SENATE—*Friday, September 26, 1986*

(Legislative day of Wednesday, September 24, 1986)

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

PRAYER

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

Let us pray.

O Lord, thou hast searched me, and known me. Thou knowest my downsitting and mine uprising, thou understandest my thought afar off. Thou compassest my path and my lying down, and art acquainted with all my ways. For there is not a word in my tongue, but, lo, O Lord, thou knowest it altogether.— Psalm 139:1-4

Omniscient God, it is obvious in the words of the psalmist that there is nothing about us You do not know. We have no secrets from You. We cannot deceive You—in attempting to, we only deceive ourselves. You know the hearts and minds of Your servants, the Senators and their staffs, who struggle in these closing moments of the 99th Congress. You know where there is fear, frustration, discouragement, ambivalence, selfishness, pride, uncertainty. Make each Senator experience the presence, the love, the wisdom, the power of God in these days as they work against time and all of the other pressures endemic in legislation. In His name Whose love is unconditional, relevant, always available. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The able and distinguished minority leader, Senator ROBERT DOLE, of Kansas, is recognized.

Mr. DOLE. I thank the distinguished President pro tempore, the senior Senator from South Carolina, Senator THURMOND.

SCHEDULE

Mr. DOLE. I ask unanimous consent that the leader time of the distinguished minority leader be reserved.

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

Mr. DOLE. Mr. President, following recognition of the two leaders, there will be routine morning business, not to extend beyond 10 a.m.

At 10 a.m., we will resume consideration of S. 2878, the drug bill.

I might say at this point that I wish I could be specific about the schedule, but I cannot be. I do not know what the program is going to be for today and tomorrow, but there will be a program. We will be in session today and tomorrow. We are accommodating as many of our colleagues as we can. I do not believe any of our colleagues, whether they plan to vote for or against the tax bill, want to miss the vote, and I appreciate that. It is a very significant piece of legislation.

We are in this last-minute rush, as the Chaplain just indicated, and we need a lot of patience and understanding. What I would hope to do is to have statements on the drug bill and some debate on the drug bill until 1 or 2 o'clock. Then at 2 o'clock, we would turn to the conference report on tax reform.

I know that some are still awaiting answers from the Joint Tax Committee. If I can have the questions, I will try to get the answers, if they can be answered. You can ask impossible questions and not get an answer. Other Members would like to discuss transition rules. Other Members want to be on the floor but they are somewhere else.

What I am saying, in effect, is that we understand all those real concerns. I do not quarrel with any of the concerns expressed, but we have to make a judgment: Do we want to complete action in the Senate by next Friday: In my view, it can be done.

So I hope that Senators will understand that we are not trying to inconvenience any colleague. We are just trying to do our business, and we hope we can move to the tax bill. I hope we can have a vote on it today sometime. We are exploring that. I know that the distinguished chairman of the Finance Committee, Senator PACKWOOD, is raring to go.

They had a great vote in the House yesterday. It is time for us to follow suit with an overwhelming vote in the Senate. There comes a time when we have to make choices, and this is one of those times.

This is not a perfect tax bill. Not everyone is going to be satisfied. The easiest vote is probably "no" and then Members can say, "I didn't vote for it." However, I believe that when we are looking at tax policy and changes in the future, then the only vote should be "yes" on the tax reform package.

It may have imperfections, and it undoubtedly has. It has retroactive tax policy in some cases, which is not good. Maybe we can correct some of those things, but we do make a giant step forward.

I watched last night interviews of working men and women on the street in America. They were for this tax bill. They thought it was about time some of the people who had not paid taxes were getting the opportunity. They were not bitter or hostile. They felt that this might be pretty good for the working people in America, and it is.

So I hope we can do as well as the House and have the same or better margin of support.

Mr. President, we are going to do what we can today to accommodate everyone—probably end up displeasing everyone. But we will start off in a positive way, and I hope Senators can adjust their schedules to suit the overwhelming majority in this body who want to move on with this business, finish the tax bill today, go back on drug reform tomorrow, maybe finish that tomorrow. On Monday and Tuesday, we will have the continuing resolution and Wednesday, if needed. I have a feeling we may be here most of the night on Tuesday to finish the bill. It passed the House by one vote yesterday. They loaded it up. Everything but the kitchen sink is in the House continuing resolution, and it will probably be there on a second look. So we have a lot of work to do to get it back to reason on the Senate side.

Following that, we have the impeachment, which we would like to begin next Thursday.

We hope we can do all that. Some would say it is not possible.

I also hope to visit with the Speaker today to see if he is still aiming toward October 3.

Mr. President, the majority leader is not here, and I have reserved his time. I yield 5 minutes of my leader's time to the distinguished Senator from Florida [Mrs. HAWKINS].

The PRESIDENT pro tempore. The distinguished Senator from Florida is recognized.

□ 0940

THE IMPACT OF DRUG ABUSE

Mrs. HAWKINS. Mr. President, the impact of drug abuse is eating away at our society. Everything these deadly substances touch turns to death and despair. It is especially heartbreaking to see the devastating affect of illegal drugs on our children. To think of a

single child falling under the seductive spell of illegal drugs is almost too much to take.

To realize that a child who should be enjoying his or her innocence and the carefree years of youth has already become a slave to a chemical master is a tragedy. It is more a tragedy to realize that many of the kids hooked on drugs are disadvantaged having been raised in poverty. These are kids with two strikes already against them—and drugs—that's strike three. That is why I would like to bring the Senate's attention to a new drug abuse program that'll be implemented by the Job Corps Program this January.

The Job Corps Program provides severely disadvantaged youth aged 16 to 21 with basic education, vocational training, and job placement. This highly intensive education and training program has proved very successful in assisting severely disadvantaged youth out of poverty. Job Corps programs try where possible to take disadvantaged youths out of their poverty environment and place them into an intensive program of one-on-one counseling, education, and job training. A noble purpose that has run into the brick wall of illegal drugs.

The Job Corps staff estimates that 70 percent of Job Corps enrollees are currently using marijuana, 15 percent PCP, and 5 percent cocaine. The residential focus of the Job Corps Program affords us a unique opportunity to take the disadvantaged youth out of their environment—hopefully away from their drug dealer and the frustrations and temptations that have lead to drug use. But if the Job Corps Program is to succeed, if we are to succeed in our goal of providing the student with an education or skill that will enable them to break the cycle of poverty, we must first free them from the shackles of drug use.

To free them from these deadly shackles, the Job Corps Program has instituted a drug abuse program called SUAAP [Substance Use and Abuse Program]. This program involves counseling of participants. But the Job Corps has determined that if they are to effectively counsel and address the Job Corps participants drug usage, estimates about how many and guesses about which students are using drugs, and voluntary drug prevention education are not sufficient.

As a result, in January they will implement a program of intervention. Nine Job Corps centers will continue with existing SUAAP Program and nine others will participate in a pilot project in which identification and intervention are stressed. These nine Job Corps programs will utilize urine tests on new enrollees to determine current drug usage and what types of drugs the participants are using.

I want to stress that the drug test is not intended to screen participants. No one will be denied access to a Job Corps Program on the basis of the test results. Nor do I think they should be. We want disadvantaged and troubled youth to enroll in these programs. The urine tests are intended to identify which students are misusing drugs and which drugs they are using.

This information is essential to teachers and counselors who are attempting to teach these disadvantaged youth some basic educational and employment skills. The pilot project will also utilize additional substance abuse counselors who will have special training in the intervention of youth with drug abuse programs.

Mr. President, I have been a longtime supporter of the Job Corps Program. The centers in Jacksonville, Gainesville, and Miami, FL, have been very successful in assisting disadvantaged youth. But they will be so much more successful if they can identify and intervene in that student's drug problem so that these children can be helped. That's the least we owe them.

I yield the floor.

RECOGNITION OF THE ACTING MINORITY LEADER

The PRESIDENT pro tempore. The distinguished acting Democratic leader is recognized.

WHAT SHOULD BE THE FUTURE AGENDA FOR ARMS CONTROL?

Mr. PROXMIRE. Mr. President, what is the purpose of arms control? That's easy. It's to prevent a nuclear war. What most seriously threatens nuclear war? Answer: the nuclear arms race. Why? First, because the immense buildup of ever more devastating, complex and hairtrigger weapons on both sides steadily moves the world ever closer to accidental war. Second, the arms race with its constant breakthroughs, producing cheaper and lighter weapons also increases the likelihood of nuclear weapon spread or proliferation. The spread of nuclear weapons to additional nations obviously increases the prospect that local wars may at any time become nuclear.

What arms control action is most likely to stop the arms race and the proliferation of nuclear weapons? President Reagan has proposed a mutual superpower reduction of 50 percent of the offensive nuclear arsenal of each superpower. Would that stop the arms race? Would it reduce the prospect of nuclear proliferation? The answer to both questions is an emphatic: "No." Here's why: A 50-percent reduction of nuclear weapons would not diminish the certainty that a superpower nuclear war would probably destroy civilization on Earth as we know it. It might possibly destroy mankind as a species. It would not stop or even slow the research and testing that develop ever more devastating nuclear weapons. The 50 percent reduction of nuclear weapons over a period of 5 years might be accompanied by a 100 percent increase in the destructive capacity of each nuclear weapon in the superpower arsenals and therefore no net reduction in lethal power at all. Meanwhile, the smaller, cheaper, more devastating new nuclear weapons would be made to order for scores of smaller states that now can't afford to get into the nuclear club. So the reduction of the superpower nuclear arsenals, President Reagan's principle announced arms control initiative would not advance the prime purpose of arms control. It would not slow or stop the arms race.

If the two greatest threats to nuclear peace are the superpower race to develop ever more destructive and cheaper nuclear weapons on the one hand and the proliferation of nuclear weapons on the other, what arms control initiatives would most clearly slow and eventually stop these prime threats to nuclear peace? Answer: A test ban treaty and a greatly strengthened nonproliferation treaty. Why? Here is why: The test ban treaty would go to the heart of the nuclear threat by greatly slowing the technological nuclear arms race. Why have the superpowers insisted on continuing these expensive nuclear weapons tests that have been so roundly and universally condemned? They have continued because as any first year student in high school science can tell you, tests are essential to prove and establish any scientific theoretical breakthrough. Will this new weapon work in practice? That's the critical question that only tests can answer. Stop testing and you put a strangle hold on research. Without testing would there have been an atomic bomb? No way. Without testing would there have been a hydrogen bomb? Absolutely not. Without testing would there have been any of the immensely destructive nuclear arsenal on either side of the Iron Curtain? No. So will continued nuclear testing develop nuclear weapons even more devastating than either superpower has today? Yes, indeed. Will continued testing develop smaller nuclear weapons but with even greater power? Of course. That's the whole purpose of the research.

Will testing produce cheaper nuclear weapons that many more countries will soon be able to afford? You betcha. So what would a mutual, verifiable superpower treaty to stop nuclear testing accomplish? It would greatly slow the technological nuclear arms race between the two superpowers. It would do more. It would diminish the

spread of nuclear weapons throughout the world. It would do this by sharply slowing the research necessary to prove and develop smaller and cheaper nuclear weapons, tailor made for the many countries that don't have the wherewithal today to buy their way into the nuclear club.

The test ban treaty is vital. But it isn't enough. By itself it will not bring future nuclear weapons proliferation under control. As the economies of many nations progress, the number of countries with the economic and technological capacity to build their own nuclear arsenals will certainly expand. The nonproliferation treaty has already done a remarkable job of stemming this spread of nuclear weapons. I recall vividly how sure Members of this body—including this Senator—were back in the early 1960's that by the mid-1980's scores of nations would have nuclear weapons and the likelihood of a fullfledged nuclear war breaking out somewhere in the world by 1986 seemed very high. What happened? By design, not by accident the nuclear nonproliferation treaty has played the leading role in stopping such a disaster. That treaty has won the membership and allegiance of the overwhelming majority of potential nuclear powers. It has established international safeguards to stop the transfer of processed weapons grade plutonium or uranium. In the last few years it has even succeeded in persuading most of its members to accept international inspection to verify compliance and unannounced inspection at that. But there is still a long way to go. At least eight nations that are potential nuclear powers remain outside the treaty. Of the five established nuclear weapons powers only the United States and the United Kingdom have fully cooperated with the nonproliferation authorities. France has supplied nuclear weapons facilities to other nations. Neither the Soviet Union nor China have agreed to international inspection. Germany has been accused of playing at least a role in the nuclear arms market. Our country should use its great international influence to vigorously support and enforce the Nonproliferation Treaty objectives.

(Mrs. HAWKINS assumed the Chair.)

THE MYTH OF THE DAY

Mr. PROXMIRE. Madam President, the myth of the day is that we dare not tamper with the campaign finance laws because of the law of unintended consequences. The poet, Robert Burns, best expressed this law when he wrote, "The best laid schemes of mice and men, gang aft a-gley."

If we legislated according to this standard, no major legislation would ever pass the Senate. Every major bill has unintended consequences. We pass a budget which projects a deficit of $172 billion. The deficit turns out to be $230 billion. We pass a tax bill and the next year pass a technical corrections bill to deal with the unintended consequences.

What are the real reasons why Congress refuses to reform campaign financing? I believe there are two: Political advantage and incumbency.

Every attempt to change campaign financing laws raises questions about which party will gain an advantage. No matter how innocent the proposed change, a number of keen-eyed and partisan people will examine it to see if either party would gain something. The question of what is good public policy goes out the window. The attitude becomes: Better no change at all than to see the other party gain an edge.

Every change must pass Congress which is, by definition, composed of incumbents. And incumbents are leery of any change which might benefit a challenger. So any proposed change is subject to another prolonged and searching examination. This time the attitude is: Better no change at all than to see a challenger gain an edge.

What can be done to overcome these hurdles? Congress has held a number of hearings on campaign finance. We have listened to the experts. A number of Members have introduced legislation. The senior Senator from Oklahoma [Mr. BOREN] has singlehandedly pushed the Senate into approving a bill limiting contributions from political action committees.

Yet the chances of reforms being enacted into law are slim. We might get a commission to study the issue, which will delay action for another year or so.

Madam President, this record leads this Senator to believe that the people are ahead of the politicians. The people believe that the present system is little better than legalized influence peddling. They are right. We should be representing the people and not a political party or an incumbent.

I yield the floor.

The PRESIDING OFFICER. Is there further morning business?

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

□ 1010

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

The PRESIDING OFFICER (Mr. D'AMATO). Without objection, it is so ordered.

TRIBUTE TO ELSA AND STEPHEN SOLENDER

Mr. SARBANES. Mr. President, on Tuesday, September 30, the Baltimore Associated Jewish Charities and Welfare Fund will honor Stephen and Elsa Solender as they prepare to leave Baltimore, after many years' devoted service, for New York. Steve was selected following an exhaustive nationwide search to be the executive vice president of the United Jewish Appeal—Federation of Jewish Philanthropies of New York, Inc. For more than a decade, Steve and Elsa have been strong and effective leaders in the Baltimore Jewish community. They have been active citizens of the city of Baltimore. Always they have been wise counselors and good friends whom I admire and respect and will sorely miss.

In this case, Baltimore's loss is most certainly New York's gain. The Solenders came to Baltimore in 1975, when Steve became director of social planning and budgeting of AJCWF; 4 years later, in 1979, Steve became AJCWF president. While carrying out with great distinction his demanding responsibilities at the AJCWF, Steve has also found time to serve as coinstructor at the Council of Jewish Federations; as field work supervisor at the University of Maryland School of Social Work and Community Planning; and member of the school's advisory board. In March 1985, he directed the first Baltimore AJCWF Mission to the Soviet Union. In light of his devoted and effective service, it comes as no surprise that in 1985 Steve was a national finalist in the search undertaken by the National Assembly of Voluntary Health and Social Welfare Organizations for the year's outstanding manager in the voluntary sector.

At every step, Elsa Solender's commitment has matched Steve's. Together they have raised their two sons, Michael, a 1986 graduate of Columbia College and a student at the Yale Law School, and Daniel, a member of the Columbia College class of 1987. As a contributing editor of the respected Baltimore Jewish Times, whose readership extends far beyond the Baltimore area, she has made an important contribution to the intellectual, cultural, and social life of Jewish Americans by writing about everything from major issues to new restaurants. In 1985 she won the Smolar Award for Excellence in Jewish Journalism for her articles on Ethiopian Jewry, a testimony to the excellence of her work and the high regard in which she is held by her peers.

Prior to coming to Baltimore, Steve and Elsa lived for 6 years in Geneva, Switzerland, where Steve directed the departments of Community Organization, Community Centers and Fund-Raising of the American Jewish Joint

Distribution Committee and also coordinated the committee's programs in Muslim countries. Earlier he had worked part time with the Young Men's and Young Women's Hebrew Association and then with Jewish community centers in Chicago. But Steve is first of all, it must be said, a New Yorker. He was born and raised in New York. He is a graduate of Columbia College and of Columbia University's very distinguished School of Social Work. A loyal alumnus of Columbia, he has served as president of the Columbia University Club of Baltimore and is currently chairman of the Secondary Schools Committee of Columbia College; and he has not been displeased, it must be said, by his sons' decision to carry on the Solender tradition at Columbia. Elsa is a graduate of Barnard College, the women's college of Columbia University. In a sense, therefore, the Solenders' departure for New York is a joyful voyage home, especially as Steve is the third generation in his family to devote himself to Jewish community service.

As a friend and admirer of the Solenders, I want to wish them well as they assume new responsibilities and congratulate the UJA—Federation of Jewish Philanthropies of New York, Inc. for its wisdom in calling Steve home. Above all, however, I want to pay tribute to their years of service in the Baltimore community; to their steadfast commitment to the highest ideals of the Jewish community; and to the standards of intelligence, integrity, and professionalism which distinguish their work. It is surely appropriate that the Associated Jewish Charities and Welfare Fund of Baltimore should honor Steve and Elsa Solender for their years of service in Baltimore, and I want to add my expression of gratitude as well.

REPORT ON THE CONTINUING RESOLUTION

Mr. HATFIELD. Mr. President, I am pleased to report to the Senate that the Committee on Appropriations met today and reported a simple, straightforward continuing resolution that markedly improves our chances of securing Presidential approval and adjourning sine die within a reasonable time. House Joint Resolution 738, as reported from the committee, simply incorporates by reference the six bills that have passed the Senate and the seven that have been reported and are on the calendar, substituting those funding levels for the ones contained in the House bills. The committee has also recommended the deletion of numerous extraneous provisions added by the other body.

We have all heard the rumors about dozens of amendments to be offered here in the Senate, most of them legislative in nature and involving complicated policy issues. The Committee on Appropriations resisted those amendments today. I believe we must continue to resist them when we begin floor debate next Monday, so that we can have some chance to successfully complete our work.

In order to avoid potential delays in consideration of the continuing resolution on Monday due to some possible objection to a waiver of the 2-day rule, and at the request of the leadership, the committee will not file a report on this measure today. However, so that Senators will have a description of the vehicle reported today, I ask unanimous consent that a summary report be printed in the RECORD at this point.

I also ask that a table comparing our committee-reported resolution to fiscal year 1986 levels and the House-passed resolution be printed in the RECORD.

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

H.J. RES. 738—CONTINUING APPROPRIATIONS, 1987

The Committee on Appropriations has reported all 13 regular appropriations bills to provide funding for the fiscal year beginning on October 1, 1986. The Senate has considered and passed six of these bills: the fiscal year 1987 Military Construction, Legislative Branch, Labor-HHS-Education, Interior, District of Columbia, and Transportation appropriations bills. Conference action has been completed on the Legislative Branch appropriations bill. The remaining seven regular appropriations bills have been reported by the Committee. These include the fiscal year 1987 Treasury-Postal Service, Commerce-Justice-State, Agriculture, Energy-Water Development, Defense, Foreign Assistance, and HUD-Independent Agencies appropriations bills. The House has passed all regular appropriations bills for fiscal year 1987, with the exception of the Defense and Foreign Assistance bills.

The continuing resolution provides full-year funding through September 30, 1987—for all 13 regular appropriations bills. Upon enactment into law of any of these bills, the relevant provisions of this continuing resolution will cease to apply, and the regular bill will become the funding device.

The most recent action of the Senate with respect to each appropriations bill is reflected in the spending levels recommended by the Committee in this resolution. The Committee points out that each of these bills, either as reported by the Committee or passed by the Senate, is within its section 302(b) allocation pursuant to the Budget Act, as amended, under the concurrent resolution on the budget for fiscal year 1987 (S. Con. Res. 120). Likewise, the funding levels recommended by the Committee in this continuing resolution are consistent with those same 302(b) subcommittee allocations under the fiscal year 1987 budget resolution.

LEVELS OF FUNDING UNDER THE RESOLUTION

Sections 101 (a) through (m) set forth the levels of funding recommended for each of the appropriations bills covered by this continuing resolution. The level of funding recommended for each bill is as follows:

Agriculture, Rural Development, and Related Agencies

Section 101(a) deletes House language establishing the rate for operations as that provided in the regular fiscal year 1987 appropriations bill (H.R. 5177) as passed by the House, and instead inserts the rate for operations provided in the bill (H.R. 5177) as reported to the Senate on September 11, 1986. The Committee includes in its entirety, by reference, the Senate report (S. Rept. 99-438) accompanying H.R. 5177.

Commerce, Justice, and State, the Judiciary, and Related Agencies

Section 101(b) deletes House language establishing the rate for operations as that provided in the regular fiscal year 1987 appropriations bill (H.R. 5161) as passed by the House, and instead inserts the rate for operations provided in the bill (H.R. 5161) as reported to the Senate on September 3, 1986. The Committee includes in its entirety, by reference, the Senate report (S. Rept. 99-425) accompanying H.R. 5161.

Defense

Section 101(c) deletes House language establishing the rate for operations as that provided in the regular fiscal year 1987 appropriations bill (H.R. 5438) as reported to the House, and instead inserts the rate for operations provided in the bill (S. 2827) as reported to the Senate on September 17, 1986. The Committee includes in its entirety, by reference, the Senate report (S. Rept. 99-446) accompanying S. 2827.

District of Columbia

Section 101(d) deletes House language establishing the rate for operations as that provided in the regular fiscal year 1987 appropriations bill (H.R. 5175) as passed by the House, and instead inserts the rate for operations provided in the bill (H.R. 5175) as passed by the Senate on September 16, 1986. The Committee includes in its entirety, by reference, the Senate (S. Rept. 99-367) accompanying H.R. 5175.

Energy and Water Development

Section 101(e) deletes House language establishing the rate for operations as that provided in the regular fiscal year 1987 appropriations bill (H.R. 5162) as passed by the House, and instead inserts the rate for operations provided in the bill (H.R. 5162) as reported to the Senate on September 15, 1986. The Committee includes in its entirety, by reference, the Senate report (S. Rept. 99-441) accompanying H.R. 5162.

Foreign Assistance and Related Programs

Section 101(f) deletes House language establishing the rate for operations as that provided in the regular fiscal year 1987 appropriations bill (H.R. 5339) as reported to the House, and instead inserts the rate for operations provided in the bill (S. 2824) as reported to the Senate on September 16, 1986. The Committee includes in its entirety, by reference, the Senate report (S. Rept. 99-443) accompanying S. 2824.

