discretion would be to resume consideration of the pending bill at 10 a.m., instead of 10:15, and I ask unanimous consent that the order be amended in that fashion.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

A BREACH OF SECURITY

Mr. MATHIAS. Mr. President, I wish to make a brief report to the Senate with respect to a report of a breach of security which has occurred at the Department of State.

Yesterday about 10 o'clock in the morning I received a telephone call from James Adams, who is a reporter for Metromedia Television News. He said that it was a matter that involved national security, and I agreed to meet with him.

Subsequently, I saw Mr. Adams early in the afternoon, and at that time he told me that he had received a call from Lorton Reformatory where one of the inmates had advised him that he, the inmate, was in possession of certain documents which purported to be classified papers from the Department of State.

Mr. Adams said that he went out last Friday and did in fact receive these documents from the inmate, Charles Cox; that he, Mr. Adams, was prepared to turn them over to the Department of State, without using the information contained in the documents and without making any copies of the documents on the condition that I would accompany him to the Department of State and that a responsible official of the Department of State would receive the documents.

There was an implication in Mr. Adams' request that I was asked to go in order to insure that appropriate legislative oversight in this matter would be applied.

Under those circumstances, I agreed to accompany him to the State Department and did so, and Mr. Adams delivered to Mr. Shumate, Acting Assistant Secretary of State, an envelope containing documents of varying degrees of security classification.

Mr. Shumate, who was the Acting Assistant Secretary of State, received the documents. He advised that the Department of State had recovered other classified material from Lorton Reformatory and advised that a departmental investigation was already underway.

I told him of the obvious interest of the Committee on Foreign Relations in this breach of security, that I was sure the committee would not only want to be advised of the results of the departmental investigation but would in fact probably want to make its own inquiries into the matter.

I am told today that the departmental investigation is going forward, so I wish to assure Senators that the matter is receiving the attention at the very highest level in the State Department.

I have also advised the chairman of the Committee on Foreign Relations, Mr. PERCY, as well as the majority leader of the Senate, and so they are fully informed as to the matter.

In closing, I wish to comment very briefly on the actions taken by James Adams, of Metromedia News, who I think has acted with a remarkable degree of responsibility. These documents had obvious sensational value simply because of the classification stamped on them. And he could have exploited that value for news purposes. He avoided that sensationalism by agreeing to turn the documents over without disclosing the text. I think this is an act of restraint on his part which is noteworthy. In an age in which we accuse the press of sensationalism, it is an act of restraint that I think should be noted here in the Senate.

I am also constrained to mention the action of the inmate, Charles Cox, who also showed a sense of responsibility by delivering the documents to Mr. Adams and by requesting that Mr. Adams turn them over to the proper authority. I have not talked to Mr. Cox. I do not know what motivated him, but clearly the action he took was a responsible one.

So, Mr. President, Senators may rest assured that although this is a serious matter it is being dealt with in a serious way and the proper committees of Congress will receive reports as soon as the information is available.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

THE EXECUTIVE CALENDAR

Mr. BAKER. Mr. President, I have consulted with the minority leader by telephone. He has authorized me to say that the nomination that we were working for clearance on both sides which could not be included in our prior action has now been cleared on his side. It is also cleared on this side.

EXECUTIVE SESSION

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate now go into executive session for the sole purpose of considering the nomination of Maj. Gen. Paul W. Myers, U.S. Air Force, to be lieutenant general.

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

AIR FORCE

The PRESIDING OFFICER. The nomination will be stated.

The assistant legislative clerk read the nomination of Maj. Gen. Paul W. Myers, U.S. Air Force, to be lieutenant general.

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

Mr. BAKER. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

The PRESIDING OFFICER. The Chair, in his capacity as a Senator from Iowa, moves that the motion be laid on the table.

Without objection, the motion is laid on the table.

Mr. BAKER. I thank the Chair.

Mr. President, I ask that the President be immediately notified that the Senate has given its consent to this nomination.

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

LEGISLATIVE SESSION

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate now return to legislative session.

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

PROGRAM

Mr. BAKER. Mr. President, on tomorrow the Senate will convene at 9 o'clock in the morning. After the recognition of the two leaders under the standing order, the distinguished Senator from New York (Mr. MOYNIHAN) will be recognized under a special order for not to exceed 15 minutes.

After the execution of the special order there will be a period for the transaction of routine morning business to extend no further than 10 a.m. At the hour of 10 a.m. the Senate will resume consideration of the unfinished business, which is the Civil Rights Commission reauthorization bill.

Mr. President, I hope and trust that this matter can be dealt with promptly and that there will be time then to return to the consideration of the continuing resolution.

Mr. President, I expect votes throughout the day. I expect, as well, that tomorrow will almost certainly be a late day, perhaps very late. The present continuing resolution expires at 12 midnight on Thursday.

I am informed that the House of Representatives will perhaps send us a continuing resolution during the day tomorrow.

We have a lot of work to do tomorrow, Mr. President, and once again I urge Members to consider that Thursday may be very late.

It is still the hope of the leadership that we can complete action on the must legislation by tomorrow evening at midnight and that it will not be necessary to bring the Senate in on Friday or Saturday. That remains a prospect, but I hope that we are able to finish the action on the CR before then and adjourn for the Veterans Day holiday as advertised.

RECESS UNTIL TOMORROW AT 9 A.M.

Mr. BAKER. Mr. President, I see no other Senators seeking recognition. I move, in accordance with the order previously entered, that the Senate now stand in recess until the hour of 9 a.m. tomorrow.

Whereupon, the Senate, at 6:56 p.m., recessed until Thursday, November 10, 1983, at 9 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate November 9, 1983:

DEPARTMENT OF STATE

Daniel Anthony O'Donohue, of Virginia, a career member of the Senior Foreign Service, class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Socialist Republic of the Union of Burma.

William H. Luers, of Illinois, a career member of the Senior Foreign Service, class of Career Minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Czechoslovak Socialist Republic.

Diego C. Asencio, of Florida, a career member of the Senior Foreign Service, class of Career Minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Brazil.

Robert E. Lamb, of Georgia, a career member of the Senior Foreign Service, class of Minister-Counselor to be an Assistant Secretary of State.

W. Tapley Bennett, Jr., of Georgia, a career member of the Senior Foreign Service, class of Career Minister, to be Assistant Secretary of State.

AFRICAN DEVELOPMENT FOUNDATION

T. M. Alexander, Sr., of Georgia, to be a member of the Board of Directors of the African Development Foundation for a term of 6 years.

U.S. INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Frank J. Donatelli, of Virginia, to be an assistant administrator of the Agency for International Development.

INTER-AMERICAN FOUNDATION

Langhorne A. Motley, of Alaska, to be a member of the Board of Directors of the Inter-American Foundation for the remainder of the term expiring September 20, 1984.

J. William Middendorf II, of Virgina, to be a member of the Board of Directors of the Inter-American Foundation for a term expiring September 20, 1988.

The above nominations were approved subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

THE JUDICIARY

Thomas G. Hull, of Tennessee, to be U.S. district judge for the eastern district of Tennessee.

DEPARTMENT OF JUSTICE

Daniel J. Horgan, of Florida, to be U.S. Marshal for the southern district of Florida for the term of 4 years.

FOREIGN SERVICE

Foreign Service nominations beginning Paul H. Boeker, and ending Laron Lee Jensen, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of November 4, 1983.

IN THE AIR FORCE

The following-named officer for appointment to the grade of lieutenant general on the retired list pursuant to the provisions of title 10, United States Code, section 1370:

Maj. Gen. Paul W. Myers, [redacted] FR, U.S. Air Force.