Housing and Urban Development—Independent Agencies

Section 101(g) deletes House language establishing the rate for operations as that provided in the regular fiscal year 1987 appropriations bill (H.R. 5313) as passed by the House, and instead inserts the rate for operations provided in the bill (H.R. 5313) as reported to the Senate on September 25, 1986. The Committee includes in its entirety, by reference, the Senate report (S. Rept. 99-487) accompanying H.R. 5313.

Interior and Related Agencies

Section 101(h) deletes House language establishing the rate for operations as that provided in the regular fiscal year 1987 ap-

propriations bill (H.R. 5234) as passed by the House, and instead inserts the rate for operations provided in the bill (H.R. 5234) as passed by the Senate on September 16, 1986. The Committee includes in its entirety, by reference, the Senate report (S. Rept. 99-397) accompanying H.R. 5234.

Labor, Health and Human Services, and Education, and Related Agencies

Section 101(i) deletes House language establishing the rate for operations as that provided in the regular fiscal year 1987 appropriations bill (H.R. 5233) as passed by the House, and instead inserts the rate for operations provided in the bill (H.R. 5233) as passed by the Senate on September 10, 1986. The Committee includes in its entirety, by reference, the Senate report (S. Rept. 99-408) accompanying H.R. 5233.

Legislative Branch

Section 101(j) retains House language establishing the rate for operations as that provided in the conference agreement (H. Rept. 99-805) on the regular fiscal year 1987 appropriations bill (H.R. 5203) filed in the House on August 15, 1986.

Military Construction

Section 101(k) deletes House language establishing the rate for operations as that provided in the regular fiscal year 1987 appropriations bill (H.R. 5052) as passed by the House, and instead inserts the rate for operations provided in the bill (H.R. 5052) as passed by the Senate on August 13, 1986. The Committee includes in its entirety, by reference, the Senate report (S. Rept. 99-368) accompanying H.R. 5052.

Transportation and Related Agencies

Section 101(i) deletes House language establishing the rate for operations as that provided in the regular fiscal year 1987 appropriations bill (H.R. 5205) as passed by the House, and instead inserts the rate for operations provided in the bill (H.R. 5205) as passed by the Senate on September 17, 1986. The Committee includes in its entirety, by reference, the Senate report (S. Rept. 99-423) accompanying H.R. 5205.

Treasury, Postal Service, and General Government

Section 101(m) deletes House language establishing the rate for operations as that provided in the regular fiscal year 1987 appropriations bill (H.R. 5294) as passed by the House, and instead inserts the rate for operations provided in the bill (H.R. 5294) as reported to the Senate on August 14, 1986. The Committee includes in its entirety, by reference, the Senate report (S. Rept. 99-406) accompanying H.R. 5294.

Continuation of Ongoing Programs

Section 101(n) of the House bill provides funding to continue various ongoing programs not included in the regular fiscal year 1987 appropriations bills due to lack of authorization. With the exception of the Office of Refugee Resettlement, the Senate has addressed funding for these programs and activities in the regular fiscal year 1987 appropriations bills included under sections 101 (a) through (m) of this continuing resolution.

OFFICE OF REFUGEE RESETTLEMENT

The Committee is distressed that inaction on necessary authorizing legislation has left it in the position of funding the Office of Refugee Resettlement in this manner for the past 4 fiscal years. The Committee recommends continuation of the following ongoing programs of the Office of Refugee Resettlement at current fiscal year 1986 levels: cash and medical assistance, State administration, social services, voluntary agency program, education assistance for children, preventive health, targeted assistance, and Federal administration.

The Committee continues to support the voluntary agency matching grant program. In view of the success of the matching grant program, it is the intent of the Committee that the size of the caseload participation in the program not be reduced and that the Federal match remain at its existing level of a $1,000 maximum per refugee matched on an equal basis by the private sector.

OTHER PROVISIONS OF THE RESOLUTION

The Committee recommends the deletion of numerous general provisions added by the House to this continuing resolution, many of which are legislative in nature. In addition, the Committee has deleted, without prejudice, title II of the House bill providing additional appropriations for drug enforcement, education, and control.

The committee does not concur with language contained in House Report 99-831 to accompany House Joint Resolution 730, now considered to be the House report to accompany House Joint Resolution 738, which is not already agreed to in the Senate reports accompanying the 13 regular fiscal year 1987 appropriations bills.

APPROPRIATIONS BILLS RECAPITULATION: NEW BUDGET AUTHORITY

[Continuing appropriations (H.J. Res. 738) (as of 5 p.m. September 26, 1986)]

	Fiscal year—									
	1986 adjusted	1987 estimates	1987 House	1987 Senate	1987 conference	1987 House-passed continuing resolution	1987 Senate reported continuing resolution	Senate continuing resolution versus fiscal year 1986	Senate continuing resolution versus estimates	Senate continuing resolution versus House continuing resolution
Agriculture, Rural Dev. and Rel. Agencies:										
(Including section 32 permanent)	28,066,637,000	29,172,013,000	29,889,935,000	30,927,657,000		29,889,935,000	30,927,657,000	2,861,020,00	1,755,644,000	1,037,722,000
Commodity Credit Corporation	24,908,926,000		16,808,806,000			16,808,806,000		(24,908,926,000)		(16,808,806,000)
Commerce-Justice-State-Judiciary	12,244,572,747	15,958,615,000	12,311,620,000	11,933,320,000		12,311,620,000	11,933,320,000	(311,252,747)	(4,025,295,000)	(378,300,000)
General provisions						7,500,000				(7,500,000)
Drug supplemental						978,500,000				(978,500,000)
Defense	270,484,499,000	302,282,138,000	265,151,616,000	277,071,397,000		265,151,616,000	277,071,397,000	6,586,898,000	(25,210,741,000)	11,919,781,000
District of Columbia	530,027,000	580,380,000	550,027,000	580,380,000		550,027,000	580,380,000	50,353,000		30,353,000
Energy and water development	14,755,917,000	15,870,143,000	15,548,000,000	14,523,255,000		15,548,000,000	14,523,255,000	(232,662,000)	(1,346,888,000)	(1,024,745,000)
Foreign assistance and related programs	14,535,881,215	15,474,534,125	12,985,171,284	13,049,963,960		12,985,171,284	13,049,963,960	(1,485,917,255)	(2,424,570,165)	64,792,676
Drug supplemental						38,000,000				(38,000,000)
HUD-Independent Agencies	58,147,383,984	46,488,047,000	54,006,168,700	53,678,039,800		54,006,168,700	53,678,039,800	(4,469,344,184)	7,189,992,000	(328,128,900)
Interior (Including advance appropriations for USGS Fossil Fuel, and WPS transfer)	8,210,987,000	6,616,925,000	8,190,296,000	8,041,631,000		8,190,296,000	8,041,631,000	(169,356,000)	1,424,706,000	(148,665,000)
General provisions						6,000,000				(6,000,000)
Drug supplemental						100,360,000				(100,360,000)
Labor, Health and Human Services and Education (Includes advance appropriations)	105,952,647,000	104,079,746,000	102,582,705,000	112,527,597,000		102,582,705,000	112,527,597,000	6,574,950,000	8,447,851,000	9,944,892,000
General provisions	409,363,000	373,988,000				9,737,896,000	409,363,000		35,375,000	(9,328,533,000)
Drug supplemental						631,650,000				(631,650,000)
Legislative (Includes compensation of members)	1,603,794,800	1,868,824,800	1,351,873,100	1,694,811,214	1,681,799,214	1,681,799,214	1,681,799,214	78,004,414	(187,025,586)	
Military construction	8,081,465,000	10,137,200,000	7,955,801,000	8,222,981,000		7,955,801,000	8,222,981,000	141,516,000	(1,914,219,000)	267,180,000
Transportation	10,146,976,569	7,014,514,569	10,284,900,569	10,197,746,569		10,284,900,569	10,197,746,569	50,770,000	3,183,232,000	(87,154,000)
Drug supplemental						127,000,000				(127,000,000)
Treasury-Postal Service	13,041,300,000	12,864,595,000	13,660,122,000	13,293,227,800		13,660,122,000	13,293,227,800	251,927,800	428,632,800	(366,894,200)
Drug supplemental						224,231,000				(224,231,000)
Across-the-board cut						(1,562,866,000)				1,562,866,000
Total, continuing appropriations	571,120,377,315	568,781,663,494	551,277,041,653	555,742,007,343	1,681,799,214	561,895,238,767	556,138,358,343	(14,982,018,972)	(12,643,305,151)	(5,756,880,424)

Source: Senate Committee on Appropriations.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

ANTIDRUG ABUSE ACT OF 1986

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

The PRESIDING OFFICER. The clerk will report the pending business.

The assistant legislative clerk read as follows:

A bill (S. 2878) to strengthen the laws against illegal drugs, and for other purposes.

The Senate resumed consideration of the bill.

(The text of the bill is printed in the RECORD of yesterday at page S13648.)

Mr. DOLE. Mr. President, let me indicate to my colleagues and those on the floor, we did last night introduce the bill. There were no opening statements. There were no amendments. That was the agreement we had. Senator WEICKER has raised a constitutional point of order. He will make the point of order, but has agreed to withhold that until 1 p.m. Whether or not there will be a rollcall vote I guess will depend upon what may transpire in the next few hours. I would assume that could be about the first vote. Additionally I know there are a number of Senators on each side who want to make rather comprehensive statements.

I would hope that what we could do today is to lay the groundwork. I have been reading editorials saying we are rushing a judgment on the drug bill and I think to some extent they are probably correct. We ought to be certain we are going in the right direction.

There has been a bipartisan effort in the Senate to be very careful about what we were introducing. We have a number of controversial areas that we decided not to include in the bill. It may be that over today and tomorrow we can work out some of these very sticky points and we can avoid a big clash, focusing our attention on what we believe should be done in the areas that we can accomplish. That makes a lot of sense and at the same time keeps our priorities where they belong.

I am encouraged by the start we have had. It has been bipartisan. We have accommodated requests from each side. We have left things out at the request of Republicans; we have left things out at the request of the Democrats. We have included things at the request of Republicans; we have included things at the request of Democrats. I believe there is a spirit around here that will permit us to hammer out a pretty good bill in the next couple of days. I commend not only our colleagues on each side but members of our staffs. The staffs have really been doing nitty-gritty work for the past several days.

I believe we have a package before us that is probably not perfect. We will have a section-by-section analysis of that package available for each Member some time early this morning. We thought we had it last night but we discovered some errors. That will be passed out to each Member. It will be an overview of what the 250 pages contain.

There is on each Member's desk a xerox copy of the bill itself. Members will have the precise language. It is about 250 pages.

I hope we can have some very good discussions this morning. I appreciate the Senator from Connecticut being willing to hold his point of order until later.

Mr. BIDEN. Will the Senator yield?

Mr. DOLE. I yield.

Mr. BIDEN. I would like to compliment the majority leader. This is obviously a very controversial area. Quite frankly, I think our Republican and Democratic friends on the House side were a little overzealous, in this Senator's opinion, in terms of the bill they passed.

The Republicans and the Democrats on the Senate side have put in a package. In the case of the majority leader, as usual, he wants to get something done. We have worked very hard, the staffs of Senator CHILES, Senator BYRD, and myself, on this side and many of the colleagues of the Senator from Kansas on the other side. I think the package we brought forward is a basic package which a vast majority of our colleagues can agree with, which addresses specifically "the drug problem."

There will be, as the leader indicated, some controversial amendments on both sides. I realize my drug czar amendment will be controversial, and we all realize that the death penalty proposal is controversial.

As is usual in the way this body works and as the majority leader has directed it in the past, we will work out an accommodation so that we do in fact do leave, whenever we adjourn, hopefully October 3, with a sound antidrug bill intact that speaks to the issue of drugs in this country.

I guess the main thing I want to say is that I want to sincerely congratulate and thank the majority leader for what is obviously a sincere effort to reach a bipartisan consensus on dealing with a genuine problem. Hopefully his stewardship will be able to lead us through what will obviously be some bumpy waters in the next couple of days. I wish him luck. As they say where I come from "I will be glad to hold your coat, Boss."

Mr. DOLE. I thank the Senator from Delaware. We appreciate his efforts.

We are really starting to debate something today which is very important. A lot of things we do in this Senate are rather obscure. We talk about billions of dollars and a lot of things which are very important to the American family, but we are talking about something today that the American family understands. It is serious business.

I would guess that people who may be listening or watching television, wherever they may be, in Kansas, Florida, Delaware, New York, or California, know of someone, or maybe sadder yet someone in their family, who has had a drug or alcohol problem. So this is serious business.

We are setting about it in a very serious way.

I have never felt the American people cared much whether Democrats or Republicans dealt with this problem. They wanted Congress to deal with the problem, their State legislatures, their city officials, their families, their churches, their synagogues, the local service clubs, the private sector. If we are going to wage an all-out war in this country against the problem, it is going to take the cooperation of everyone.

This is not a partisan effort. We have had outstanding leadership in this effort on both sides. On our side I am proud to say it has been the relentless work of the distinguished Senator from Florida, Senator HAWKINS, who every day has been pounding away on the drug issue, pounding away, as the Senator from Wisconsin did for 30-some years on the genocide convention. Now we are getting down to action.

If we just keep going in this bipartisan way and work out some of these knotty problems, we can pass a bill by midnight tomorrow night.

Mr. THURMOND. Will the distinguished Senator yield?

Mr. DOLE. I yield the floor.

Mr. THURMOND. Mr. President, I support the mandate of the able majority leader and the Democratic leader, Senator BYRD, for working together on this vital problem. I do not know of any problem of more concern to the people in the United States today than controlling drugs. It is destroying the lives of many people. There are too many drugs in the schools today; there are too many drugs on the streets today; there are too many drugs everywhere.

We ought to take charge of this thing and pass a bill in this session if at all possible.

Again, I commend both sides for their working together to accomplish a drug bill.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. CHILES. Would the Senator yield me just a couple of minutes?

Mr. WEICKER. I will be glad to yield.

Mr. CHILES. It is just to make a brief opening statement on this subject, if I may.

Mr. WEICKER. I yield.

Mr. CHILES. I thought the Senator from Connecticut would be quite lengthy.

Mr. WEICKER. I will be rather brief.

Mr. CHILES. I will wait until the Senator completes his remarks.

Mr. WEICKER. Mr. President, last night I raised a point of order, a constitutional point of order, on this bill.

I want to reiterate exactly what is at issue.

During the course of debate, depending on what amendments are offered, there may be subsequent constitutional points of order raised. I suspect that might happen if the exclusionary rule or if the death penalty come up.

These matters are considerably more subjective than the point of order which I raised last night.

I do not think there can be any debate on the constitutional point of order I have raised.

The point of order that I raised relates to article I, section 7 of the Constitution of the United States. That says:

All bills for raising revenue shall originate in the House of Representatives.

This bill, specifically title V, states:

Antidrug trust fund. Subchapter A of chapter 61 of the Internal Revenue Code of 1954 (relating to returns and records) is amended by adding at the end thereof the following new part: Designation of Tax Overpayments and Contributions to an Antidrug Trust fund.

That is revenue raising. There can be absolutely no dispute at all as to the fact that my point of order is valid.

□ 1020

It is not a matter of interpretation. The Constitution is clear on the point and a revenue-raising provision is included in this—and I underline it because it is important—this Senate bill. We do not have a House bill before us. If we did, my point of order would not lie.

Mr. President, this is a minor point, but I think it is terribly important to raise at the outset that whatever the Senate does do—and I think we should do something with respect to the drug crisis—It must be constitutional. I hope that, at least on this point, my colleagues join me overwhelmingly to state that indeed, until this is rectified, the point of order should stand. There are several ways that can be rectified: Delete the section of the bill; bring over a House bill and amend it; or use a House bill on the calendar and amend it with our own language. All of that will then make it constitutional as it relates to the point of order I have raised.

Two hundred and fifty pages is quite a bit of material to assimilate. I think we should do it and I think we should have a drug bill. But there are two things that should not happen. What we pass should not be blatantly unconstitutional. We can always slip around here unknowingly; nobody expects us to be perfect. But on a point as clear as the one I have raised, if we roll over that, it makes the entire bill suspect constitutionally.

So, on that point, I hope it would be rectified, even prior to any vote at 1 o'clock.

I am not seeking in any way to prolong debate, or block consideration of the bill. Indeed, I will have my own suggestions as to how to make it a better bill as we move along. But the point I make is clear. Article I—I repeat this for the purpose of those listening in on the debate in various offices. Article I, section 7 of the Constitution requires that all bills for raising revenues should originate in the House. Juxtaposed against it is title V of the bill before us which creates an antidrug fund by amending subchapter A of chapter 61 of the Internal Revenue Code of 1954.

I shall yield in a moment to my good friend from Florida after I say the matter of what we spend on drugs and where we get the money to do it. I hope that I shall not have to talk any more as to constitutional issues relating to this bill. But I expect to dog the money matters throughout the dabate on this measure.

The drug problem in this country is severe.

As the chairman of the Appropriations Committee that handles drug education and treatment funding, I am grateful that we have finally riveted the Nation's attention on the problem. But because the addiction problem splits down 85 percent alcohol, 25 percent smoking, 4 percent drugs, the only way I know to like this problem is to allocate more resources to science—specifically NIH—ADAMHA, the National Institutes of Mental Health, and to appropriate more money to the Department of Education in terms of drug education efforts.

Despite all the euphoria I heard on the television set, the assurance of no new taxes and talk about doing everything we have to do in this Nation on exactly what we have, I can assure you, Mr. President, if we are going to mount a serious effort on addiction—alcohol, drugs, smoking—a serious effort as it relates to mental health, schizophrenia, et cetera, we need new money. We cannot redirect it and we cannot leave it up in the air, hoping that somebody will come along with a painless idea as to how we are going to resolve all these problems.

The last point, as I say, is what I intend to emphasize at a later date. The constitutional point I think stands rather clearly on its own two feet. I expect we will have the first vote at around 1 o'clock this afternoon. I know everybody is going to feel pressured to pass a drug package, but at least where the issue is so clear-cut, let us not override the Constitution of the United States. However pressing our needs, however pressing the problems, the one thing that has withstood the problems and the partisanship and the philosophy is this document. This is not the time to abandon it.

The PRESIDING OFFICER. The Senator from Florida.

Mr. CHILES. Mr. President, I think this is a very important day that we are starting here. I am delighted to see that we take up today a bipartisan bill. While I shall have a more lengthy opening statement to make in a little while, I do compliment the majority leader, the minority leader, and the people on both sides of the aisle who have worked on this and the staffs who have worked a long time to put together this bill.

I know there are a number of amendments that Members have. I have some myself that I think are tremendously important and I am disappointed that they are not in this bill. I feel they should be. But having said that, I think if you will look at this bill, you will see that if we could pass this bill and if it could become law, we will have taken a major, major step in combating the tremendous epidemic that we now find ourselves facing in regard to drugs.

This bill deals basically with the gamut of the problems that most of us have been so terribly concerned with. We have interdiction, tremendous enhancement for interdiction. We are attempting to touch the problem of eradication in the bill. We have enhanced the penalties for drugs, but especially for crack cocaine. But in the drug area, we have enhancement.

We are offering assistance to State and local law enforcement personnel who have found themselves overwhelmed, unable to cope.

We are also addressing the need for additional prison space where we know we now have a situation where they go in one door—if you put someone in a jail, you have to let someone out the back door because we have this terrible, terrible overcrowding.

For the first time, we are making some major effort in addressing education and recognizing the tremendous need that we have of trying to inform young people of the dangers of trying to experiment or participate at all with drugs, and rehabilitation to start dealing with some of the carnage and the victims that we have out there.

I hope that, as we go through this debate, Members of the Senate will focus on what is good in this package because I think what is good is very, very major. I hope that we will not, because we all have something that we would like to add to the package, allow this opportunity to slip by us and miss putting together this major package.

We will still have to go to conference with the House. That is not going to be an easy conference. But recognizing that time is short, I hope we will not let this opportunity escape us, with the tremendously good points that are in this package, points which all of us can share in the credit, if there is any

credit, and the feeling that we have taken a major step toward addressing this problem. I hope as we go through the debate we can get all Senators to focus on what is in this package and that this is a major step forward in attempting to deal with this problem.

Mrs. HAWKINS addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida.

Mrs. HAWKINS. Mr. President, this is no sudden move, bipartisan move on behalf of this body. In December 1981, the Senate Drug Enforcement Caucus was formed by Senator DECONCINI and myself, which is a bipartisan caucus to address the threat of illegal narcotics.

The public has always known that no threat strikes America more frequently nor savagely than that of illegal drugs. For too long we have been outmanned, outspent, and outgunned by drug traffickers. The tragic impact has been felt in the field of education, impaired national defense, lowered productivity, violent crime, addiction, and death.

Mr. President, today we have before us the chance of a lifetime, to finally take some tough action, working together, against that elusive and deadly enemy of our society, illegal drugs. Because of the urgency and the speed with which the Congress has considered this antidrug package, many of the proposals, long in popular demand, such as the death penalty, full use of our military resources, drug testing, a commonsense approach to the exclusionary rule, and others will finally make the light of day in some form or another. In ordinary times real drug control measures were effectively bottled up and kept away from a floor vote by special interest folks who were long able to thwart the popular will. Now we are about to have a little honesty and light of day injected into the process. We will be able to see how democracy in its purest form as opposed to committee and subcommittee wheeling and dealing works against our drug problem.

The people are watching our record votes on each key issue on this bill today, and tomorrow, as long at it takes, and well they might watch. It is our people who know best what illegal drug use has done and is doing to our children, our schools, our streets, our workplaces, our military forces, our sports programs—yes, our very civilization.

The people are the ones who still put flowers on the graves and weep at the fading photographs of what we call drug mortality statistics. Parents remember bitterly what happened to their bright and innocent children before the pied pipers of the drug culture lured them away into a hostile and totally self-destructing life. The statistics of deaths from drug use are chilling, and the families of America do not feel that we are rushing into any action to help them. The people of America wonder where we have been all these years, why we have not acted, why they are blamed for the problems, and why we debate for months a budget, months a tax bill, and can bring them as families, the smallest unit of civilization and government, no assistance when it comes to life and death and survival. Drugs pose a clear and present danger to America's national security. If for no other reason we should be addressing this on an emergency bais.

I know this firsthand. I have flown to Guantanamo Bay, Cuba, with the Commandant of the Coast Guard to inspect seized drug ships. What appeared to be beat-up old, crummy boats were actually sophisticated drug warships. They were equipped with satellite navigation systems, state of the art combat communications gear, frequency-hopping radios, and navigation charts which indicated that Cuban waters are safe for sanctuary. Traffickers buy and use military hardware that law enforcement officials in this country can only dream about. Drugs are a military threat which require a military response. I intend to work with my colleagues who feel that way, to assure that drug traffickers get the military welcome they deserve.

It is about time we did something serious about the drug problem for our people—people who lost their jobs becuase the rain on labor productivity from drug use and the added overhead costs made their companies noncompetitive; those who have not lost their jobs and must pay exorbitant taxes and health insurance premiums for benefits eaten up largely by drug abusers and alcohol abusers. It is about time we did something for the people who must lock their windows and their doors, afraid of the streets, because of robbery and the violence spawned by drug use.

Over 50 percent of all criminals arrested in Washington, DC, last year tested positive for recent heroin use, LSD or PCP use, and in Washington, DC, they do not even test for marijuana use. A NIDA study—that is the National Institute of Drug Abuse—by Dr. John Ball of Temple University and Dr. David Nurco of Maryland University concluded that 237 heroin addicts in Baltimore committed over 500,000 crimes during an 11 year period.

Drug addiction turns people into walking crime machines. It is about time we did something for the parents who hope and pray that their little children will be able to resist the powerful lure of illegal drugs during their vulnerable adolescent period. Why should we tolerate 26 percent of our high school seniors using marijuana monthly, as our schools continue to deteriorate in quality? It is about time we did something for whole communities threatened by the corruption that drug trafficking can bring to local government, to the courts, and in Latin America to the entire National Government. We have heard estimates that drug trafficking generates an illegal income as high as $110 billion. How can we continue to let this cancer go unchecked? Already we are hearing the voices of permissiveness which have thwarted action against drugs in the past. They are all coming out of the woodwork again. We hear them singing their same old tired tune about civil liberties, about the hopelessness of really stopping the drug traffic, about spending too much money, about hurting our foreign policy interests, or our defense posture. We have heard it all before and now we should recognize it for what it is—excuses, excuses to do nothing.

Where there is a will there is a way to stop the ravages of illegal drugs. Do not let anyone convince you otherwise. There is a will in the Senate today. There is a way. Where there is no will, there are many excuses. I know the people are going to be listening hard for the excuses today and will be remembering from whom they came.

I urge my colleagues to pay close attention. This is a bill which has farreaching impact on the future of civilization as we know it as Americans and as we mature into the next century. I thank the Chair.

Mr. BIDEN. Mr. President, I think it is appropriate that I be addressing my comments to the Chair when it is being occupied by a man who has worked a great deal on this subject, my friend from the State of New York [Mr. D'AMATO]. I say to the Chair and to my colleagues who may be listening and anyone else who may pay attention, I share the sentiments expressed by the Senator from Florida, but as the Presiding Officer and all of my colleagues and the Senator from Florida know, the tendency of this body when we have a serious problem is in fact not to focus on the graves of the deceased, the grave sites of grieving parents looking at what happened to their children and their families but to engage in political opportunism. This is usually the tendency of politics, Democrats and Republicans, and I hope we are not going to let that happen today. I hope we focus on what we can do and not engage in the hyperbole that so often rattles around this Chamber.

□ 1040

We have declared a number of times war on drugs. We have declared wars on crime. We stand up here and we give to the American people the notion that if we just pass the death penalty, everything will change in America. If we only had an exclusionary rule change, there would be no

drug problem. If we were only willing to get tough and hang these people, we would do all these things.

We stand and beat our breasts and we wonder why the American people have become skeptical of us. The press look down at us and say, "Wait a minute. There they go again, another war on drugs." I wish the cameras could look at the press. They are smiling. They know what I say is true.

The vehicle that is now before us will be the perfect vehicle for demagoguery. This is tailor-made for demagoguery. So I hope that, first of all, those who speak to the issue—and many are knowledgeable, like the Senator from New York—come and speak to the issue in ways that reflect the depth of the problem. The depth of the problem, in fact, is immense. We do have an epidemic in this country with regard to all kinds of controlled substances.

I suggest that we reflect, as we debate, this same intellectual depth ourselves with regard to what we can do about the problem.

For example, we can pass the most stringent laws in the world. Unless somehow we impact upon the desire on the part of the American people to consume drugs, we are not going to make a great deal of progress. We can, in fact, pass the most stringent laws in the world with regard to prosecution and punishment. But unless we impact upon the foreign policy of this country so that we change this country's attitude about its conduct of foreign policy in putting drugs at the top of the list in terms of international agreements, international concern, we are not going to have much of an impact. We, as a country, must face up to what we have been unwilling to face up to, the need to spend money to rehabilitate and treat the victims—not only the physical victims who have been mugged and shot and beaten, who are so often forgotten, mugged and shot and beaten by drug addicts in order to get money to sustain their habits, but also those who have inflicted the wounds upon themselves. For, if we continue to have a society which has not addressed its attention to dealing with how we cure these people, we are going to be left, even if we do everything properly from this moment forward, even if we go out there, pass legislation today, that from this moment on there will be no new drug addict added to the rolls with no new consumer, we will be left with millions and millions of people in this country at this point still addicted.

So I say to my colleagues that the bill we bring before the Senate reflects a compromise—not a compromise of our willingness to deal with the issue, but a compromise, in my view, on the political necessities that various Members in this body feel require them to propose specific amendments, many of which, in my humble opinion, have little or no impact upon whether or not our children are going to continue to smoke marijuana, whether or not our children are going to continue to be exposed to that horrible new concoction called crack, whether our children are going to continue to be delivered to grave sites with mourning parents standing over their graves.

The bill before the Senate today, and as introduced, provides many needed revisions and, most important, resources in our effort to reduce drug abuse in America.

Please note: I do not refer to this effort and this initiative as a war on drugs. The American people, I believe, have grown very weary of the political rhetoric and grandiose statements about wars that they realize we in Congress cannot win. The American people want us to respond to a clear national cry for help and not with hollow promises.

I note parenthetically that I think one of the reasons we have gotten ourselves into this spot, one of the reasons why people have lost confidence in this institution and other institutions on this issue, is that they have heard us before, many times, tell how we are going to do all these things.

To politicize or divert the direction of this legislation by extraneous proposals can only lead to skepticism and I think eventually to failure by the Members of this body.

It is in the hope of producing a useful and sorely needed initiative that I join with the leadership of the U.S. Senate in introducing this bill. I think it provides many needed improvements in our effort to reduce drug abuse in America. I enthusiastically support the efforts of the majority and minority leaders, who have dedicated a great deal of their time to the fashioning of this bipartisan bill that could come to the floor before the end of this session.

I also compliment Senator CHILES, with whom I serve as coauthor of the Democratic working group on narcotics which undertook the task force this summer, on the Democratic side, to craft an all-encompassing response to this narcotics problem.

I say to my colleague from Florida and my colleague from New York and my colleague from Washington, Senator EVANS, and others who have worked hard on various or all aspects of this drug problem, that I am sincerely hopeful that reason will reign in this Chamber the next 3 or 4 days. I am sincerely hopeful that we will, in fact, check our political six-guns at the door and deal with the genuine issues that face us.

With the help of all the members of the working group on the Democratic side and many of the members on the Republican side, 3 weeks ago we introduced—and that includes every one of the 47 Democrats—a bill we are proud of; and we are pleased to announce that it contains what most of us thought would be the necessary outlines for attacking the drug problem.

Now we have a bipartisan proposal which I believe is even better. It is better, although it does not include everything I wanted in the original proposal that Senator CHILES and I drafted. It is better in that I think we will be able to garner a significant consensus. A consensus is an essential element to doing anything about this problem.

I do not want to be part of a body that, with all due respect—I guess it would be characterized as criticism, as a comment, of my colleagues on the House side. They have not been dealing with this issue as a body as long as we have. We have worked on this issue, Democrat and Republican alike, in committee for 3 years. It started with the crime bill, a bipartisan crime bill that passed this body. The way it passed, I remind my colleagues—and it was greeted with diminished skepticism by the press and some enthusiasm by the American public and viewed as reasonable by others—the way we did that is the way we have approached this bill, I say to my friend from Washington, who is on the floor.

□ 1050

Senator THURMOND and I, representing different points of view on reform of the omnibus crime bill which was the most significant reshaping of criminal legislation in the last 30 years, sat down like we have on this bill and said, "Look there are provisions in the Criminal Code that are highly, highly controversial and which even if they were resolved would not fundamentally alter our ability to begin to do something about the crime problem in this country." We lined them up. We said, "Let us look at everything we can agree upon and put it on this side of the table and let us take everything we disagree upon and put it on this side of the table."

And we added up all that we agreed upon and we agreed upon 90 percent of the changes that had to take place, probably 95 percent, and they were striking changes, striking changes in the sentencing law, striking changes in parole, striking changes in terms of how we define certain crimes, striking changes in terms of penalty, and changes we have been attempting to bring to fruition for the past 20 years.

But the key was we said, "Let us take these 5 percent that we disagree on and let us put them on the shelf over here and let us not do what has been done over the past 20 years. Let us not get up to the waterhole and fail to be able to drink because in fact we cannot decide who is going to be first. Let us put egos aside and let us put

aside political opportunity and put it on a shelf and let us go at the business of doing what no one has been able to do before."

As a consequence of approaching that way, I say to my friend and colleague who is presiding today—he knows because he participated in it—we passed a significant crime bill, a crime bill, I might add, that is aiding significantly in the prosecutions of major organized crime family members today, a bill that is aiding significantly in our ability to do things in the past 3 years that we had been unable to do.

What we have attempted to do here today on one aspect of the crime problem but a more pernicious crime than any we have to deal with, the drug problem, is to do the same thing.

So I plead with my colleagues as they look at this bill, notwithstanding the fact that the bill before them will be only before them for a short time. It is the first time they will have seen it. There are hundreds and hundreds and hundreds of hours of work that have gone into this long before they were put in this compendium of pieces of legislation. They involve a number of areas from dealing with penalties, to dealing with definitions, to dealing with education of our children on the avoidance of drugs, to dealing with treatment, interdiction, et cetera.

There is hardly a single thing in this bill that at one time or another we have not held an extensive hearing on it. It is not new in that sense. What is new today, and I know we will succeed, is that we have agreed to agree on what we can move and thus far we have agreed to disagree and put aside those more colorful and flamboyant aspects of the law at this moment.

Another thing I would suggest to my colleague——

Mr. MELCHER. Mr. President, will the Senator from Delaware yield at that point?

Mr. BIDEN. I will yield for a question. I will not yield the floor, though. I have not finished my statement. I have much more to say.

Mr. MELCHER. I thank my friend from Delaware for yielding.

He just stated that there is not anything in here that has not had extensive hearings.

Mr. BIDEN. To be more precise, if the Senator will yield, I said there is little in here that has not had extensive hearings.

Mr. MELCHER. Little.

On page 6, the first page 6, the sentence bothers me and it begins on the fourth line starting with the word "if" and extends for 15 lines from there on the same page, and it refers to a person committing such violations, which would refer to the above sentence, I believe violations involving narcotics or drugs listed in the code under——

Mr. BIDEN. One hundred kilograms more of a mixture containing detectable amounts of marijuana—is that what the Senator is referring to?

Mr. MELCHER. Under schedule 1 and 2.

Mr. BIDEN. Correct.

Mr. MELCHER. Then in this sentence it seems to broaden it, perhaps I am incorret, but in reading this sentence we get down to violations under this title or title III, or any other law of a State, going on, or a foreign country relating to narcotic drugs, marijuana, or depressant or stimulant substances.

I wonder at that point, if I might ask my learned friend from Delaware, does it not broaden beyond 1 and 2?

Mr. BIDEN. If the Senator will let me finish my statement, if I could say to my colleague, and I am anxious to discuss this and other items with him, the way we hopefully—because I see my colleagues want to make opening statements themselves—hopefully what we will be able to do is make our opening statements and then get into the discussion of this. If the Senator would like to persist on this a little bit longer, I am happy to do so.

In light of the initial ground rule where we said everyone can make his statement. I do not want to dominate the floor this morning at the expense of my colleagues making statements.

I will be happy to go on a few more minutes.

Mr. MELCHER. I thank my friend for doing that because it is hard to understand the opening statements unless we know how broad this is.

On the question of identifying just the depressant or stimulant substance, I do not know how far ranging that is.

Mr. BIDEN. It would expand to include any State felony which would include in most of those felonies the trafficking in these substances. There is an expansion. We have had hearings on the question of whether or not it makes sense to expand the coverage to include State felonies which is not now in the law, but that has been a subject of discussion before a number of our committees and including the Judiciary Committee.

I would, as I said, be delighted to discuss the details of this if the Senator would let me finish my opening statement, and we are going to have plenty of time today, tomorrow, and probably into I do not know when.

Mr. MELCHER. That could be a long time. But one final question on this point.

Mr. BIDEN. Sure.

Mr. MELCHER. It has to be a felony under State law. I understand that. But what about under foreign governments, because it says "a foreign country relating to narcotic drugs, marijuana, or depressant or stimulant substances," and have we identified in a foreign country how they treat a stimulant or depressant substance?

Mr. BIDEN. We have. We have not placed it in the bill. What we are attempting to do here is deal with repeat offenders, repeat offenders who have been repeat offenders of the drug laws, repeat felony offenders under State court systems and under other systems.

Mr. MELCHER. Under foreign government systems also?

Mr. BIDEN. That is correct. No; that is not correct.

Mr. MELCHER. All right.

Mr. BIDEN. I say to my colleague that is not correct.

We were talking about domestic repeat offenders. It says in the part the Senator is referring to "* * * or for a felony under any other provision of this title or title III or other law of a State, the United States, or a foreign country relating to narcotic drugs, marijuana, or depressant or stimulant substances, have become final."

Mr. MELCHER. Does that not mean the final action in the court system of a foreign government?

Mr. BIDEN. It does.

Mr. MELCHER. As to their depressants and stimulants, which is a very broad term, are they identified similar to ours?

Mr. BIDEN. The provision is presently in current law and the judgment, even though you will find I am sure in the schedule of such drugs in France is different than the schedule in this country.

□ 1100

If you have a repeat offender of the drug laws of the country of France or Switzerland or Afghanistan, we have made the conclusion, and it is already in the law, that in fact those folks do not warrant any other treatment than that which we are suggesting here. We are not suggesting that in all the laws of the State.

Mr. MELCHER. I would just ask, then, one final question, and I thank my colleague from Delaware for his indulgence.

But does not the term "depressant or stimulant substances" carry the drugs that would be listed much further than schedule 1 and schedule 2?

Mr. BIDEN. The answer is "Yes."

Mr. MELCHER. I thank my friend.

Mr. BIDEN. I hope that the caliber of the debate and the detailed questioning follows that which has occurred here by my friend from Montana, because there is much to discuss in this bill.

Let me conclude in the next few minutes my statement here if I may.

Mr. President, it is imperative that we pass this legislation aimed at reducing drug abuse in America this session. The price that this Nation pays for its

drug habit is staggering. Let me just talk about that for a moment.

Drug traffickers reap an estimated $110 billion each year, peddling drugs and narcotics to our children, our families and our friends. The sheer dollar figures, however, do not even begin to tell the story. The price that this Nation pays for its seemingly insatiable demand for drugs must also be measured in terms of the lives lost, the families shattered and the dreams forsaken from drug abuse. According to the President's Commission on Organized Crime, there are an estimated half million heroin addicts in this country. Four to five million Americans regularly use cocaine. And over 20 million Americans regularly use marijuana.

Despite these staggering statistics, I think what scares us the most, and why we must pass responsible drug legislation this session, is the threat that drug abuse poses to our most precious resource: our young people. According to the most recent sample of high school seniors, over 61 percent, let me repeat—61 percent, almost two-thirds—of the graduating high school seniors in 1985 had used an illicit drug. Some 17 percent of the graduating seniors had tried cocaine—17 percent had tried cocaine—the highest rate ever in the 11 years the sample has been taken. And according to the same study, one-third of college students used cocaine in the previous 12 months.

Two weeks ago in this Chamber, several of my distinguished colleagues debated the importance of educating our children in math and science so that our children will be capable of learning the most technologically advanced requirements that they must have in order for this society to move in a competitive sense in the next century. I would like to note that if we do not do something about this country's drug addiction, the issue of educating our children in math and science may be a moot point.

The drug problem is a complex problem, and any effective strategy to reduce drug abuse in America must involve a comprehensive approach, involving efforts in this country and abroad. And while we must rigorously enforce the law, it is abundantly clear that we must mount an aggressive and consistent campaign to reduce the demand—the demand for drugs—so that the drug peddlers will have no one to whom they can sell their wares. This legislation addresses each of these areas.

First, this bill addresses the need to stop the production of illicit drugs in foreign countries. For too long, our foreign policy has all but ignored the importance of international narcotics control in our overall foreign policy strategy.

It has been a pet peeve of some of us on the Foreign Relations Committee and the Judiciary Committee for the last 6 years.

The first question I asked the first Secretary of State in this administration was whether or not, if he were confirmed, would he be willing to move drug trafficking up on the agenda as high as any other matter of state when he, in fact, took the State Department helm; and would he, in fact, deal with our NATO allies and our other allies around the world with the need to move it higher on the agenda?

He looked at me somewhat perplexed and finally agreed that he would. And I could see him turn to his staff person and say, "What does this have to do with foreign policy?"

I can recall the last speech I made as chairman of NATO's Committee on Nuclear Planning to our NATO allies, the 45 or 50 who were here from every nation. And the topic of my speech perplexed them some. I said NATO is a defense organization and, in order to deal with the common defense, we should begin to deal with drugs. And I think they thought I was on drugs, the fact that I would bother to raise that question with them. There was a bit of a tittering going on.

You know, State Department types and foreign policy types carry expensive leather briefcases and love to carry in those briefcases treaties on arms control and treaties on fisheries and their lunch, but they do not want to get down to the business of dealing with something that they feel should be beyond their purview.

As a result of these consistent efforts, not merely on my part, but on the part of many Democrats and Republicans, many countries that had been very complacent about drug production within their borders are beginning to see the need to deal with it.

This bill would provide effective incentives for cooperating in international efforts to stem the production of, and trafficking in, illicit narcotics. This bill would provide almost $60 million in additional funds for foreign assistance programs to help countries eradicate drugs within their borders. This would nearly double the amount of money now provided for foreign eradication and crop control programs.

However, this bill does not stop at merely providing new money to countries interested in combating narcotics production. For those countries that are major illicit drug producing countries and that have not responded, either through their own efforts or with our assistance, in reducing production or transshipment of narcotics, all foreign aid—all foreign aid—assistance would be cut off. This new law will require the President to certify to Congress that any such country has taken adequate steps to cooperate with the United States in stemming the cultivation and production of narcotics within their countries, before foreign aid can be reinstated. These provisions take a major step toward raising the priority that international narcotics control should have in our overall foreign policy strategy, as well as other elements. The international provisions of this bill include both the "carrot" and the "stick" necessary to encourage narcotics control throughout the international community.

Second, we must stem the flow of drugs into our borders and across our borders. This bill increases by one-third the current level of funding for interdiction at the border including increased funding for Coast Guard and Customs Service personnel, which, I might add, over the last 6 years has been cut. We have talked about a war on drugs and we have cut, not increased, cut the number of people we, in fact, say are supposed to be the ones at the bridge blocking the enemy from crossing the river into our territory. This bill assigns Coast Guard law enforcement teams to Navy ships to bring the Department of Defense more actively into the fight against drug trafficking.

Third, we must rigorously enforce domestic drug control laws. This legislation, under the leadership of Senator CHILES increases penalties for most drug-related offenses, including a mandatory minimum penalty of 10 years imprisonment, and up to life, for the highest level of drug kingpins, which reflects the responsibility of the Federal Government to pursue and prosecute major narcotics syndicates.

□ 1110

This bill also creates new offenses and increases penalties for drug offenses involving children, and fines are increased to strike at the financial underpinning of organized crime. This bill also recognizes the need for more law enforcement personnel at both the Federal level and at the State level, I say to the President.

Increased funding is provided for more DEA agents, drug enforcement agents, more prosecutors and more prison construction to ensure that drug traffickers are caught, sentenced and stay in jail for their full sentence.

Finally, the bill provides $115 million in grant money to State and local agencies to assist them in their drug enforcement efforts.

You know, Mr. President, as well as anyone in this Chamber, the drug problem is a little bit like the environmental problem. No one State can decide it is going to have clean air and clean water. It can do everything correctly in the State of Delaware, but if there are not refineries in Marcus Hook which are on the Delaware border which are meeting environmen-

tal standards, Delaware air will be polluted. It is the same way with the drug problem. Every State could in fact pass just the right drug legislation, but drugs are in fact the ultimate fungible item. They in fact cross borders and seep across borders in ways that lend themselves only to the Federal Government being able to provide an umbrella of help. Part of that help is direct assistance to those local agencies.

Finally, we must reduce the demand for drugs by educating our youth about the perils of drug use. Through the President's efforts and Mrs. Reagan's efforts, although they have stressed the need to reduce the demand for drugs which has in my view been helpful, the Federal Government spends only $3 million a year out of a trillion-dollar budget—$3 million a year nationwide for drug education.

That much expenditure of money indirectly goes into the production of one movie which glorifies the use of drugs. One movie, one setting, can, in fact, have more impact upon the attitudes of our children about drug use than the minimum of $3 million we spend nationwide.

This bill we are about to vote on in the next couple of days provides $150 million in grant money to State and local school districts for drug abuse education.

The purpose of this section is to ensure that every child in this Nation in both public and private schools receives objective and credible information about the consequences and the dangers of drug use.

Senator ROCKEFELLER from West Virginia has worked on this for some time. This is not just one of the typical Government programs we are going to send out money on. In order for a State to qualify for this money, the State must have in fact at the statewide level a drug education program involving schools and committing their own money to it before they can get help under this program.

We must also treat those persons who have already fallen prey to the lure of drug abuse. As I said at the outset of this statement, even if we did everything that possibly could be done, even if we prevented from this moment on an single new drug addict being added to the roll, we are still faced with the problem of those millions and millions of people out there, many of whom are addicted to drugs at this moment.

While we as a society must begin to recognize that drug users like drug traffickers are coconspirators in drug crimes we must realize that drug addicts prey upon innocent victims to finance their habits. We must find an appropriate mix between condemnation and compassion in our approach.

Despite this administration's rhetoric about treating drug abusers, they have actually decreased the funding for drug abuse treatment in the last 4 years. These cuts have resulted in waiting lines and waiting lists up to 6 months longer for for drug users who recognize that they have a problem and who seek help to solve their problem. They, in fact, in the meantime are left standing in line.

This bill provides $175 million to State and local treatment programs, both public and private, to help provide essential services to drug abusers who want help, and the restrictions are significant as to how this money is spent so it is not wasted.

Though I have outlines the four essential components that are addressed in this bill, I believe we must also include a more effective framework from which to pursue these initiatives. A framework is not a part of this package. It is something I intend to offer as an amendment later in these proceedings. I intend to offer a provision that was passed by the way on two other occasions in this body overwhelmingly, the last time with 63 votes. It is called by the press a drug czar, but simply means we should have one person in a position that in fact is in control of the Federal drug effort.

We now have 11 different Cabinet Secretaries responsible for some piece of the drug program, 36 different Federal agencies involved in administering the drug program, and no single game plan as to what our priorities are and who can in fact call the shots as to how we deal with them.

If I said to my colleagues that was going to be the way in which we are going to run education in this country, or if I said that is how we are going to deal which health care in this country at the Federal level, or if I suggested that is how we are going to deal with transportation in this country, we would all say, my lord, you cannot do it that way. It makes no sense. Yet we have a problem that we all acknowledge is equally, if not more, critical for a solution that calls out for the solution to the drug problem. And we still lack that coordination.

What this package lacks is a framework of leadership right now. The Attorney General, the Vice President and the White House drug abuse advisers are all leading the Federal effort often in different and conflicting efforts. The question remains who is in charge of the Nation's drug control strategy.

There is no clear answer to that question. That, I believe, illustrates the problem. The lack of leadership in the Federal drug control effort has been recognized in this body. As I said in the last several years in fact on two separate occasions Members of this body, Democrats and Republicans alike, have passed this legislation. But in the spirit of comity and of the necessity of moving forward with what are significant advantages and significant help in this bill that we have before us today, I have refrained from insisting that be in this package, and I must tell my colleagues I am prepared to refrain from introducing that legislation, or introducing that as an amendment if in fact it would be sufficient to keep this legislation from going forward.

It is something I have worked on for 6 years, and something I feel very deeply about. But I believe this bill is so important now that if it will in any way slow down the progress of this bill I will not insist upon its passage again in this body.

The administration has made it clear they are overwhelmingly opposed to the drug czar concept because it in fact narrows responsibility very rapidly. And in fairness to this administration, the last administration, the Democratic administration, was not crazy about the idea either because I say to my friend from Washington who was a chief executive and a Governor I suspect he knows better than any of us on this floor at this moment it is not easy to bang heads together, take power from one, and give it to another, and consolidate it. But that is what leadership is about.

I understand why they are reluctant to do it. I suspect the next administration will be reluctant to do it. But the fact of the matter is the time has come to move on drug legislation.

There is ample need for such an initiative as I have outlined previously. But moreover, I believe the major outline of this bill is one in fact that we should move on.

In 1984 we moved as I said at the outset on a bipartisan bill that eventually enacted the most significant Federal Criminal Code reform in this Nation's history. A similar opportunity has been presented to us today.

However, as was required then, and I predict will be required on this legislation, we must be willing to compromise if we are to get a bill on the President's desk this year. This bill as introduced reflects that compromise.

Last week the President called for the leadership of both Houses of Congress to come down to the White House to emphasize the need to transcend political concern in the battle against drug abuse in America.

I wholeheartedly endorse that plea on the part of the President. And I urge my colleagues on legislation they feel, or on amendments they feel are not in this bill and if they feel as strongly about as I do about the drug czar, in the interest of not merely compromising the body, the comity on the floor, but in the interest of doing something about the drug problem so that the President will have a bill to

sign, on increased interdiction efforts, increased sanctions against foreign countries, increased education, and increased treatment in order that we can get underway.

□ 1120

If my colleagues this time tomorrow look down the road and see that with only a week left their amendment, if added, would keep this bill from coming to fruition, I urge them and I plead with them to put their own political instincts, ambitions, and initiatives behind the greater need to do something, something significant, which is already, in my view, contained in this bill.

I have much more to say about this. I will do a section-by-section analysis, I am sure, as we go on. Each of my colleagues on the floor has a significant opening statement to make. I thank them for their indulgence and I yield the floor.

The PRESIDING OFFICER. The Senator from Washington.

Mr. EVANS. I thank the Chair.

Mr. President, we have heard two eloquent and detailed opening statements. I commend the Senator from Florida, Senator HAWKINS, and the Senator from Delaware, Senator BIDEN, for their extraordinary leadership in this effort.

Mr. President, I still have some deep concerns. I am gratified with what the joint bipartisan group here in the Senate has produced. I agree with the Senator from Delaware that it is a careful amalgamation and cannot be subjected to a wide variety of amendments. That is in sharp contrast, Mr. President, to the sanctimonious election stampede of the House of Representatives, a stampede that trampled on the Constitution. In fact, at times the action over there resembled a congressional lynch mob more than it did careful legislation.

I am pleased now that the Senate has chosen, as it so often does, to cool the passions which sometimes have guided the other House.

But we must still recognize that no matter what we pass in this body we are still subjected to a conference, a conference between the two Houses that may represent or result in compromise that would bring in a bill brought back to the floor of each House as a conference report that could contain some dangerous legislation, legislation that I think could be as dangerous as the drug problem itself.

There has been a lot of focus recently on the drug problem. This is an election year. The national news magazines have recently headlined the drug problem with cover stories. Crack dominates the conversations throughout the country. We have had two tragic deaths of young athletes from cocaine.

But nonetheless, Mr. President, recent statistics from the Department of Health and Human Services point out that abuse of all drugs in America peaked in 1978 and 1979, and declined slowly but steadily through 1984. Although the use of heroin leveled off in 1985, there is no compelling evidence that the overall problem is significantly worse now than it has been for the last decade.

Mr. CHILES. Will the Senator yield?

Mr. EVANS. I yield.

Mr. CHILES. I apologize for interrupting the Senator, but when I read that statement, and I think I read the same one, about drugs declining, it was kind of a shock to me, coming from my State and knowing what is happening with crack and seeing how that is hitting not every place, but hitting a number of other places across the country. I do see a tremendous increase in the amount of cocaine and a declining price.

When I asked the people from the National Institute of Drug Abuse at a hearing of the Permanent Subcommittee on Investigations that was held on the subject matter where the statistics came from and how in the world that could come out at a time that it looked like to me things were running differently, they told me that the way they do their studies they are looking at 4 years ago. So those statistics are based on information and cuts that are years old.

I just say to the Senator from Washington I think we need to review those and make sure how current they are because I think those are reflecting what they thought were trends or statistics that are 3 and 4 years old and that are not current. In fact, they were 1980 statistics and 1984 statistics that they were using as a basis for their study.

I again apologize to the Senator.

(Mr. ROTH assumed the chair.)

Mr. EVANS. I appreciate the comments of the Senator from Florida who has been deeply involved in this effort. I in no way wish to belittle or in any way take away from our focus on the drug problem or belittle its importance.

I would point out, in addition, that a recent article, I believe yesterday, in the Washington Post, quoting the 3-month survey by the Federal Drug Enforcement Administration has found that crack, in their view, is not the drug of choice for most users and that its prevalence has been exaggerated by heavy media new attention.

Again, not to belittle in any respect what is an evil form of an evil broad drug system, but, nonetheless, I am only attempting to point out that it is important for us to keep all of these efforts in context, to recognize that we do indeed have a very big problem.

But I do not want us to focus so much on this problem that we ignore or forget that there are a couple of other addictive drug problems in this Nation which continue, which are at least as large if not larger in deaths and costs and human heartbreak. During the course of this discussion on illicit drugs, we ought to at least speak up and remind people that there are a couple of legal drugs which are of equal importance and concern to us.

Alcohol abuse, according to statistics collected by Students Against Drunk Driving, is implicated in virtually every conceivable socially abhorrent activity of our society. Two-thirds of fatal driving accidents, 70 percent of all murders, 50 percent of all rapes, and 60 percent of sex crimes against children are affected by alcohol abuse.

The costs of smoking perhaps are not quite as antisocial but are equally staggering. The New England Journal of Medicine estimates that smoking is responsible for one-quarter of all fire-related deaths, a quarter of a million deaths from heart diseases and more than 100,000 deaths from lung cancer each year. Overall it has been estimated that the combined total cost to society of alcohol and tobacco abuse exceeds the current Federal deficit.

So I think it is important for us to focus on illicit drugs and certainly enforce the passage of comprehensive and appropriate legislation. But in that process, let us not forget that there are other problems, perhaps still larger, which we cannot ignore and which we should not doubt.

In our efforts, however, to focus on drug activity, the House of Representatives, I believe, has engaged in precisely what Edmund Burke warned against when he said, "Bad laws are the worst form of tyranny." The House bill certainly qualifies.

I do not intend to detail each of the provisions which I find abhorrent, but in combination they could lead to some rather bizarre interpretation of our Constitution.

The ability of military forces to engage in hot pursuit coupled with changes in the exclusionary rule could very easily result in military forces kicking down the door of some private residence on the belief, the good faith belief, that there were drugs about.

□ 1130

We would end up with precisely what our forefathers, 200 years ago, sought to eliminate in the fourth amendment to our Constitution.

I think we have to be very careful in what we do, careful that in our zeal to correct the problems, in our zeal to capture those and imprison those who are dealing harshly with our fellow citizens and with our children, we do not go so far that, for instance, in massive drug testing, which may well be 99 44/100ths percent accurate, we ignore the potential danger of harassment of

the other fifty-six one-hundreths of 1 percent. If, for instance, we choose to have massive drug testing of Federal employees for each million employees tested and if that were the level of accuracy, which I believe is probably higher than the accuracy we now have, almost 6,000 Americans would be trashed, harassed on their jobs, the innocent accused. We have to be very careful what we do in this act, careful that we focus more precisely at the targets which deserve to be hit.

In a veto message on the drug czar bill, President Reagan, I think, said it very well. We ought to keep his words in mind as we debate and amend this proposal. He said:

> The seriousness of this threat is underscored by the overwhelming opposition to this provision by the Federal law enforcement community, as well as such groups as the International Association of Chiefs of Police and the National Association of Attorneys General. The so-called drug czar provision was enacted—

And here is what is important—

> hastily without thoughtful debate and without the benefit of any hearings.

Let me repeat:

> . . . was enacted hastily without throughtful debate and without the benefit of any hearings.

Mr. President, I am not speaking in relation to the drug czar bill at all, but to the President's words, which warned against our adopting important legislation without thoughtful debate and without adequate hearings. I believe the Senate bill has gone a long way toward meeting those criteria. The House bill failed miserably on both counts.

If we act now, we ought to be caring that we act in a way that will integrate our current efforts with what we call the war against drugs. If we really believe in a war against drugs, then I think it requires the same attitude as a military commander or a commander in chief would have toward a real war. Real war requires that there be well-thought-out plans and strategies. Real war requires that you do not send inadequately prepared troops into battle. Real war requires that you attempt to coordinate your activities to get the best results from your investment. And, Mr. President, I believe that whether it is a war against drugs or a shooting war, the best strategy takes into account, strong account, the view of the field commanders, the ones who will be out on the front lines fighting that war.

We should not send those troops into battle unprepared and uncoordinated and, parenthetically, underfunded.

I think the fastest way to win a war, a shooting war or war against drugs, is to begin by developing the kind of comprehensive plan and coordinated efforts, bringing into account those field commanders so that we can get the war over with or reach some victories at the soonest possible date. Therefore, Mr. President, I shall suggest an amendment later in the debate on this bill. I believe an amendment can be drafted that will not fall prey to the concern of the administration over a drug czar.

Mr. President, my colleague from Delaware [Mr. BIDEN] is not at the moment in the Chamber, but I should say to him that, as a former chief executive, I know it is difficult indeed to coordinate and bring together many disparate elements within your own administration. But I am not sure a czar is really as necessary as strong leadership from the top. It is the Commander in Chief, it is the political chief executive, whether President or Governor, who ultimately fulfills that responsibility of ensuring that there is coordination, ensuring that there is maximum effort. In the case, it has to be more than just maximum effort within an administration. We are talking about a national war. The amendment I shall propose will call for a comprehensive national meeting, with the appropriate followup, to occur as rapidly as we can prepare it, and to present as a result of that meeting further proposals that may be called for at the national level.

I think any such group or meeting must bring into account these field commanders I have mentioned. They are the State Governors and the attorneys general, local school leaders, the State and local police and other law enforcement agencies, the elements of our criminal justice system, various responsible Federal agencies and, of course, Congress, the President, and the legislatures and Governors of our various States.

Mr. BIDEN. Mr. President, will the Senator yield for just a moment?

Mr. EVANS. Indeed I will, Mr. President.

Mr. BIDEN. I think the Senator's idea is a good one, but I would like to ask the Senator a question not relating to the amendment he plans to offer, if he will go back to his capacity as chief executive.

Mr. EVANS. Yes, Mr. President.

Mr. BIDEN. My concern over the years, as we have debated this subject of a drug czar, has been that until and unless you have one person who has budgetary authority, one person who can, in fact, make an estimate of the assets that are available to conduct the war, one person to make that judgment, we find ourselves with conflicting, very conflicting policies coming from above—theoreticaly, the President—a strong chief executive, who in fact would be able to coordinate all that.

But I ask my friend from Washington, and I ask this sincerely of the former Governor of the State of Washington, is it possible for a chief executive to do that without having a person to whom he or she can turn and say "Now implement that. You have the authority to cross these lines?" Can that be done? That is really my concern.

Mr. EVANS. I say to my friend from Delaware that I think it can. I had a fascinating experience in the interlude between being Governor and becoming a Senator. That was to be president of a rather unusual college, the Evergreen State College. The way in which we operated included what I think is an extremely appropriate concept, one which we ought to use more frequently in our own public activities and, I suggest, one which can and probably is being used pretty frequently in private activities. That is what they call a disappearing task force.

We do not have to be so bound by the boxes on an organizational chart that we cannot put together, when needed to focus on a particular problem, the kind of particular group that is required. And when they finish their task or when it becomes apparent that we are now at a point where individual agencies can carry on their responsibilities, that task force can disappear.

As Governor, I did pretty much the same kind of thing. On a particular issue that was of importance at a particular time, I brought together the various department heads but, from the gubernatorial level, said, "Here is what we will do." I may have appointed from that group one who would be a leader. We did not have any additional legislation, did not have any other framework necessary for that person to act. It accomplishes perhaps some of the same goals that I think the Senator from Delaware seeks. But I do not really think it takes a detailed legislative proposal to accomplish that kind of effort.

Mr. BIDEN. Will the Senator yield for one more moment?

Mr. EVANS. Yes, Mr. President.

□ 1140

Mr. BIDEN. I say to my friend that I was prepared to accept that 2 years ago. That is what we did. The administration said, "We don't like this drug czar, so let's work it out whereby you make the Attorney General that person," and we did that. We still end up with the confusion and chaos that exists. And I say that not in a pejorative way with regard to the Attorney General. I think it is awfully difficult for the Attorney General of the United States and the Secretary of Treasury to say these Customs agents should be assigned to do such and such.

I have been around this town long enough to understand that the size and strength and the insatiateness of the bureaucracies in this town make it

very difficult. Although some of it legitimate in my view, we see what is happening in the overwhelming reluctance of Caspar Weinberger to be a part of any posse comitatus. Senator CHILES had to beat him up beside the head for 4 years, figuratively speaking, before we got changes in that law. It made it very difficult. I have had, privately, Under Secretaries of various departments tell me, "Look, we can't go in and spend capital on that issue because we have to spend capital in order to get the Secretary of such and such an agency to assign x number of Customs agents or the Secretary of Defense to assign x number of et cetera. We can't do that. We are going to use up all our capital."

I think what everybody is looking for, and maybe the Senator has a way—and I am prepared to work with him on that way—what we are looking for is somebody someplace within the administration that, in fact, when they speak every one of those Cabinet Secretaries know they better listen. They have no option but to listen—one person has the authority, if it is a disappearing drug czar, if it is a disappearing task force. But at some point, at some place, somebody has to say, "This is the plan, and you, Madam Secretary, will participate, and you, Mr. Secretary, will participate, and this is the amount of your contribution to participate."

Absent that, I say to my friend from Washington, I do not know how we ever get a handle on it. I do not suggest it is easy, and I do not mean this, as it may sound, as a gratuitious criticism of this administration. This administration has done more on this issue than the last administrations have, so I am not making a partisan comment. I am making from what I have observed in my 14 years as a U.S. Senator, an institutional observation. It seems as though the only way you move a bureaucracy around here is you plant about 20 pounds of political TNT under it and explode it. Otherwise, they do not move.

As has been said to me by two essentially permanent Under Secretaries in one department, in a heated exchange that occurred in my office, "Well, Senator, some day you will go; we will still be here." They are probably right.

Mr. EVANS. The Senator speaks with great knowledge and much longer experience in this Washington than I have had, and I would agree with him on one thing, that the bureaucracy is more intransigent and more entrenched and more difficult to deal with here certainly than the comparative bureaucracy in the Washington State government and I would suggest probably in almost any State government throughout this Nation.

There was a greater sense of teamwork, willingness to work together and perhaps even a closer association or relationship between a Governor and cabinet secretaries than there usually is between a President and his Cabinet Secretaries.

But as the Senator described this opportunity to tell each Cabinet Secretary that here is who you respond to and here is who is going to provide the leadership, I believe, if I were President—and we can all fantasize about that—first I have to put together the plan, what it is I want to do.

Now, some of that—in fact a good deal of it—may come from legislation we pass. I believe there is another element of equal or perhaps greater importance, and that is what comes out of a national meeting or task force that puts that other added element into it—the local and State and educational and even parental and citizen groups that are going to be necessary, critical, to getting this job done.

Obviously, no czar, not even a President, has direct authority to tell all of these elements of our society what to do. We can encourage, we can work together, and most of all I believe we ought to listen to what they can contribute to this program. But once the plan is done, once we are ready to move in an even more comprehensive way than this bill would call for, then I think it is possible for a President to call his Cabinet together and for the President to be that person who says, "Here is what we are going to do, here is the responsibility of each Cabinet Secretary's Department and here is who I am asking to carry on this responsibility."

Mr. BIDEN. Will the Senator yield for a moment?

Mr. EVANS. Maybe it will work. Maybe it will not work.

Mr. BIDEN. I think it will work. I think the Senator is correct. I think the added dimension he is suggesting would be a wise and useful dimension. But as the Senator knows, the President already has that authority.

One of the things that disturbs me is that it has not been exercised to do this, first. Second, he has been encouraged to do similar things not to the legislative process, but I am encouraging the Senator to push the legislative process as a means by which he is to do it. Third, in the bill right now there is a requirement that the President do what the Senator is suggesting, although not the same way; we leave more latitude for him. We say, "Mr. President, you must come back within 6 months with a plan for us."

I believe the proposal of the Senator from Washington—which at some point he will offer—I believe it gives the President more guidance, more direction, more help, that I think is very positive.

But I just want to make sure the Senator understands that the Senator from Delaware over these past 6 years did not start off with the notion there had to be a single person who was the ramrod. But every other attempt we have made—right now there is a provision in the law, the last drug czar proposal that we passed, when we passed the omnibus crime bill, that the Attorney General come forward with a comprehensive report on a due date and do it yearly. We are not there yet. We have not had that yet. So I encourage the Senator to pursue his interest.

I just suggest that the objectives of the Senator from Delaware are obviously no different. Quite frankly, maybe his frustration is somewhat greater, but the objective is no different.

Mr. EVANS. I thank the Senator. I think we are working down the same track. If there is a difference between now and 1 year ago or 2 or 5 years ago, it is with the added focus on the problem which has come just recently, and which is typified by this debate going on right now in the Senate, and by the fact that we are very likely to have a comprehensive drug package even during this Congress. That is really step 1 of a new and intensified war.

I would be delighted to work with the Senator from Delaware in crafting an appropriate kind of amendment to ensure that we do encourage this much broader involvement of not only the Federal Government but others as well in what we are doing.

Mr. President, I am almost finished, but let me say that I also suggest I am very likely to come forward with a second amendment, not on this bill but on the continuing resolution, because I believe in this bill we are doing what it is too easy for us to do during the course of a congressional session after we have come forward with our budget allocations and limits, and that is to say we want to help this group or this country or that problem and it costs money, and we blithely put money into this new interest or this new priority and say, "Take it from somewhere else; take it from an existing program." Take it from something that may well be also of high priority.

Frankly, Mr. President, this is so important that I believe we ought to honestly face up to the costs and we ought to set forward a method of finding revenue. I will suggest that I cannot think of a better place and more appropriate way to raise the revenue necessary to fund an all-out war against drugs than to put on not a tax, because obvioulsy the administration is violently opposed to new taxation, but I would consider this a user fee. Certainly the administration has suggested enough user fees.

□ 1150

I can think of no better user fee than to put an extra, small amendment or an addition onto the taxes already in existence—or the user fees, if

you will—on those who use other legal addictive drugs.

I would suggest that we should add something to those fees on alcohol and tobacco, and I can think of no better and more appropriate place to ensure that we have honestly and straightforwardly met the requirements of funding than to accomplish this through an amendment to the continuing resolution. I will make that suggestion at the appropriate time.

As I close, let me commend again those who have done so much to bring this problem to focus, to make it a priority in this Nation.

I commend the First Lady particularly and her constant efforts to get at the problem and its solution precisely where it has to occur, and that is within the families and the educational systems and among the young of this country.

Finally, I commend the wisdom of the bipartisan group in the Senate which has crafted a bill which I believe has thoroughly cooled the sometimes overheated passions of the other House and has brought us a proposal that has a chance of becoming law, of making a difference, and of doing so without trampling the Constitution which we love so much. It would be an awful thing, on the eve of our bicentennial celebration of that Constitution, to pass a drug bill as was passed through the House of Representatives.

Mr. DECONCINI. Mr. President, let me say, while the Senator from Washington is still here, that I appreciate the caution and concern with which he approaches many things, and certainly in dealing with the rights of individuals, as we approach what I think is a comprehensive legislative action in the area of the drug effort in this country. I thank him for bringing that squarely before us.

I do not think anybody here is anxious to violate any constitutional rights or even to tread on them in any way. I think it is important, as we move in the waning days of this Congress, that we take heed of the Senator from Washington and do be careful.

In that vein, I also want to thank a number of Senators who have been involved in this matter. I will not mention all of them.

I thank the Senator from California [Mr. WILSON], the Senator from New York [Mr. D'AMATO], the two Senators from Florida [Mrs. HAWKINS and Mr. CHILES], who have worked tirelessly—Senator CHILES on behalf of the working group on the Democratic side, along with Senator BIDEN of Delaware.

The two leaders, Senator DOLE and Senator BYRD, have been able to fashion this together. Also, the Senator from West Virginia [Mr. ROCKEFELLER].

I just mention a few who have been involved in the attempt to bring this into the realm of possibility and without doing violence to what the Senator from Washington has eloquently spoken of.

Mr. President, I think it is important, as we face this legislation, to quickly look at why we are here today. What brought us to this point, where the President and Mrs. Reagan go on television and present a very good image and awareness that there is a big problem? Why we are seeing the House of Representatives, toward the waning days, pass a mammoth drug bill that deals with education, the death penalty, the exclusionary rule, education and rehabilitation, and military participation. Why? The same reason that some of us in this body, for several years, have been trying to get the past administration, more than 6 years ago, and this administration to zero in on the problem.

The problem is that we have an epidemic. We have an enemy. We talk about a war. I love to use that term, because it sounds tough; it makes good talk, good speeches. The President and the Attorney General are eloquent in using "the war on drugs."

We have, in fact, a war on drugs in this country. The best example was demonstrated to me when I was with the Senator from California in Los Angeles at hearings on what needed to be done to stem the flow of narcotics from Mexico.

The chief of police, Mr. Gates, who has been there about 20 years—I used to work with his office when I was a prosecuting attorney in southern Arizona—said there has never been a war on drugs, and he is right. He said that if you have a war, you mobilize your military assets and your civilians. You get the morale and the feeling behind the people of the country that you have to achieve. You have to conquer and control and win something. You go after that objective.

Unfortunately, too many of us have talked a big line, and yet we never really declared war or mobilized the troops.

We have before us today the bipartisan omnibus drug bill, which is a beginning. Let us not kid the public and let us not kid ourselves that this is a war. This is not an invasion. This is the beginning of putting some of the blocks together that could do something about this problem.

One of the stumbling blocks we continually face—and I appreciate and respect those in the military as to what they consider their No. 1 mission, and that is to protect us from foreign enemies. But, indeed, even President Reagan about 2 months ago, if I am correct, said that the No. 1 national security issue was drugs. He was right in that statement. It has been that way for years. Yet, we have difficulty adopting amendments on this floor allocating some resources from the Defense Department, often surplus equipment, without replacing it with new money.

How many airplanes and helicopters do we need all the time on alert to defend our shores from foreign enemies? We need a lot of them. Nobody here is suggesting that we dissipate or reduce our capabilities so far as defending ourselves is concerned.

What many of us have asked and tried to do over several years is to move some of these assets, to make available to the law enforcement agencies in the States as well as the Federal agencies some of these military assets. This bill starts that process.

The total funding authorized in title 3, which is the interdiction, is $678 million—at least a beginning. The Department of Defense gets $362 million. The Coast Guard would acquire $153 million. For Customs, the front-line civilian law enforcement agency to stop drugs coming into this country, $115 million. The command control and communication and intelligence gathering, something that our law-enforcement agencies have lacked always, is $25 million.

The country of the Bahamas has been willing to work in a most coordinated way with the United States, permitting hot pursuit into that country by our law-enforcement airplanes when they have somebody tracked. They have worked with us to lift up above their skies radar that can see 360 degrees. They need more assistance, and there is $15 million in this legislation for that.

The DEA will receive $7 million, and they dearly need it.

In the Defense Agency for interdiction, we have $138 million to refurbish and upgrade four existing E-2-C Hawkeye surveillance aircraft. That is for 360-degree radar. It is a magnificent piece of equipment and it is time we used some of this magnificent equipment to stop the flow of drugs into this country. There is $49.5 million for procurement by the Air Force of three radar systems to be used by Customs where they feel it is necessary.

There is $12,650,000 to allow the Air Force to transfer six helicopters to Customs for interdiction purposes. There is $12 million for increased intelligence gathering by the Department of Defense. There is $45 million for the retrofitting of two 360-degree radar systems on existing Coast Guard airplanes, mainly the C-31 aircraft.

And the list goes on.

□ 1200

So it is a good thing in the Coast Guard area. In the Coast Guard area we have $20 million for voice privacy.

It is hard to believe, but today our law enforcement officials cannot talk between each other without being

intercepted by many people, including drug dealers.

There is $25 million for additional law enforcement personnel in the Coast Guard staffing. There is $38 million for purchase of two new C-130's and $70 million for purchase of eight additional 110-foot cutters for the Southeastern part of the United States.

And Customs, rightfully so, gets 320 new additional interdiction personnel.

We have to realize what we have done in this country. We barely maintained the dike in the Customs area.

The budgets over the last 2 years have cut Customs severely. The 1986 budget that we are in now had we adopted the budget that was sent here by the President would have been cut by 2,200 personnel in Customs. Congress took the lead and we restored those cuts. In 1985 1,600 were requested to be cut. Congress responded, took it upon themselves and restored those positions. Now we are talking about adding a few more so we can continue this battle. I use "battle" not war as I outlined in the beginning.

Later in the debate here, Mr. President, because I know others are anxious to speak in this opening statement period, I may offer some amendments to add additional military personnal, and I am working with some of the Members here. It is not my intent to disrupt a bipartisan effort. My amendments will not be of such a nature that I believe will cause anybody to have caniptions that we are dealing in constitutional problems here. But it will insist that the military get heavily involved.

Title III of this bipartisan drug bill also has several critical changes in the the law that close existing loopholes in the law that allow certain types of trafficking activities to take place uninterrupted. Specifically, the bill contains the Customs Enforcement Act of 1986.

Mr. President, I ask unanimous consent that a summary of that be printed in the RECORD.

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

SUBTITLE B. CUSTOMS ENFORCEMENT ACT OF 1986

This section:

Clarifies some of the definitions in the Tariff Act.

Increases vessel arrival reporting requirements and provides substantial criminal and civil penalties for violating the arrival reporting requirements.

Clarifies existng law to require that persons arriving in the U.S. as pedestrians immediately report their arrival to the U.S. Customs Service.

Establishes forfeiture and fines as the penalties for failure to declare items which are imported and increases the penalties for filing false manifests and for unlawfully unloading merchandise,

Makes it unlawful to possess merchandise knowing or intending that it be unlawfully introduced into the U.S. or to transfer merchandise between an aircraft and a vessel on the high seas if the plane or boat is of U.S. nationality or if the circumstances indicate that the purpose is to introduce the merchandise into the U.S. in violation of U.S. law. Violators are subject to civil and criminal penalties and civil forfeiture.

Streamlines the procedure for forfeiture of conveyances for payment of penalties. It also provides for the forfeiture of conveyances used to transport controlled substances, but provides for the return of the conveyance if it is determined that neither the owner nor the operator of the conveyance knew nor should have known about the presence of the contraband.

Expands the Customs civil search and seizure warrant to cover any article subject to seizure, such as conveyances and monetary instruments, rather that just imported merchandise.

Amends the Tariff Act to treat amounts tendered in lieu of merchandise subject to forfeiture in the same manner as the proceeds of sale, so that they may be deposited in the Forefeiture Fund, and to allow agency expenditures to be paid before liens.

Allows Secretary of the Treasury to exercise some discretion in determining the amount of rewards for informants.

Permits the Secretary of the Treasury to require landing certificates to comply with international obligations, such as bilateral or multilateral agreements to reduce or prevent smuggling.

Clarifies the Secretary's authority to exchange information with foreign customs and law enforcement agents.

Grants the Secretary authority to operate customs facilities in foreign countries and to extend U.S. Customs laws to foreign locations (with the consent of the country concerned).

Authorizes the Secretary to utilize commercial "cover" corporations and bank accounts and to lease property and pay for services without complying with the normal requirements which would reveal government involvement when such activities are needed in authorized investigative operations. It also makes clear that the usual laws governing banking deposits and space rentals do not apply in such undercover operations.

Establishes that, while documented yachts do not have to make formal entry, they must report their arrival to Customs and declare any goods on board.

Eliminates restrictions on the ability of Customs officers to enlist the aid of other law enforcement officers or civilians in apprehending violators, raises the penalties for failure to render assistance, and provides protection for civilians who render such aid.

Raises the amount which must be reported by a person who exports or imports monetary instruments to $10,000.

Makes it unlawful for a U.S. citizen or a person aboard a U.S. aircraft to possess controlled substances with an intent to manufacture or distribute or for any person aboard an aircraft to possess with an intent to manufacture or distribute a controlled substance knowing or intending that it be unlawfully introduced into the U.S.

Provides criminal penalties for wilfully operating aircraft at night without lights in conjunction with drug trafficking and for the wilfull use and/or installation of unlawful fuel systems in aircraft. It also subjects unlawful fuel systems and the aircraft in which they are installed to seizure and civil forfeiture.

SUBTITLE C. MARITIME DRUG LAW ENFORCEMENT PROSECUTION ACT OF 1986

This section resolves prosecutorial problems which arise during criminal trials as a result of the execution of existing authority, which allows the Coast Guard to stop and board certain vessels at sea and make arrests and seizures for violations of U.S. laws.

In addition, this section creates a new offense to make it unlawful under U.S. law to possess with intent to distribute a controlled substance aboard a vessel located within the territorial sea of another country where that country affirmatively consents to enforcement action by the U.S.

SUBTITLE D. REPORTS ON DEPARTMENT OF DEFENSE DRUG CONTROL ACTIVITIES

This section requires the National Drug Enforcement Policy Board to report to Congress on the manner and extent to which the Department of Defense should be involved in drug law enforcement activities.

It also mandates a joint National Drug Enforcement Policy Board/Department of Education report to Congress on drug education efforts in schools operated by the Department of Defense.

SUBTITLE E. DRIVING WHILE IMPAIRED BY DRUG INTOXICATION AS AN UNDER THE UNIFORM CODE OF MILITARY JUSTICE

This section makes it an offense under the U.S. Code of Military Justice to drive while under the influence of drugs.

SUBTITLE F. DRUG INTERDICTION ASSISTANCE TO CIVILIAN LAW ENFORCEMENT OFFICIALS

This section permits the Department of Defense to loan personnel to civilian law enforcement agencies to operate and maintain equipment used by those agencies to assist foreign governments in drug interdiction activities.

SUBTITLE G. AIR SAFETY

This section establishes a Federal violation for the use of an unregistered aircraft in conjunction with transporting controlled substances and provides for the seizure of such aircraft. It also allows States to impose criminal penalties for the use or attempted use of forged or altered aircraft registrations.

SUBTITLE H. COMMUNICATIONS

This section would authorize the Federal Communications Commission to revoke the licenses of individuals who use their licenses for drug-related activities and to seize communications equipment used in such activities.

SUBTITLE I. DRUG LAW ENFORCEMENT COOPERATION STUDY

The National Drug Enforcement Policy Board, in consultation with the National Narcotics Border Interdiction System and State and local law enforcement officials, shall study Federal drug law enforcement efforts and make recommendations. The Board shall report to Congress within 180 days of enactment of this section on its findings and conclusions.

SUBTITLE J. EMERGENCY ASSISTANCE BY DEPARTMENT OF DEFENSE PERSONNEL

The first subsection, by slightly amending existing statutes, provides for limited use of the military in drug interdiction. Current law allows the use of military personnel and equipment outside of the land area of the U.S. to enforce the Controlled Substances Act or to transport civilian law enforcement officers seeking to enforce the Controlled Substances Act upon the declaration of an

"emergency circumstance" by the Attorney General and the Secretary of Defense. The bill clarifies the term "emergency circumstance" by declaring that an emergency circumstance exists when: (1) the size and scope of the suspected criminal activity in a given situation poses a serious threat to the interests of the United States; and (2) enforcement of the law would be seriously impaired if assistance were not provided. It also mandates that the Secretary of State shall be consulted prior the declaration of an emergency circumstance.

The second subsection allows military personnel to intercept vessels and aircraft for the purpose of identifying, monitoring, and communicating the location and movement of the vessel or aircraft until such time as Federal, State, and local law enforcement officials can assume responsibility. Current law provides that the military may not be used to interdict or to interrupt the passage of vessels or aircraft.

Mr. DECONCINI. Mr. President, the bill also contains the Maritime Drug Law Enforcement Prosecution Act of 1986; the air safety provisions that address controlled substances being flown into the United States on unregistered aircraft and other problems relating thereto; tough penalties against those with FCC licenses who use their licenses for drug-related purposes; and several studies that call for anlaysis of expanded use of the military in the drug "war" and coordination of Federal antidrug efforts.

The bill also clarifies existing law with regard to the direct involvement of the military in drug-interdiction activities and operations.

Frankly, Mr. President, it does not go far enough. The Senator from Delaware, the Senator from Florida, and the Senator from New York for a long time have been talking about a national drug coordinator, and this country needs it. It has not worked under the Attorney General. That is no fault of his particularly, but it has not worked.

Finally, Mr. President, let me say this is a good bill. It is the beginning. It could have gone a lot further, of course. It could have brought in the military further, of course, and maybe it will. It could have done greater penalties for traffickers, of course, and maybe that will be offered too.

We could have bent the rules on the Posse Comitatus Act but we do not do that.

We are going to offer amendments I believe to involve the military in a responsible way even more, and, yes, I would probably support some adjustments in many of these areas if they are offered.

But, on balance, this is a bill that should have broad bipartisan support. It is a move in the right direction, but let us not kid ourselves. This is not going to end the flow of drugs into this country. It has to be a three-pronged effort with education, rehabilitation, going to the source countries that develop these drugs and transhipment toward this country and other user countries and, of course, interdiction to stop it at our borders. I am proud to be a cosponsor of this bill.

I yield the floor.

The PRESIDING OFFICER (Mr. HEINZ). Who seeks recognition?

The Senator from New York.

Mr. D'AMATO. Mr. President, I rise today in support of S. 2878, the bipartisan Senate drug bill, of which I am a cosponsor. This is a strong and comprehensive antidrug package that wisely recognizes the need to reduce both the supply of, and the demand for, drugs.

Mr. President, we have heard some express the concern that there is a rush to legislate. I wish to emphasize how many of the provisions of this bill have either passed the Senate or have been subject of extensive hearings.

I am pleased that many of the legislative initiatives that are in this bill are included because the Senator from Florida, Senator HAWKINS, the Senator from Arizona, Senator DECONCINI, Senator CHILES, many others and I have worked on them for several years.

We have passed, for example, the money laundering bill unanimously in this body. We acted on that bill to give us the ability to go after the major money sources and combat the money laundering that passes from $20 billion to $40 billion a year through financial institutions, and to make money laundering a crime for the first time.

There are other areas that we could talk about that have passed before:

Increased military support for drug interdiction, as approved by the Senate unanimously last August as part of the Defense Department reauthorization bill; and

The requirement that the Department of Defense help locate facilities that are suitable for additional prison space, also included in the Defense reauthorization bill.

There is a mandatory prison term for crack and other dealers.

Mr. President, let me say I will be supporting amendments that some might think are controversial, but that are long overdue. We have had no war on drugs. We have had a lot of rhetoric. The people are tired of the so-called war that is declared from time to time whenever we hit a crisis period, but that results in little action.

I will be supporting an amendment similar to the one passed in the House of Representatives that calls for the death penalty for drug kingpins.

I intend to support an amendment as provided for in the House bill mandating that the military participate in our battle against the scourge and epidemic of drugs.

The American people are complaining, but what they are complaining about is not a rush to legislation, but about the rhetoric without action.

Several of my colleagues have indicated that we must mobilize our resources. They are absolutely correct. I will support the effort to allocate additional resources, so that we can really undertake this battle without just shifting funds from other necessary programs to this program.

It is also time that we established meaningful education programs. It is a national disgrace to see how many of our schools have failed to provide an effective drug and alcohol education programs. It is a tragedy to have a situation where those who wish to break the dependencies of drug addiction have no rehabilitation facilities to turn to.

So it is a comprehensive effort that is long overdue. We simply cannot afford to throw up our hands and say that the drug and alcohol culture is here to stay and we cannot do anything about it. There are those who would have us surrender.

I agree with Senator DECONCINI when he said, make no mistake about it, we are not going to be instantaneously successful, no matter how comprehensive the legislative we pass might be. But it is a necessary beginning. So I intend to support this bill and support those amendments that I believe will make it an even better bill.

The PRESIDING OFFICER. The Senator from Florida.

Mr. CHILES. Mr. President, more than 200 years ago, a very great American took a good look at our people, and told them a painful truth.

He said American people were "more disposed to suffer, while evils are sufferable, than to right themselves by abolishing the forms to which they are accustomed."

Those words, Mr. President, were Thomas Jefferson's. And he put them in the Declaration of Independence.

They were true then. They have certainly been true in recent years. We have suffered the evils of drugs, and we have done so for a long time. But finally—throughout the Nation—we have decided once again to abolish those forms to which we have become accustomed.

As the Senate takes up this drug bill today, we are reviving the spirit of our founding declaration.

We have put up with drugs long enough. We are determined to break the drug connection.

But even with all our determination, let us be clear from the very onset about the scope of our effort.

Some people will say we cannot win the drug war by throwing money at it, and, I agree.

We cannot win the war with larger police forces, though they will surely help.

We cannot win the war with interdiction in the host countries alone, even though we have got to press foreign governments to clamp down on the drug traffic.

The fact is, you can list all the things governments can do from the local, to the State to the Federal level, and you come up with the same reality: we cannot win this war by formulas, rhetoric or decree.

But there is an ultimate weapon that can win the war on drugs when matched with all the things I have mentioned.

The ultimate weapon is a double-barreled attack of public outrage and community involvement.

We have this bill on the floor today because as a nation of hometowns, neighborhoods and families we have stood up and said, "enough. No more poison."

To the dealers who peddle illicit chemistry to people of any age, we have said, "our streets will not become toxic waste dumps of the drug trade."

□ 1210

We will not allow you to shanghai our schoolchildren into the deadly slavery of drug users.

The measures we propose today are not the sole result of what the President says, or what the Congress thinks, although, as institutions, both feel the same disgust over drugs.

This bill reflects the collective resentment of Miami, FL; of Dover, DE; New York City; Aberdeen, SD; and Arizona.

People in every State, all our countries, each school, civic club, church and subdivision understand they could be the next ground zero for a drug assault.

In the past few years, we have discovered the terror of designer drugs that can be made at home in the basement. These drugs—thousands of times more potent than heroin—produce horrible symtoms and even death. These drugs like fentanyl are addressed in the bill.

The whole Nation now knows about crack cocaine. They know it can be brought for the price of a cassette tape, and make people into slaves. It can turn promising young people into robbers and thieves, stealing anything they can to get the money to feed their habit.

When you see things like that, it troubles me to hear some people say the war on drugs is an election-year phenomenon. I have heard it said politicians just want to be heard in opposition to drugs.

Well, Mr. President, what the politicians are hearing are the same things Time magazine and Newsweek have heard. It is the same thing Nightline, NBC and CBS have heard. It is the same thing teachers, preachers, and police have heard in Pensacola, Orlando, Jacksonville, Wildwood, and communities throughout my State.

And what they are hearing is that people are fed up with drugs. So, Mr. President, Let us remember that drugs have no respect for party lines, State lines, or economic differences, or races. It does not matter whether you were born rich, raised poor, work in a factory or sit behind a desk. The drug threat pervades any category you can invent.

This Nation is angry. It is sick of the pushers, dealers and hoods who have made their living off the lives of our young.

What people want is nothing less than a national drug bust. And they are ready and willing to do it one community and one person at a time.

And this the time.

The bill before the Senate is tough. But it is not the keystone of the solution to drugs. The keystone is public indignation. The public is telling Congress they want drugs off the street, and they want us to help.

This will help our law enforcement officials by strengthening criminal penalties for drugs like crack cocaine. This is an absolutely essential first first step. Current law makes it very difficult to arrest and convict crack dealers and traffickers. The stiffest penalties for possession of cocaine, for instance, apply for possession of 1 kilo of cocaine. A kilo is enough to produce as much as 25,000 rocks, or doses, of crack. The kilo limit imposes no difficulties on the traffickers and dealers. Police also have difficulty arresting the operators of crack houses, the places where users congregate to purchase and use crack. When police raid these crack houses, the dealers and users can easily dispose of the drugs, thus avoiding arrest. This bill makes it a felony to operate such a house, to be present at the house.

This legislation will provide enhanced penalties for drug offenses. It will decrease the amount necessary for the stiffest penalties to apply. Those who possess 5 or more grams or cocaine freebase will be treated as serious offenders. Those apprehended with 50 or more grams of cocaine freebase will be treated as major offenders. Such treatment is absolutely essential because of the especially lethal characteristics of this form of cocaine. Five grams can produce 100 hits of crack. Those who possess such an amount should have the book thrown at them. The damage 100 hits can inflict upon users more than warrants this treatment.

The legislation will also create an offense for employing, hiring, or using children to distribute drugs. It increases fines and includes minimum mandatory penalties for all serious drug offenses. These bills will help police put behind bars the dealers and traffickers in drugs. Those who lead our young down the path to addiction will have to think twice about their actions or pay the price.

The measure also recognizes the importance of education in efforts to stop the abuse of dangerous drugs. The bill proposes a Federal program of assistance for States and local education agencies to train teachers and develop curriculum. Support is provided for regional centers to train school teams—principals, teachers, counselors—in prevention strategies.

Other provisions provide for essential assistance to treatment and rehabilitation facilities. This would include funding for a model program which is specifically targeted to at-risk youths. These youths—latchkey children, dropouts, pregnant teens, abused and neglected children—are most susceptible to the allure of drugs.

Students will be faced with the temptations of crack and other drugs during their school years. It is essential that we provide them with the knowledge and the support systems which will allow them to resist these temptations.

Other provisions focus upon interdiction, attempting to increase our abilities to control international trafficking in narcotics. Our borders, quite frankly, are not secure, and if we are to win this drug war, we must attack the supply of illicit drugs as well as reduce their demand through education and rehabilitation programs.

Mr. President, title IV of the bill includes $678 million to be used primarily to improve the drug interdiction capabilities of our civilian law enforcement agencies. Included in that total is $362 million for the Department of Defense primarily for assets to be transferred to the Customs Service. Also included is $153 million for the Coast Guard; $116 million for the Customs Service; $25 million for communications, command, control and intelligence centers; $15 million for a joint United States-Bahamian task force and $7 million for the Department of Justice.

Mr. President, because an effort has been made in this legislation to provide funds for general purposes as opposed to providing in specific detail what they would be used for, I believe it is important for us to have some legislative history to back up the numbers, particularly in terms of the kinds of assets, we believe, should be procured with the funding provided.

For the Department of Defense, the bill includes $212 million of funding that was previously passed by the Senate and included in the defense authorization bill. This funding includes $138 million to refurbish four E2CS for the use by the Customs Service on the Southwest border; $49.5 million for three land-based aerostats: $12.6 million for the transfer of six air force

helicopters to Davis Monthan Air Force Base; and $12 million for the Department of Defense intelligence collection activities. With the exception of $12 million included for the improvements of DOD intelligence collection activities, the funds procure equipment to be used by the Customs Service. An additional $60 million of the Department of Defense funds are authorized for the use by the Coast Guard; $45 million of this is for the retrofitting of two existing Coast Guard long-range surveillance aircraft with 360-degree radars and $15 million to fund 500 active duty Coast Guard personnel to be deployed on Navy platforms. An additional $90 million is included for DOD funding for the procurement of twin-engine pursuit helicopters and four aerostat radar systems to be located at the highest drug threat sites, the actual sites are to be agreed to by the Commissioner of Customs and the Commandant of the Coast Guard.

Appropriated to the Coast Guard is an additional $114 million for the acquisition, construction and improvement account; $20 million of this is for secure communications; $38 million is intended for the procurement of two C-130 aircraft; and $56 million is included for the procurement of eight new 110-foot patrol boats. In the operations account, $25 million is included to permit an increase in Coast Guard personnel by 584 positions and $14 million is included for the operation of the eight new 110-foot patrol boats.

Mr. President, title IV of the legislation establishes a joint United States-Bahamian task force with a total of $15 million in funding; $5 million of this is for the initial cost of a joint Coast Guard-Bahamian docking facility which is projected to cost a total of $20 million when completed.

For the Customs Service, we provided funding for both equipment and additional personnel. For equipment, we have included $21 million for voice privacy and electronic equipment; $2.6 million for marine interdiction intercepter vessels; $50 million for 10 intercepter and high endurance tracker aircraft; $41.3 million is provided for additional personnel and training expenses.

Finally, Mr. President, $7 million is provided for the Department of Justice for a twin-engine helicopter equipped with appropriate radar devices for drug interdiction activities in Hawaii.

Title IV also includes several new authorizations:

It expands and clarifies the authority of the Coast Guard to stop and board certain vessels at sea and to make arrests and seizures for violations of U.S. laws;

It expands Customs Service enforcement powers over vessels and aircraft and increases criminal and civil penalties for violations of U.S. law.

It slightly expands the Department of Defense's authority to intercept vessels or aircraft for the purpose of identifying, monitoring and communicating the location and movement of such vessels or aircraft until such times as nonmilitary law enforcement personnel can assume responsibility.

Mr. President, if we are to successfully battle crack and the drug problem in this country, all of these measures must be passed. We must attack the drug war on all fronts—or risk losing. I can think of no other legislation which should merit the universal approval of all of us here in the Congress. Too many people are painfully affected by drugs in this country for us not to take action. I urge my colleagues to give this bill immediate and serious attention. It certainly will prevent crime, and it certainly will save lives.

□ 1220

Mr. GOLDWATER addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. GOLDWATER. Mr. President, I am going to be fairly short in my comments on this amendment because there really is not much that needs to be said.

In my years in the Senate, I have seen and heard a lot of things that made no sense. But I have to say that in all those years, I have never seen anything that makes less sense or that is more shortsighted than an amendment that was placed in the House on this bill, and which I hope does not appear on the Senate floor.

Mr. President, for more than 200 years, the United States has prided itself on the fact that our uniformed military have remained subservient to civilian governmental control, contrary to the case of many of the governments which have appeared and then disappeared during that time right here in our own hemisphere. No small measure of that 200 years of tradition has been the conscious and intentional efforts to avoid and even prohibit the direct involvement of uniformed military personnel in the enforcement of civilian laws—or stated more blunty—the imposition of martial law.

Following the Civil War, when some of the Nation's leaders lost sight of this American heritage in their, perhaps understandable, attempts to ensure that civil war would not reignite, martial law was imposed in the South. In order to return the country to its long and successful tradition of separation of military and civil functions, the Congress enacted a statute, commonly known as Posse Comitatus, which prohibits use of the Armed Forces to enforce civilian laws.

Mr. President, for more than 100 years, during two World Wars and many other armed conflicts when the dominance of military power was essential for the survival of our way of life, there has been no need to amend that statute, because the concept embodied in that statute is the essential American ideal that the Armed Forces are maintained to prevent foreign aggressors from imposing their system of government upon us, and not to impose upon our own people the domestic laws of this Nation. We have civilian forces, known as police, to enforce our domestic laws.

Mr. President, I urge my colleagues not to blunder into a shortsighted but long-term change in the essential balance of power that has served this country well for 200 years.

The young men and women who are volunteering to serve in our Armed Forces do not volunteer to be policemen. Their fathers and mothers do not encourage them to join the Armed Forces to become narcotics agents. The Armed Forces have not, and should not be, trained and equipped to be customs agents. Ground troops have not studied how to pick out the drug smuggler coming across a border hidden among a group of law-abiding American citizens. Combat personnel have not been trained to conduct searches of people and belongings in accordance with constitutional safeguards because, in a war zone, those safeguards do not exist on foreign soil.

To seal a border from drugs means every person and thing crossing that border, be it the Mexican border, the Canadian border, by land, by water, and by air must be stopped, searched, and, if necessary, detained. I ask if all passengers, including American citizens arriving at international airports in the United States, such as Dulles Airport right out here in Virginia, should be subjected to military searches and questioning.

That is what would need to be done if the military is to be deployed to seal the borders from drugs.

I personally do not believe that Americans should be subjected to that treatment, and I do not believe military personnel should be required to subject American citizens to that treatment. Yet, that is what would be required by the amendment before the Senate.

Mr. President, in closing, let me say I do not question the motives of the sponsors of this amendment. These Senators have long been leaders in this war against drugs. But, in this case, I believe that this effort is misguided and dangerous and could constitute not only a threat to our ability to maintain a strong defense against our foreign enemies, but could also present a clear danger to our own tra-

ditional separation of civilian and military functions.

Mr. President, in closing, I am right now in the middle of trying to get sufficient funds to keep our Armed Forces armed. Our Armed Forces face a cut of $30 billion this year, and yet it is being suggested that our Armed Forces patrol the border. I happen to live on a portion of the border we are talking about. It is 1,384 miles long. I can tell you it would take almost half of the Armed Forces of the United States just to patrol that very desolate section of our border. If we go through with these cuts on the military, we are not going to have enough soldiers left around here to patrol anything.

Mr. President, I thank the Chair for listening. I yield the floor.

Mr. ROCKEFELLER addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. I thank the Chair.

Mr. President, the legislation before us is the result of many hours and months—in some cases, years—of effort on the part of a number of my distinguished colleagues. On my side of the aisle, our distinguished minority leader, and Senator CHILES, and Senator BIDEN deserve special praise for their leadership and hard work. Through my particular focus on education, treatment, and rehabilitation, I am especially appreciative of Senator HATCH's help in arriving at this important point, and of the majority leader's willingness to take up the drug package in these last days of the Congress.

I know it seems to some that we are moving too fast and frenetically to pass drug legislation. But we should recognize that far too much time has gone by in which little has been done to respond to the rise in drug abuse and far too many good ideas have languished without any attention given to them from Congress or the White House. Clearly, public pressure was needed to convince national leaders—including the President—to act on the drug problem.

Since this has now happened, and since we know there is an extraordinary drug problem out there, then I think we must act now. We must not pass up an extraordinary opportunity in these last days of Congress to enact a sound, comprehensive, and most importantly, bipartisan bill to help rid our country of drugs.

I believe that we should take advantage of the fact that the drug crisis is a top priority of the American people. This should make it our top priority as well. It is not just a matter of human misery, human waste, substantial community danger, but it gets, in fact, at some point, to the very competitiveness of our American industries to compete across the world because of drug use on the part of some of the work force and management.

I agree, however, with some of my colleagues that there are some questions that deserve more time and more consideration. It would be, in my judgment, Mr. President, unwise and unnecessary to adopt, with little thought, major changes in our judicial system. The bill before us now consists of very tough measures to stop drug traffickers, to punish them and others involved in the drug business, and to push ahead in eradicating drug crops in other countries.

By passing this legislation, we will wage the battle against drugs on all fronts: interdiction, eradication, law enforcement, education, and treatment. Let us not be trapped into accepting proposals affecting our Constitution and our civil liberties which could in fact derail this inportant legislation or perhaps in fact will derail this important legislation if we allow them to get in our way.

The American people have made it very clear that they want Federal help, Mr. President, in educating our children so that they stay away from drugs. We not only know that the public views drugs as one of the most important problems in the country, but also that they think education must receive far more attention in our efforts to curb drug abuse.

Some of my colleagues have told me that their experiences are the same as mine when I go back home to West Virginia. People tell me that their schools and their communities need encouragement, help, and money in steering their kids away from drugs. It is not just parents and teachers that tell us that. It is the chiefs of police, and the law-enforcement officers that tell us the same thing.

As a member of the Senate Democratic Task Force on Drugs, Mr. President, I have focused on drug education. The bill that I presented some time before, the Student Drug Abuse and Prevention Act, was incorporated in two different legislative packages introduced by that task force in previous weeks.

I am very pleased that the thrust and the substance of my bill have been included in the bipartisan legislation before us today. With the strong bipartisan support which exists for this legislation, we are finally at the point when a national drug education program will be put in place by the Department of Education, and schools throughout this country will receive resources to tackle drugs more effectively than they are now.

A key part of this bill—that is, the Drug-Free Schools and Communities Act—proposes a major nationwide initiative to prevent and curb student drug abuse.

□ 1230

We know all too well the trend of drug abuse among our young people is a disaster. Surveys conducted by the National Institutes of Drug Abuse have determined disturbing levels of cocaine abuse among high school seniors. Last year almost 7 percent of seniors used cocaine regularly and 17 percent tried it. Sixty-one percent, that is roughly 2 million adolescents, tried illegal drugs at least once last year. About the only area, Mr. President, where we see a decline is in the age of young Americans tempted to or trying to use drugs. About 50 percent of seventh graders surveyed recently reported that they had experienced pressure to try illegal drugs, marijuana specifically.

It is time to defend our children and to convince them to emphatically say no to drugs.

The Federal Government must assume responsibility for combating the nationwide problem of the student drug abuse and provide some guidance and some financial support to States and our schools in order to get the job done.

In this legislation, Mr. President, we propose a national drug education program. We provide $20 million to the Department of Education to develop model curricula and to assist schools directly with training and advice. And we distribute $80 million to the States with most of that money allocated directly to elementary and secondary schools.

We do not know at this point, Mr. President, which are the best programs, which are the best programs for the inner cities, for rural areas, for my part of the country, Appalachia, and before we implement a program in totality, we have to know what we are doing and what programs are most effective. Then we can move on with more specificity and more accuracy.

This all should provide the resources and the practical help the schools and communities need right now to persuade kids to stay away from drugs. We see programs which will create partnerships between schools and other key parts of the community, especially, Mr. President, parents; especially, Mr. President, law enforcement officials and health officials, to educate children about the dangers of drugs and to equip them with motivations and the skills to reject or get off drugs.

The funds proposed in this bill should create model approaches for schools of all types, for urban schools, rural schools, different kinds of schools in different parts of the country to adopt, to fit their own student body and drug problems.

Over time, Mr. President, we want this bill to serve every single child in the Nation by helping their schools

and parents to create an atmosphere of intollerance for drugs and convincing them to ignore peer pressure, to turn down every temptation to take illegal drugs.

Mr. President, there will be opportunities later in this day and on tomorrow to discuss this legislation in more detail. The bill is comprehensive. It covers many critical areas and proposes steps that I believe will make a significant difference in combating our epidemic of drugs.

This is an important time in history, finally, as we have the momentum and the interest to truly deal with our country's drug problem.

Mr. President, I urge my colleagues to lend their full support to this legislative package.

I yield the floor.

Mr. WILSON addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mr. WILSON. Mr. President, my friend from Arizona, Senator DECONCINI, recently on the floor described this legislation as a good beginning. I think he is right.

It may seem to some that legislation as comprehensive as this deserves somewhat more glowing praise. Perhaps because Senator DECONCINI, along with Senator HAWKINS, has been a pioneer and a rather lonely one, he can be excused for some skepticism. He has heard about the war on drugs for years. But it has been a rather lonely fight for the Senator from Florida, the Senator from Arizona, and a few others on this floor. With the exception of them, there has been blame aplenty to go around and there is no point in wasting time pointing fingers. It is simply a sad fact that we are late in coming to grips with this problem. I celebrate the fact that it has now achieved, in the hard way, the kind of attention that it must have not just from a few attempting gallantly with inadequate resources to arouse the Nation to the kind of awareness to do the job properly.

But I agree that it is a good beginning. In fact, it is more than that. It is a very good beginning. It does a number of good things.

This war on drugs, to be worthy of that name, requires that there be resources, and the resources heretofore have been inadequate. We as a society have simply not provided what was necessary. it is a very expensive thing to conduct any kind of a war, including this one. We are, unfortunately, trying to match the resources of those whose illegal profits, literally running into the millions, have permitted them to equip and to staff their war to bring drugs to the United States and to our young in what has been to this time an unfair fight.

They have been able to use very sophisticated aircraft, sophisticated avionics, and radar-equipped aircraft. It has been more than difficult—it has been in many cases virtually impossible—for those who have been attempting to man our borders to deal with the challenge of intercepting and turning back, not to say arresting, those engaged in the smuggling of these illegal substances into this country.

This legislation will assist those who are engaged in that struggle. It will do so by removing caps that have existed on forfeiture funds, funds generated from assets seized in drug-related prosecutions, and it will remove that money from the budget allocations process.

It also permits asset forfeitures to provide for the forfeiture of a convicted person's substitute assets when the proceeds from the specific crime are not reachable by the court.

It is necessary, Mr. President, as well as altogether fitting, that there is a certain poetic justice to using the ill-gotten gain of those traffickers in order to combat their illegal traffic.

In addition, it is necessary because of the kind of comments that you have heard today from both Senators from Arizona. Senator DECONCINI has been a pioneer in the effort to try to use some small portion of defense assets, those whose primary mission is the security of the United States, to deal with this menace to our health and to our security.

This is not the first effort that he has made. Indeed, he, Senator HAWKINS, Senator D'AMATO, and others, and I have been involved in an effort to bring some modest portion of our defense assets into the fight against the smuggling of these dangerous and enormously profitable drugs into the United States.

I will not repeat what he said. It is an unfortunate necessity, one that causes the senior Senator from Arizona grave concern, lest we undermine the good health of the Nation's military in diverting assets from the primary mission which the armed services have, the defense of the United States.

But it is true, the President has been correct in identifying the drug threat as the primary threat to our security. There is no greater, no more important, challenge that we face than to try to stem, to the extent that we possibly can, this illegal traffic into the country.

It goes under the name of interdiction.

□ 1240

There are a lot of ways that we can be involed in interdiction. One of those has to do with the efforts that are made by drug enforcement agents, the kind whose names have made the headlines in the past year in tragic ways because they have been the victims themselves of the violence that is so awesome, so often associated with this traffic.

What has been especially shocking, Mr. President, has been that in two cases, U.S. drug enforcement agents were abducted, tortured, and one of them murdered—not by those who are outside the law but, indeed, those who are law enforcement officials. It was only because of the timely arrival of three Drug Enforcement Administration agents demanding his release that we avoided seeing a complete repetition, in the case of Victor Cortez, of the torture-murder of his brother agent, Enrique Camarena, approximately a year earlier. Those agents who demanded his release did so at the headquarters of the Jalisco State police.

Mr. President, that is not the kind of conduct the United States can afford to ignore or to tolerate. And that is why, included in the section that has to do with restrictions on assistance to foreign nations it is required that when any member of an agency of the United States engaged in drug enforcement activities has suffered or been threatened with violence by members or agents of law enforcement agencies of a country or political subdivision of that country receiving U.S. assistance, it will be denied if there is insufficient investigation or cooperation and prosecution of those identified as guilty of those crimes.

Mr. President, we can ask nothing less if we are going to ask young men and women to enter the Drug Enforcement Administration and serve in foreign lands in an effort to interdict this supply of drugs before it reaches our own borders. At the very least, they should be guaranteed that they will be safe from the law enforcement officials of those nations.

In addition, the same section requires that the President must, on a regular basis, report to Congress, listing in his report any nation which, as a matter of governmental policy, encourages or facilitates the production or distribution of illegal drugs or in which any senior official of that government engages in or encourages the production or distribution of illegal drugs. It also requires that any nation which, having been requested by the U.S. Government to do so, then fails to provide reasonable cooperation to lawful activities of U.S. drug enforcement agents, including the refusal of permission to such agents engaged in interdiction of aerial smuggling, with permission to pursue such aerial smugglers for a reasonable distance within that country—then that nation is also a candidate and shall have its U.S. assistance cutoff.

Mr. President, this is not bashing. This is insisting on what it is our right and indeed our obligation to insist upon. That is, the kind of cooperation

in this war which is, in fact, an international war afflicting the youth of many nations.

To the extent that we are unsuccessful in interdicting the supply of drugs, we have to make the distribution and the sale of them as difficult as possible and one of the gaping holes in existing law is that, ironically, as local ordinances have succeeded in shutting down "head shops"—that is, those stores in which drug paraphernalia is sold—it has remained possible for those who wish to maintain their profit in the sale of these items to do so by shipping their products interstate, even using the mails to do so. This legislation contains as one of its important points the fact that it was very closely adapted to the model act adopted by the Drug Enforcement Administration, a mail order drug paraphernalia control act, which will outlaw the sale and shipment of drug paraphernalia, those items which will enhance or aid in the use of dangerous controlled substances.

This legislation will prohibit the mail order and catalog sales of drug paraphernalia, which have grown dramatically as a result of these successful local government crackdowns on "head shops" and other entities selling drug paraphernalia. Catalogs and other publications now promote drug use. One such publication has circulation of some 4 million people, most of whom are high school age or younger. They seek to make a great adventure of drug abuse. These publications glamorize drugs, glorify its use and pander to the drug fantasies of America's youth.

How successful have they been? Sales of drug paraphernalia have reached billions of dollars. By 1977, the drug paraphernalia industry had even started a trade organization and trade journal and published the first periodical devoted to drug paraphernalia. The drug culture is now expounded by several drug-oriented magazines which are the primary advertisers of drug paraphernalia. Again, readers of these magazines, these publications, are children.

Mr. President, I shall not take more time. I will say that this good beginning is late in coming. Those who have said that we need to take the action required to enact these provisions before we leave and close down the 99th session of Congress are absolutely right. There is no greater imperative. If late, let us not be a dollar short. Let use make clear the commitment, now that we have begun this war, to prosecute it to a vigorous and successful conclusion.

Mr. ABDNOR. Mr. President, I rise today in support of this bipartisan antidrug abuse package.

Mr. President, I am pleased to have had the opportunity to participate in the development of this package. As a member of the Education/Treatment Task Force, I believe we have reached agreement on a well-targeted, responsible approach to our Nation's education for prevention and treatment and rehabilitation needs. The Demand Reduction Act includes the establishment of an education for prevention block grant—the Drug-Free Schools and Communities Act of 1986—which provides $150 million for drug and alcohol abuse education efforts. Of that amount, the Secretary of Education retains $20 million of which $10 million is to be used for regional training centers, $2 million is set-aside for Indian tribes, and $8 million is for national programs.

The other $130 million is to be utilized for school and community-based programs, with a minimum of $80 million allocated to State and local educational agencies—$10 million to SEA's and $70 million to LEA's—both public and private. Senator HATCH feels strongly—and I agree—that we need to emphasize the importance of community and parental involvement in education for prevention efforts. Thus, we have agreed to provide $50 million of the $130 million in State grants for community-based programs. We do, however, give State Governors the flexibility to provide a greater share of this State grant money to schools. I am especially pleased to note that each State is guaranteed a minimum grant equal to one-half of 1 percent of the total available for State grant, $650,000.

The Demand Reduction Act also includes the Alcohol and Drug Abuse Amendments of 1986, reauthorizing the Alcohol, Drug Abuse and Mental Health Service Block Grant at $675 million—$125 million more than is provided in the Senate-passed fiscal year 1987 Labor-HHS, Education and Related Agencies Appropriations measure. Of these funds, $125 million is earmarked for State alcohol and drug abuse treatment programs to be allocated on the basis of population and need. Additionally, this title eliminates the current 20 percent set-aside for prevention efforts under the block grant, while ensuring that 80 percent of the funds be used for alcohol and drug treatment and rehabilitation.

Also, the existing block grant set-asides of 35 percent for alcohol treatment and 35 percent for drug treatment and reduced to 25 percent each. This change in current law is intended to give States more flexibility in addressing their particular substance abuse treatment needs. In South Dakota, where the greater share of the problem is alcohol abuse as opposed to drug abuse, the existing set-aside for drug abuse treatment has presented a problem. Thus, I believe this provision is both necessary and appropriate.

Another vital component of this package is the Indian Juvenile Alcohol and Drug Abuse Prevention Act. Senator ANDREWS, the distinguished chairman of the Senate Select Committee on Indian Affairs, and I sponsored S. 1298, which was approved last year by the Senate. This title provides for a much-needed, comprehensive program to address the tragic problems associated with alcohol and drug abuse among Native American youth.

As a member of the Select Committee on Inidian Affairs, and a Senator representing nearly 50,000 Native Americans, I am acutely aware of the serious need for education for prevention and treatment programs targeted toward Indian youth. The incidence to teenage suicide, accidental death, and fetal alcohol syndrome are in greater evidence among Native Americans than any other segment of our population. Thus, inclusion of this title in the antidrug package is absolutely essential.

Mr. President, we have included in the Demand Reduction Act a sense of the Senate resolution urging the Motion Picture Association of America, MPAA, to add a drug-alcohol abuse component to its voluntary rating system. The motion picture industry currently rates its products in terms of sex and language content. The National Association of Secondary School Principals and the National PTA believe that adding a "D" to the rating for films which glamorize drug and alcohol use, will serve to assist parents in making decisions concerning what films are appropriate viewing material for their children.

Mr. President, we do not seek to limit freedom of expression through motion pictures. We simply ask the MPAA to work with us in combating the serous problem of youth substance abuse. My colleague from South Dakota, Senator PRESSLER, deserves our appreciation for his efforts to include this language in the antidrug package. I also wish to thank Ms. Janet Varejcka, the secondary principal of the Bennett County Schools in South Dakota, for bringing this matter to my attention. I certainly share her desire to ensure parents are advised of the content of films which may have an influence on their children and I am hopeful this message will be well-received by the motion picture industry.

Mr. President, all of us know that the battle against the terrible tragedy of drug abuse in this country is one that must be fought on several fronts. If there is any hope of success in this struggle then we must mobilize our resources and energies as part of a comprehensive and multi-faceted assault on drug smuggling and drug abuse. One of the necessary elements to any effective effort in the war on drugs

must be a well-financed and well-coordinated interdiction campaign.

As the chairman of the Appropriations Subcommittee on Treasury, Postal Service and General Government, I have had the responsibility of overseeing the many activities of the U.S. Customs Service, an agency whose primary mission is drug interdiction. I am privileged to work closely with Senator DECONCINI, wo serves as ranking minority member of the subcommittee—he is a true leader in the fight against drugs.

Drug interdiction is an enormously difficult task and I am pleased that in recent years our committee has been able to increase the effectiveness of the U.S. Customs Service by helping to add the resources, both in personnel and equipment, that it has needed to get the job done.

We have made significant progress in the recent past by helping to provide modern aircraft, vessels, communications equipment and funding for trained personnel for Customs. Our progress so far has allowed us to take many steps forward in our efforts to halt the flow of dangerous drugs into our country. However, today I believe we are poised to take the most effective step forward—a truly giant step—in our struggle against drug smuggling.

The American people are demanding with just cause that the steps now taken be without delay and to make the legislation we now consider a reality. In the area of drug interdiction, this legislation helps the dedicated law enforcement officers who are risking their lives on the front line by providing them with new resources, new laws, new and tougher penalties, which they can employ against the drug smugglers who would corrupt the very fabric of our society and poison the veins of our youth and those so unfortunate as to have become ensnared in their deadly web of drugs and death.

Mr. President, let me outline briefly for my colleagues the few but positive and meaningful provisions of this legislation which would improve the interdiction capabilities of our Federal law enforcement agencies.

We have increased the funding of the U.S. Customs Service to allow Customs to add several hundred trained and badly needed personnel at our major points of entry and in high threat areas along our borders. We have provided funding for a greatly expanded air interdiction program which in the case of the Southwest border will provide for an effective detection and apprehension capability. New assets in the form of tethered aerostat balloons combined with many AWACS-type aircraft, which will, for the first time, be made solely available to our interdiction agencies to catch drug smugglers. We have added funding for the procurement of improved communications equipment, particularly in the area of voice privacy radios that will help us forge a more effective communications link between Federal, State and local agencies working together in multiagency special operations against drug smugglers.

We have armed our Customs officers with new, legal authority in order that they can bring the full weight of these expanded enforcement powers to bear against drug traffickers. We have improved and added to the enforcement powers of the U.S. Customs Service in the following way: we have strengthened reporting requirements for those entering this country by land, sea and air. We have increased civil and criminal penalties for failing to comply with U.S. Customs reporting requirements. We have created new criminal provisions with which to attack those who facilitate the smuggling of drugs by air or by sea. We have expanded the authority of our Customs officers to deal with the flow of "Narco-dollars." We have closed the loopholes on vessel, vehicle and aircraft reporting.

All of this has been done through the cooperation and support of members on both sides of the aisle who are concerned about the grave threat narcotic smuggling poses to our society. No one effort will completely solve the problems we face in this area but this legislation goes that extra step and takes a truly giant step forward for all Americans.

Mr. President, many individuals have already been engaged in the battle against drugs. Were it not for their efforts, I doubt we would have the opportunity to consider this comprehensive new anti-drug package today. For the past 5 years, our First Lady, Nancy Reagn, has devoted her time and attention to convincing our youth to "Just Say No" to drugs. Our Nation owes Mrs. Reagan a debt of gratitude for her dedication to this effort. I look forward to her leadership and guidance as we all work together to escalate the war on drugs.

Another woman has demonstrated great leadership in fighting substance abuse since coming to the U.S. Senate: Senator PAULA HAWKINS has been building her militia against drugs for nearly 6 years. As the chairman of the Senate Labor and Human Resources Subcommittee on Children, Family, Drugs and Alcoholism, I know we can count on her continued vigilance in our efforts to combat substance abuse.

Mr. President, all the efforts I have described—interdiction, education for prevention, and intervention/treatment are essential components in the war on drugs. No matter how effective our interdiction efforts, we will never succeed in stopping the flow of illegal drugs as long as the tremendous demand for drugs persists. Thus, education for prevention is a key element in our war on drugs. It offers the most effective, yet least expensive, means for fighting substance abuse.

We must do all we can to provide help to the victims of substance abuse. Effective treatment programs must be coupled with appropriate intervention efforts and rehabilitation must also go hand in hand with treatment. While I support stiffer penalties for those who process, traffic and sell illegal substances, I believe we must facilitiate an environment in which those who suffer from substance abuse are encouraged to seek help.

Finally, we must continue to improve our interdiction efforts, not only through enhancement of our enforcement capabilities, but also by working with the countries whose economies have come to depend on the illegal drug trade.

Mr. President, this bipartisan legislation calls for a 3-pronged attack in our war on drugs. I wish to commend our majority leader and our colleagues from both sides of the aisle who have led the effort to bring this legislation before the Senate. I also wish to express my special thanks to Senator HATCH, the distinguished chairman of the Senate Labor and Human Resources Committee, who chaired the Education/Prevention Task Force, and his very able staffer, Nancy Taylor, who has worked long and hard to put together the Demand Reduction Act portion of this antidrug package.

In conclusion, Mr. President, I believe the following statements from two high school students, who testified at my substance abuse hearing in Rapid City, SD, in August 1985, best illustrate the seriousness of the substance abuse threat to our Nation's youth:

MICHELLE: Well, a girl told us . . . she tried angel dust when she was 8 years old.

KIM: Michelle said earlier that it needs to start in kindergarten, the education. I think we did it with smoking and we have . . . far fewer people smoking. I think it has to start in kindergarten and it has to be emphasized all the way through. It's too late really in junior high.

Let us not wait until it is too late. Let us devote the time, the attention and the resources necessary to wage a successful war on drugs now. I urge my colleagues to lend their support to this balanced, bipartisan antisubstance abuse legislation.

Mr. MATTINGLY. Mr. President, in my view the issue which we have before us today is one of the most significant matters which the Senate has dealt with during my years in this body. I am pleased that we can come together on a bipartisan basis to address the issue which the American people have identified as a priority—protecting our children, families, communities, and ridding this Nation of the scourge of illegal drugs.

In recent months, we have heard the drug problem in America referred to in such terms as a "crisis" and a plague." We have often talked about our "war on drugs." While we have made progress in raising public awareness and had success in passing some legislation in the Senate, our actions have not matched our rhetoric or adequately addressed the magnitude of the problem. Today, I hope we will bring these aspects more closely together.

The bill before us is a good starting point and I support the bill. But I am disappointed that some of the provisions contained in the Drug Control Act, S. 2850, and the House-passed drug package have been removed from the bill. Some will be offered as amendments, and I hope they will be adopted. Nevertheless, the measure before us is a good starting point. It is a comprehensive bipartisan approach, with provisions on education, prevention and treatment, interdiction, law enforcement, and international policy, among others. I believe the changes made in this bill are improvements over those in current law.

The bill seeks to solve the drug crisis by attacking both the supply and the demand end. For a long time I have stated that I believed education was a critical factor if we were to prevail in this struggle. I continue to believe that most of the American people, and particularly America's children, will make the right decision to reject drugs. In our First Lady's now familiar words they will "just say no", if they are provided accurate information. The past several months have proved this to be so. The death of Len Bias, for example, and the fact, widely broadcast by the media, that drugs can kill even the strong has resulted in a national outcry. I am convinced that the American people are thirsty for credible and accurate information about drugs. I observe that all over Georgia. In every group with which I meet, there is an intense interest each time the issue comes up. And not only interest, but appeals for help.

My wife, Carolyn, in her travels and meetings in connection with congressional families for drug-free youth—the organization of congressional spouses which she founded and of which she is president—has shared similar experiences.

The American public desires to learn about the drug issue; they have a right to have access to sound information about drugs, and we have a responsibility to assist them in attaining it. For this reason, the education provisions of this measure are important. There are those for whom this education may come too late. For those individuals, opportunities for rehabilitation and treatment must continue to be provided.

Hand in hand with our efforts to reduce and ultimately eliminate demand, we must work to eradicate supply. The interdiction and law enforcement provisions of this measure significantly strengthen our ability to do so. By increasing penalties for those who employ children in the trade and who peddle drugs to children, we take steps toward ensuring the safety of this Nation's valuable asset—its youth. The addition of new and increased penalties, such as a maximum penalty for "crack," the virulent and highly addictive substance, are judicial improvements that I strongly support. I believe we need stricter penalties even than these in some cases. In particular, I believe the option of the death penalty should be available for certain kingpins. I will discuss this in further detail at a later time.

Another focus of the legislation is improved interdiction and border control. This is as it should be. Concern over the need to beef up our interdiction has been expressed to me again and again by local law enforcement officials and ordinary citizens. My home State of Georgia, regrettably, has become a major point of entry. Interstate 95, which passes through my native Glynn County, has become known as "cocaine lane," running as it does from the coast north to New York.

It is a Federal responsibility to protect our borders. I hope and believe this bill will contribute to our effectiveness in that area. Other steps need to be taken as well. As amendments are offered, and they will be, I will consider them carefully. I urge my colleagues to do the same.

Mr. President, I will have additional remarks as the Senate considers individual provisions. In closing, I would like to reiterate what I have said before, and what President and Mrs. Reagan have stressed. If we are going to win the war on drugs, we must be committed to victory. This means dedicating sufficient resources—money, manpower, effort, and energy—to defeating the vicious enemy which disrupts domestic tranquility and violates the common good.

It is our responsibility to lead the American people in the war on drugs. If we fail to act—firmly and resolutely—the consequences are dire indeed. We will have betrayed our children and abandoned our ideals. We will not and must not fail. Let us move forward from this bipartisan beginning, united to defeat the enemy—illegal drugs.

Mr. MOYNIHAN. Mr. President, I rise, as will many colleagues today, in support of the bipartisan drug abuse bill before us, S. 2878, and I take the occasion of the debate to offer just a few observations on this general subject.

First, I express appreciation. On the first day of this Congress, almost 2 years ago, I introduced S. 15, the State and Local Narcotics Control Assistance Act, which, while receiving very little attention at that time—and indeed, no specific consideration since—is largely included in the bill before us. In particular, the measures for law enforcement and drug abuse prevention, treatment, and rehabilitation which we are going to adopt in the near future, are essentially what was proposed in S. 15. As the distinguished Presiding Officer knows, the majority leader has the first 10 numbers in our calendar. Therefore, S. 15 was, in a sense, the fifth bill introduced by another Senator in the 99th Congress. While thinking about the present intense concern over narcotic abuse, I go back in my own mind to the period of the late 1960's, when we had a very comparable situation with heroin.

In 1969, I was serving as assistant to President Nixon for urban affairs. I recall that there were more bank robberies that took place in the city of Washington than the entire previous century, and we were in the midst of a heroin epidemic, not all that different from earlier episodes in the long history of drug abuse in our country.

The question was how to respond to this crisis—not with any expectation of putting an end to a large and continuing aspect of modern society—but, rather, in order to interrupt and to break the epidemic in a manner that had at least some hope of success in at least the near term.

It fell to me to devise a strategy for the Nation in this regard. My first view—which the President, Mr. Nixon, completely endorsed—was that we should interrupt the flow of heroin supplies into the country.

At that time, on overwhelming amount of heroin was produced first as poppy, in a provinces of Turkey, then the heroin was transported by ship across the Mediterranean to Marseille, where it was processed into morphine and then into heroin, and from Marseille, the heroin was smuggled into the United States.

□ 1310

It seemed to me that we had to put the issue of heroin on the agenda of American foreign policy. We also had to encourage our allies—France and Turkey, countries with which we have close relations and military relations—to help us in this matter of great concern to us, and, obviously, of marginal concern to them, if at all.

In August 1969, I flew west from California to Istanbul where I met with the Turkish foreign minister. I represented myself as speaking for the President of the United States and described the situation in our country with respect to heroin use, and the

number of deaths from heroin use, and found a very open reception.

The Turkish foreign minister said, "Well, yes, but you know we do not have anything to do with this matter. We grow poppy as part of our food supply."

Poppy seeds are part of the national diet of the Turks, and the use of opium is very limited as in most ancient medicines.

The problem was how to persuade the farmers of Turkey to stop cultivation of a crop which had been going on for centuries. The Turks fully cooperated with our recommendations for crop substitution and cooperation. At the time, a new Ambassador to Turkey, William Handley, was sent from the United States. The United States provided some funds to Turkey, not large, to substitute the growth of opium poppies with other legitimate crops.

I then made my way to Paris, Mr. President, and after a series of visits, met finally with the Director General de la Sûreté in France, a man, shall we say, whose name was known but whose picture was not taken. He is in charge of the internal police forces of the country and a man of great importance—and has been since Fouchet, under Napoleon. Our luncheon meeting had been arranged by or host, Sargent Shriver, the American Ambassador to France. Let me preface this by saying that that year, 1969, there had been a handful of deaths from heroin overdose on the Mediterranean—the de sur as the French say. This appearance of drug use among youth had occasioned serious debate in the French National Assembly on the subject of drug abuse and what was happening to morals and family life and behavior in France.

During the lunch, I explained that the number of deaths from heroin overdose in New York City was approaching 1,000 per year, as contrasted with a handful of deaths in France that year.

The head of the Sûreté listened and listened and said nothing. Finally, as we were leaving and I helped him with his coat, he did say something. After not speaking a word of English throughout the conversation at the luncheon, and having heard what we were doing to ourselves with heroin brought in from France, he finally turned, looked straight at me and said in perfect English: "What kind of people are you?"

It was a telling remark. I will not forget it. The Director General could not believe that we had let other countries behave in ways that were contributing to these incredible injuries, societal and community injuries, and had only now come to speak to them about the subject.

Well, Paris is generally not enthusiastic about getting involved with Marseille since these cities have had an "on-and-off" relationship for many centuries. However, it was clear to the French Sureté that they had to do something and they did. They just closed down the heroin laboratories in Marseille. And the Turks eradicated their poppy fields. And by 1972, as the President's Commission on Organized Crime has written just recently, the French connection collapsed.

Mr. President, I recall returning from that last trip to Paris, after obtaining an agreement from the French to take action, and flying up to Camp David in a helicopter to recount the event. The then Director of the Office of Management and Budget, Mr. George Shultz, was with me in the helicopter. I said to him that it looked like we were going to break the "French Connection." (We did not use that word yet. The movie gave us that image.) Then I said to him, and if I am being for a moment reminiscent I also mean to make a real point, "I suppose, however, that as long as there is demand for drugs, somewhere else a supply will spring up." And Secretary Shultz, an economist looked across and said to me, "You know there is hope for you yet."

Indeed, we had no sooner broke the French connection than the United States began to see supplies of heroin coming in from Mexico. For a while, the Mexican heroin had to be doctored to give it the pure white look of the heroin from Marseille. But in general, before long, the disruption of the drug traffic and other factors brought a gradual stabilization—not an end, but a stabilization—to heroin use. Of course, a decade later, we are in the midst of an epidemic of cocaine use.

There is something striking about this, Mr. President, in that something very similar to this occurred in the late 19th century. It is useful for us to keep in mind that today we are still dealing with basically the pharmacology which existed in that century. In the course of the 19th century, chemists learned to take opium, a natural product, and refine it to a higher level of morphine. This happened in the 1850's about the same time the hypodermic needle was invented. In the subsequent decade, there was a tremendous amount of morphine used in the Civil War. After the Civil War, morphine addiction became known as the "solider's disease."

By the late 19th century, the Bayer Co., in Germany refined morphine to a higher level and called it heroin. The company tested it on their employees and it made them feel "heroisch," which is German for heroic, hence the trade name "heroin." It is a name like aspirin, a trade name for a chemical product.

It was originally thought that heroin could be used as a substitute, as a suppression of morphine addiction. In reality, it was nothing of the kind. And, the heroin epidemic at the turn of the century was very real. It was openly advertised, "Buy Heroin; Good for You."

In the meantime, cocaine had emerged as a derivative of the natural coca leaf—which itself has stimulant qualities. Chemistry refined it to a higher, more intense level. Recently, we have seen cocaine brought to yet a higher level, to what is called "crack" because of the sound that is made when it is cooked.

During the first decade of this century, cocaine epidemic succeeded the eariler opium epidemic, until the 1930's, when drug abuse went into a long dormant state until heroin use broke out again in general use in the 1950's. This time the drug traffic was making its way from the Mediterranean to the United States.

We will not probably change this most recent of drug abuse pattern for a very long time. A century is not long enough for society to get used to something that the human race has no experience of. But we can continue to work at resolving this problem and we can use what we know in the way of devices to disrupt and to block the effects of drugs.

I am happy to see that we are going to be working overseas more than we have been. We had been cutting our capacity in that regard. And certainly increased assistance for domestic law enforcement is a clear and necessary aspect of our effort to fight alleged drug abuse.

□ 1320

The fact that drug sales and use are taking place more frequently in public, on our streets, is the most appalling single thing of the present crisis. A public act of an illegal nature is in effect a condoned act. And the children, and most early users of drugs are no more than children, see this going on in public and assume there is public approbation for these illegal acts. And, indeed, toleration is a form of approbation.

Treatment is another critical component of any effort to combat illegal drug use. We must treat people who come and ask for it. And we learn things. The more we learn, who knows, the day may come when we learn something of some vital consequence.

I am particularly pleased that one of the provisions of the bill we have before us is something that I had called for earlier, which is a directive to the National Institute on Drug Abuse to work much more than it has on developing narcotic antagonists. This is all pharmacology in the first instance, and it can be combated by pharmacology. We do have a drug that is available and which successfully

blocks the effect of heroin use. A similar drug with respect to cocaine is clearly feasible.

In this kind of chemistry, you can accomplish what you set out to do, if sufficient effort is put into it. We have an obligation to do just that. We need to continue looking for newer, more powerful and more effective devises for blocking drug experiences, thereby reducing demand for illicit drugs.

On the other hand, Mr. President, it seems to me that we cannot ignore the fact that when we talk about drug abuse in our country, in the main, we are talking about the consequences it has for young males in inner cities, for whom drug use is an aspect of a generally abused, wasted and ruined life, and indeed, ruinous to those in the community around them. Any society that is really serious about drug abuse will be serious about that class of young males. It has been growing. It has reached proportions that threaten to bring about the destruction of whole communities and cities across this Nation.

I was pleased that a number of very thoughtful commentators, such as Mr. Adam Walinsky--and Mr. Walinsky was formerly an aide to Robert Kennedy, my distinguished predecessor and friend—and Ed Yoder, the most perceptive and thoughtful of columnists, have made exactly this point; that if we care about drugs, we would care about the young males in inner cities whose abuse of drugs has made it the focus of national attention once again, as it had been 15, 16 years ago.

In concluding these remarks, Mr. President, I ask unanimous consent that the article by Mr. Walinsky and a column by Mr. Yoder be printed in the RECORD at this point, along with some prepared remarks.

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

[From the New York Times, Sept. 16, 1986]

CRACK AS A SCAPEGOAT

(By Adam Walinsky)

The crack wars are far from over. The New York City police have seized some 30 cars belonging to alleged buyers. Mayors and governors have held conferences on the subject, and on Sunday the Reagans joined the fray, denouncing drug abuse on national television. Yet the reality in the streets remains the same: the crime rates continue their steady increase.

Overall crime rates are not increasing because of crack or any other drug. Reported crime is up 5.5 percent from last year all over the country. Yet so far, crack is available in only a few cities. Heroin use is steady, consumption of cocaine is up only marginally and marijuana use may even be declining slightly. Besides, most drugs—certainly cocaine—are consumed by citizens whose only other offense is liable to be insider trading, tax evasion or driving over the speed limit.

The true cause of increasing crime rates is elsewhere. Most street crimes are committed by young men and boys, predominantly from minority groups; the most dangerous years are from the early teens to the early 20's. These young men come increasingly from disintegrating families and neighborhoods.

Young men of 20 are just beginning to pass out of their most crime-prone years; those of 13 to enter them. Today's 20-year-old was born in 1966; today's 13-year-old in 1973. In 1966, of all black children born in New York City, 75 percent were still being born into families with fathers present, married to the mothers. Of all Hispanic births in New York City in 1966, 89 percent were born to such married couples. But by 1973, less than 60 percent of black children in New York were being born to married couples, and less than 70 percent of Hispanics were.

The watershed was 1976, when today's 10-year-olds were born. In that year, more than half of all black children and 45 percent of all Hispanic children born in New York were born to single mothers. The causes of this radical shift are complex and less than clear, but the consequences are stark: by 1980, more than 55 percent of all the black children born nationwide were born to single mothers. In 1965, about 77,000 male children of single mothers reached their 13th birthday; in 1975, 120,000. This year, it will be more than 200,000.

This rising proportion of illegitimate births is both effect and cause of wider patterns of community unravelling. Educated blacks particularly have moved up and away from the old neighborhoods. As Harlem was abandoned, life there became ever more disorganized and dangerous, and still more people fled. In 15 years, it has lost at least a third of its population. Social services, which may at least have been palliatives, almost vanished during the fiscal crises of the 1970's, and have not been rebuilt in the Reagan 1980's. Schools beset by violence and disorder largely abandoned the effort to deal with problem children; indeed, many educators must have sighed with relief as each disruptive youth dropped out. Meanwhile, new immigrant populations, legal and illegal, have arrived, bringing many teenagers whose violence and crime is a response to rootlessness and disorientation.

Poverty does not excuse crime: indeed, there is plenty of evidence on Wall Street that poverty does not even explain crime. But we are preparing a disaster: the steady growth in our midst of an unacculturated, unsocialized and indigestible lump of young men, uneducated for any useful work, without any organic connection to the United States or to the world we live in. Every young man will seek somehow to assert his personality and his self, will look for a possibility of acting in the world. And for an increasing proportion of these young men, crime is the definition of self.

Of course, none of this is new. As long ago as 1965, Daniel Patrick Moynihan, Lyndon B. Johnson and Robert F. Kennedy called urgent attention to these problems. Today's politicians, however, prefer to ignore such matters; Blacks are more politically fashionable when they are in Johannesburg. Yet it is difficult to ignore the results, with New York City alone the scene of 100,000 robberies a year and constitutents of all races constantly complaining.

For our politicians, crack is a deus ex machina—a solution from the sky. After all, our officials can hardly be blamed for the Colombian peasant who stubbornly goes on growing coca leaves or for the evil "narcotrafficker" who imports the refined product. Thus, if we can blame crime on crack, our politicians are off the hook. Forgotten are the failed schools, the malign welfare programs, the desolate neighborhoods, the wasted years. Only crack is to blame. One is tempted to think that if crack did not exist, someone somewhere would have received a Federal grant to develop it.

There are useful and necessary measures we can take. One would be a real effort at law enforcement to reestablish basic order and security. Another would be welfare reform: social programs should no longer encourage single parentage, and should require work as a condition of all welfare. Still other steps would include extensive efforts to reach the more than 400,000 new children of single mothers who will have their 13th birthday this year. At the root, we must decide that we will not live with a black illegitimacy rate in excess of 60 percent, with all that entails. We must commit ourselves to providing minority youth with a future that is not built solely on crime or the making of babies.

All these things are difficult but possible. It is long past time that our leaders stop their hysterical grandstanding about new drugs and get to work on the old, persistent problems of crime, race, and poverty.

[From the Washington Post, Sept. 18, 1986]

WE KNOW WHO WILL LOSE THE DRUG WAR

(Edwin M. Yoder, Jr.)

Prime-time network television, our great window on pseudo-reality, is the perfect place to summon us to the pursuit of a chimera: the "drug-free America" for which President and Mrs. Reagan have called.

In the misdirection of valuable official energies, there's been nothing since the great Red Scare of the early 1950s to match the current drug-bashing hysteria.

A few days before the Reagans spoke on Sept. 14, the House of Representatives, which is suspected of election-year fever, passed a great bipartisan antidrug bill. Unembarrassed that it hasn't two dimes to rub together, the House boldly authorized the expenditure of $3 billion to fight drug traffic. It is asserted, despite every appearance to the contrary, that Americans are eager to pay.

It is far likelier that (as in the demand for "tough" criminal sentences to nonexistent prisons) we want the result without the cost. Just as unrealistically, the House tossed in the hangman, the U.S. Army, and illegal searches—none of them likely to be much used in chasing down drug dealers.

Empty legislation is bad enough. The purple prose of the White House speechwriters is worse because it is so fantastically wide of any recognizable mark.

President Reagan was made to say, for instance, that drugs "are menacing our society"; that they constitute "a repudiation of everything America is"; that they mock our heritage and are "threatening our values and undercutting our institutions." That was the understated part.

Such rhetoric trifles with the dignity and credibility of public advocacy. Describing a serious but not terminal problem, nuisance really, as if it were an invasion by maneating intergalactic aliens is rhetorical hypochondria, like treating a sprained ankle as life-threatening.

A repudiation of what "heritage," precisely? Before the First World War—that is, before Americans began tolerating federal nosing into their private lives and habits—drug addiction, usually to morphine or some

other opiate, was as common per capita as it is today, if not more so.

As for wear and tear on the social order, the Prohibition era and its associated gangsterism find no real parallel today. President Reagan is irresistibly attracted to the golden-age myth, but, as usual, it is unhistorical. There is no idyllic "heritage" against which to play off today's drug threat.

Two far more material items of social history, though not obscure, made no appearance in the Reagans' remarks.

The first is that there has, in fact, been a decline in social discipline and control, in which illicit drugs are implicated. But that is because the means of social control that obtained in rural or small-town America a generation or two ago (and which were not invariably pleasant or just) were left behind with the horse and buggy.

The onetime controllees have jumped the restraints of rural life and economic dependency. Many of them now constitute a forlorn urban underclass, huddled in impersonal cities; and drugs and crime have become an expression of social defiance and alienation. A discussion of the drug problem that omits this context is evasive and vacuous.

And where social values are concerned, the same television that brings us magnified images of this disturbing reality also brings us a fantasy world of pill-popping, beer-swilling hedonism and crime-centered entertainment that sometimes seems morally indistinguishable from reality. So who's kidding whom?

As for "wars" and "crusades" against complex social disorders, you would suppose that presidents, by now, would be warier. We have had a war on poverty (which, Reagan himself has remarked, not quite accurately, "poverty won"), on street crime (by Richard Nixon & Co.) and the "moral equivalent of war" on oil dependency (by Jimmy Carter). At last notice, poverty and street crime were undefeated, and oil dependency seems to be making a rapid comeback.

Yet invoking the spirit of World War II, Ronald Reagan says "we're in another war for our freedom." All that is predictable about such "wars" is that they will end in "defeat" and further feed the public conviction that government, unlike the Mounties, never gets its man.

Mr. MURKOWSKI. Mr. President, I rise in strong support of this legislation of critical importance in the war against drug abuse. Over the past several years, I have been focusing on the drug problems in Alaska. I have held two hearings to determine just how extensive drug abuse was in my State. What I learned from those hearings was that Alaska has the highest drug usage in the United States. This translates into increased crime, lost productivity, wrecked lives, domestic violence, high dropout rates, suicide, and death.

Let me share with you some particularly poignant testimony which reinforces the absolute necessity for this legislation. A representative of the Alaska Federation of Natives testified on legislation designed to expand prevention services and treatment of alcohol and drug abuse among Indian and Alaska Native youth—and I quote "alcohol and drug abuse is the major health care problem faced by Alaska Natives. It stands out clearly as the most threatening to our health, our lives, and our culture. It affects every aspect of rural community life, as well as urban, and threatens the very survival of Alaska Native people and the traditional way of life."

And its not just Alaska's Native population in my State that is losing because illicit narcotics are rampant in Alaska's streets. A university of Alaska study indicates that 72 percent of Alaska's high school seniors have used marijuana. Nationwide, that figure is only 59 percent. Cocaine usage among Alaska's high school seniors is three times that of their lower 48 counterparts.

I meant it when I told Alaskans that I was going to do something about this problem and we were going to get involved. I know that with the prompt enactment of this bipartisan bill we can achieve President and Mrs. Reagan's goal of a drug-free America. The bill before us aggressively attacks the drug menace on five fronts. The eradication of illicit drug crops in producer countries; interdiction of drug shipments bound to the United States; the strengthening of penalties against drug peddlers, education of our children on the dangerous effects of illegal drugs; and the rehabilitation of those who have already fallen victim to drugs.

State and local police chiefs, educators, counselors, and health care providers have all told me they needed more resources to aggressively combat drug abuse. This Senate bill responds to this need by strengthening the Federal Government's commitment. I am particularly pleased with the provisions of the bill that increase Federal funding to States to ensure drug-free schools—$150 million in new money in grants to States—and provide greater Federal assistance to State and local law enforcement officers—$237.5 million in budget authority for Department of Justice and Federal judiciary programs, including a drug law enforcement grant program. Those provisions that target education efforts for youth that are particularly vulnerable to becoming alcohol or drug abusers are also critically important.

I thank Senator ANDREWS, the chairman of the Select Committee on Indian Affairs, and his staff for their efforts on behalf of the needs of American Indians and Alaska Natives. Included in this omnibus bill are provisions of legislation which has already passed the Senate, and which I worked hard for, designed to squarely address the prevention and treatment needs of American Indian and Alaska Native youth. Juvenile alcohol and drug abuse has not been a high priority with either the Bureau of Indian Affairs or the Indian Health Service. From testimony I received from the Alaska State coordinator for the Office of Alcoholism and Drug Abuse I learned that the Alaska Area Indian Health Service Office allocates less than 1 percent of its resources for alcohol and drug abuse prevention. In fact, the Indian Health Service does not operate a single juvenile drug treatment center in Alaska. That is why I, and other Senators on the Indian Affairs Committee, strongly support the provisions of this bill that require the Indian Health Service and the Bureau of Indian Affairs to implement needed programs to treat and prevent alcohol and drug abuse. This legislation authorizes approximately $40 for prevention programs for American Indian and Alaska Natives.

I also wish to thank Senator LUGAR, the chairman of the Foreign Relations Committee, and his staff for their leadership in drafting the provisions of this bill strengthening the tools of our foreign policy against major drug producer and transit countries. My amendment strengthening the authority of our law enforcement personnel abroad will result in more frequent and larger seizures of drugs, illicit laboratories, and more arrests and prosecutions of major drug traffickers.

Mr. President, we are going to need a continued effort to maintain, I think, a communication direct to the communities that are screaming in agony for support. Local law enforcement agencies that are frustrated, educators that are wondering what the Federal Government is going to do to provide assistance, and those involved in the rehabilitation all are watching this legislation as it moves through the Congress of our Nation.

Mr. President, I think this is one of the most important pieces of legislation the Senate will consider this year. It is a bill which deserves the wholehearted support of all of us.

It is, I think, a representation of the degree of frustration that exists within our country and the fact that people all over the United States are looking for the leadership provided by the Congress and this body.

I would like to commend my colleague, the junior Senator from Florida, who has led initially in this effort. I think the time has come, Mr. President, when Americans are absolutely fed up and they demand Congress respond with meaningful legislation that will help them address the problems in this area in a responsible and timely way.

□ 1330

Mr. THURMOND. Mr. President, I rise today in support of the bipartisan comprehensive antidrug package introduced by the Senate Republicans and Democrats.

Drugs are menacing our Nation. The drug problem is undoubtedly one of the most serious facing this country.

The facts about drug abuse are brutal. There are about 500,000 hard-core heroin users in the United States. There are between 4 million and 5 million Americans who use cocaine. From 1975 to 1984, the amount of cocaine smuggled into the United States quadrupled. In 1984, the drug empire brought into the United States 10 tons of heroin, 85 tons of cocaine, and about 15,000 tons of marijuana. This does not include the substantial domestic production of narcotics.

The cost of drugs on our society is tremendous: In 1983 the estimated total cost was almost $60 billion, based on the cost of treatment and support, mortality, reduced productivity, lost employment, and related costs. Drugs on the job and in the school are quite pervasive and of most concern. Drug dependent workers are 38 percent less productive than their peers, according to a National Institute on Drug Abuse study. In 1985, 61 percent of all high school seniors had tried at least one or more illicit drugs.

We are beginning to see a fundamental change in the attitude of the American people toward the use of illegal drugs. Across the country individual citizens, private organizations, community groups, public agencies are all working to reestablish a moral climate in which drug use is not just illegal, but socially and ethically unacceptable. One highly visible example is the work of First Lady Nancy Reagan. With her help, 10,000 "Just Say No" clubs have been established across the country. The campaign against drugs has made front page news and has been the hot topic on talk shows lately.

Today we in the Senate are introducing a bipartisan comprehensive drug bill. This is not a new initiative for the Senate, but rather a continuation of our long-term efforts to deal with this national crisis. We are proud of our record in this regard.

Since the elections of 1980, when the Republicans won a majority in the Senate, the Congress has:

Passed the Comprehensive Crime Control Act of 1984, making it a Federal crime to distribute a controlled substance—an illegal drug—within 1,000 feet of a school;

Enacted the International Narcotics Control Act of 1985;

Dramatically strengthened interdiction and enforcement;

Established the National Drug Enforcement Policy Board to focus the national campaign against illegal drugs;

Barred money for any country certified by the President as failing to take adequate measure to prevent cultivation or transfer of narcotics;

Passed the Military Justice Act of 1983, which made drug dealing in the Armed Forces punishable by court martial.

Directed the Attorney General to draft a model law for States to act against cocaine "freebase" houses as centers of the drug trade;

Made illegal the investment of income from a felony drug offense; and

Reformed the lenient Federal bail system, so that drug abuse by a convicted person will be considered in bail decisions—Ball Reform Act of 1984.

The Senate has continued its aggressive campaign against drug abuse in this Congress. Unfortunately, the House has failed to act on many of these important Senate-passed bills:

In March 1985, the Senate passed the Federal Drug Law Enforcement Agent Protection Act, to provide rewards to anyone who helps in the arrest and conviction of persons guilty of killing or kidnaping a Federal drug agent.

In November 1985, the Senate passed a bill making it a Federal criminal offense to operate or direct the operation of a common carrier while intoxicated or under drug influence.

Last April, the Senate passed S. 1236, tightening up on penalties for certain drug-related crimes.

Last December, the Senate passed the Indian Juvenile Alcohol and Drug Abuse Prevention Act.

Last December, the Senate passed S. 1437, a bill to fight the spread of "designer drugs."

Last July, the Senate adopted a D'Amato amendment to House Joint Resolution 668, that cracks down on the money laundering essential to the operations of the drug empire.

The legislation being introduced today incorporates these bills as well as:

Enhanced penalties for large-scale drug trafficking;

Enhanced penalties for possession of drugs; and

Authorization of money for construction of one new prison.

I believe the bill can be further improved by adding a few key elements such as:

A constitutional procedure for the imposition of the death penalty;

Limitation on the exclusionary rule; and

Habeas corpus reform.

I understand it is impossible to get all of this in this bipartisan bill that is being introduced, but, Mr. President, these ought to be incorporated.

We hope to see quick action on this bill in the Senate and I urge my colleagues in both the Senate and the House to join us in sending the most powerful bill we can to the President's desk.

Mr. President, I yield the floor.

● Mr. DENTON. Mr. President, I am proud to be an original cosponsor of the bipartisan Senate drug bill. This comprehensive legislation is the result of a truly cooperative effort by Senators on both sides of the aisle who have come together to help fight—and win—the war against illegal drugs.

The bill maintains the necessary multidimensional approach to the illegal drug problem, recognizing that the battle must be fought on many fronts, both at home and abroad. It is intended to help cut off the supply of drugs while, at the same time, drying up the demand for them in this country.

The bill strikes at the sources of the illicit drug traffic by providing much stronger punishment for drug dealers and by making it much more difficult for them to hide their tracks through the laundering of drug money. The legislation thus seeks to deprive drug dealers of the expectation of profit which motivates their activities.

For trafficking in large amounts of drugs the bill increases the maximum penalty to life imprisonment, without possibility of parole or suspension of sentence. Life imprisonment would be mandatory for a subsequent large-scale trafficking offense which results in the death of a person. Prison terms are also significantly increased, with no possibility for parole, for dealing in smaller amount of illegal drugs.

In an important revision of existing law, the bill would provide for the mandatory life imprisonment of so-called drug kingpins, who are the principal organizers or leaders of large, continuing drug enterprises. This is a provision which was first proposed by Senator TRIBLE in S. 2801, of which I was an original cosponsor.

I am extremely pleased that the bill contains strong measures to help interdict the flow of illegal drugs into the United States. People in our State of Alabama, as in other States along the gulf coast and southwest border, are greatly concerned about the smuggling of drugs into our part of the country by land, sea, and air. The bill authorizes increased appropriations to the Customs Service and the Coast Guard and will enhance their abilities to detect and prevent the entry of illegal drugs. It also provides the Immigration and Naturalization Service with the general arrest authority they need to assist in drug interdiction, as well as curbing the flow of illegal aliens. These provisions are indispensable if we are to take control of our own borders against the influx of narcotics.

Such control is especially necessary in light of increasing evidence of the interrelationships between drug traffickers and the international terrorist network, especially in the Western Hemisphere. As chairman of the Judiciary Subcommittee on Security and Terrorism, I have launched investigations and hearings which have documented this alarming phenomenon. They have shown that drug traffickers depend on terrorists for protection,

which terrorists provide in return for drug money to finance their heinous activities.

Hearings held by my subcommittee have also proven that the Cuban and Nicaraguan Governments have close ties to Latin American drug smuggling operations and facilitate the transportation of drugs into the United States.

These developments heighten the deadly nature of the threat posed by drug trafficking and underscore the need for the bipartisan drug bill. The bill addresses the need for better interdiction along our borders and also recognizes the necessity of cooperation between the United States and foreign governments and law enforcement agencies in combating illegal drug production and trafficking. The bill contains provisions which will promote such cooperation and involve many other countries in the war on drugs, recognizing the illegal traffic to be a major threat to all the countries it affects, just as terrorism is. If a country refuses to cooperate with our antidrug programs, the bill provides for the curtailment of U.S. aid to that country.

The bill authorizes additional appropriations for the Drug Enforcement administration, which will enable it to increase its investigative and intelligence gathering capacities, as well as its presence in areas of the country where more agents are desperately needed. Having chaired my Judiciary Subcommittee's DEA oversight hearings over the last 6 years, I am well aware of the DEA's capabilities and believe that these expenditures will greatly benefit drug law enforcement.

Recognizing that the individual States and municipalities are on the front lines of dealing with the day-to-day problems of illegal drug use, the bill authorizes the Attorney General to make grants to the States to assist them in enforcing State and local drug enforcement laws. The bill also eliminates various restrictions on the States' use of Federal block grant funds for alcohol, drug abuse, and mental health service, thus giving the States the flexibility they need in combating alcohol and drug abuse.

Mr. President, the use of illegal drugs has had a debilitating effect on a whole generation. Billions of untaxed dollars are diverted to the coffers of organized crime. Theft, burglary, robbery, and even murder increase as drug users turn to crime to support their addictions. Law enforcement agencies are forced to spend more of their precious resources fighting drug trafficking and drug related crime at a time in our Nation's history when unprecedented budget deficits have strained those resources to their absolute limits.

The legislation before us today is the last opportunity the 99th Congress has to deal comprehensively with this massive national problem. We must not fail to act in the face of this clear and present danger of our national welfare.

I urge my colleagues to support the bipartisan Senate drug bill.●

Mr. HEFLIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama.

THERE IS A DRUG WAR AND IT MUST BE WON

Mr. HEFLIN. Mr. President, there is a violent war being fought in America. For many years this war was fought for us by special agents in dark, stinking alleys—through garbage strewn streets, and in the burned out, abandoned buildings of our large metropolitan areas.

But now, the battleground has moved into middle-class neighborhoods, into glass skyscrapers, and even into school playgrounds. This war was once fought only in urban America, but, increasingly, there are daily skirmishes on country roads, on remote rural routes, and in the tree-lined streets of small towns and villages. All must now lend their efforts and their resolve if we are to win this war.

Every day the death tolls and casualty counts rise. This war knows no particular class, race, age, or economic group. It damages all segments of society—leaving in its path only waste and sorrow.

In this war, the enemy is shrewd and insidious. He often feigns friendship, concern, or even sympathy to lure men, women, and children into his trap. He preys on ignorance, on loneliness, on uncertainty and even curiosity. Yet his motives do not deviate. He seeks the ruin and demise of our system.

Mr. President, the enemy of whom I speak is the supplier, pusher, and peddler of illegal drugs—the lowest form of subhumans found on this Earth, peddlers of human misery, greed-soaked mutants who wage this war without a passing thought given to the tragedy they bring to their fellow man.

Although this country has declared war on drugs, it is the drug pushers and smugglers who declared war on humanity. For so many years the family has been standing as the lone bulwark against the spread of drug abuse. It has endured a long siege. I am now overjoyed to see so many come to its aid. It is, indeed, time to mount the counteroffensive.

Yet, there are those now calling for action who have for some time been celebrating at the rear. There are many now calling for action who have at some past time proposed and voted to cut drug enforcement budgets. There are those who now cry the loudest who at some past time vetoed drug enforcement legislation. I hope and pray that their conversion is sincere, and not just another public relations ploy or electioneering stunt. The families and individuals in this Nation who had been under siege for so long do not need false friends.

□ 1340

Since I was elected to the U.S. Senate, I have worked to strengthen and to bolster the fight against drug abuse. The comprehensive crime package as passed by Congress in 1984, and signed into law, contained legislation designed to thwart and to frustrate the relentless damage caused by drug pushers and peddlers. However, some of the toughest, most effective provisions of that package as passed by the Senate Judiciary Committee, were stripped from the bill before it was passed.

We cannot return to the past to correct our mistakes. Although some may try through rhetoric and empty words. But talk can neither change the past nor will it solve the problems we face today. The legislation now before this body is a step in the right direction—a larger step than we have taken before. Yet it is a step that has been urgently needed by individuals, by families, and by drug enforcement agents who have been standing alone now for so long.

This legislation contains many different provisions which will help in our war against drugs by providing necessary coordination between local, State, and Federal drug enforcement officials. It changes the law to allow for stiffer penalties with which to punish offenders, and finally it will provide for greater funding of programs to eliminate the abuse of drugs.

One of the primary things that this bill does is to strengthen the laws defining contraband drugs and the amounts which would constitute possession and sale. This section provides vital support for the trench warfare. It facilitates the ability of personnel to arrest, prosecute, and incarcerate the drug pushers and traffickers and to remove them from the field of battle—our streets, homes, schools, and playgrounds.

Additionally, the bill provides $115 million directly to State and local agencies in drug grants. These funds are to be distributed through the Department of Justice, and will greatly aid local and State efforts to stem the tide of drug availability or abuse.

This legislation also increases the penalties for drug violations. One of the most important aspects of the bill is the creation of an offense for employing, hiring, or using children to distribute drugs. One of the most cowardly practices of drug pushers today is the use of children in the drug trade. They are used to deliver drugs and to deliver the money obtained from drug sales. Often they are beaten and abused if they fail to meet their drug sales quota.

Another critical aspect of this legislation is the assault it makes on the

drug pusher's most important arsenal—money. The bill creates a new criminal offense of money-laundering and includes stiff penalties for violations of this offense. In addition, authority is given to the Department of Justice and the Customs Service which allows them to seize money, equipment and other assets used in the drug trade. Appropriately, the moneys from the confiscation of this property shall be used for State, local, and Federal drug law enforcement, education, prevention, and rehabilitation programs.

Mr. President, Alabama stands on the front lines of an invasion of drugs bound for all parts of the United States. My State faces the onslaught of illegal drugs arriving in this country from the Caribbean and South America. A large amount of this drug traffic comes along a route known as the Mobile corridor using all types of aircraft.

Alabama has been the target of waves of ships and aircraft carrying literally tons of illegal drugs, cocaine, and marijuana into the State. Beefed-up detection in the Florida peninsula and a lack of radar coverage has pushed the drug traffic into the Mobile corridor. This area is centered over Mobile, AL. Much of this drug cargo is destined for the small rural airports and abandoned military air strips located all over central and north Alabama.

Last year I cosponsored bipartisan legislation which will create an Air Force Special Operations Squadron of 16 P-3 aircraft equipped with sophisticated F-15 combat radars. This squadron would provide a detection support unit to complement an existing special operations wing stationed at Eglin Air Force Base in northwest Florida. I urge that some of the elements of this bill be incorporated into the legislation now before the Senate.

This bill provides a solid plan of attack against the airborne and marine drug smuggler. Harsh penalties are instituted for individuals who transport drugs in planes, or vehicles across State lines. Foreign citizens who have residency status in America could be deported or excluded from this Nation for dealing in drugs or for being convicted of a drug-related crime. It does not call for troops along the border, but extends a much-needed and long-overdue helping hand to our law enforcement officials. The plan incorporated in this bill will finally give our underequipped civilian drug enforcement agencies the drug detection capability, and the legal means they need to halt the narcotics trafficker from penetrating our borders.

Alabama's night skies have been filled with aircraft ranging from sleek corporate jets to tired airliners to World War II surplus bombers carrying their deadly cargo into rural airfields in the Southeast.

In March 1985 I secured an agreement from then newly appointed Attorney General Edwin Meese that the closing of the Mobile drug corridor would be a high priority in the Justice Department's efforts to stop the flow of illegal drugs into the United States. This was during Meese's testimony before the Senate Judiciary Committee.

At that time I discussed with Meese a plan to use pilots from Fort Rucker, AL, to relay information from their daily flights about suspect aircraft. Helicopter pilots based at Fort Rucker fly throughout southeast Alabama and crisscross the Mobile drug corridor daily. We should take advantage of the information their trained alert eyes and ears can gather.

A month earlier I had met with Maj. Gen. Don Parker, commander of Fort Rucker, about the Mobile corridor problem. He told me at the time that:

> We need to look into perhaps providing some instruction to our people who are flying on what they should do when they observe this sort of activity. I know that we have had some cases where we were able to be of assistance in the past. I think this is something we should look into and see if a procedure can be developed.

I have been less impressed with the resources, priority, and followthrough the Justice Department has dedicated to this idea. While we may not be able to completely halt the flow of illegal drugs through the Mobile corridor in the next few years, we must make a real effort to try.

Because the drug pusher preys on ignorance, I am particularly encouraged by provisions of this bill which will stress the education of citizens of all ages regarding the damage and harm of drug abuse. It provides crucial funding for education programs throughout the nation. At least $80 million will be available for State and local education agencies. Only through a working, factual knowledge of the permanent damage caused by drug abuse will people of all ages be warned that drugs do not solve problems, or make friends, they do not provide an edge or an advantage. Above all, they are not an entertainment. Drugs lead to a hellish existence in which the user is unable to function in a productive manner and is incapable of making decisions even for himself. Education will be a first step in establishing a beachhead from which to launch our attack on drug pushers and peddlers.

Finally, this bill provides help for the many casualties who have already fallen to drug abuse. Funds are provided for the prevention, treatment, and rehabilitation of those already affected by the blight which abuse necessarily brings. Assistance will be available to those who truly wish to turn their wasted lives around. Perhaps many of those reformed drug users will become devoted, loyal warriors in this battle—for they know first hand the deceptive tricks and ploys of the enemy—the pusher.

There is a pioneer program in Birmingham, AL, called TASC, treatment alternatives to street crime. This program identifies abusers of illegal substances who have been put behind bars for some other crime. Drug users must often resort to burglary or theft in order to support their expensive habit. It then treats them in an effort to rehabilitate their lives. Not only does TASC provide new hope and life to the drug user, but it also helps to eliminate the crime which the drug supplier brings when he pushes his product. I would like to see this program established as a model program for the entire Nation. In that way, the TASC force could provide a coordinated network through which to help people on a greater scale.

Though much-needed funding is being provided, we must be careful lest these funds and this great momentum is squandered on publicity stunts designed to enhance the personal esteem of one individual, or to obtain political gain. We must devote our efforts to the fight against pushers, not to the fight against political opponents.

For years I have sought to establish an antidrug czar at the highest level in the Federal Government. I believe that we should add this provision to the package which is now before us. We must place an official in charge of our drug control program who will have the clout and authority to get the job done. I feel that this office should be given level authority. I feel that the creation of an office at a level lower than the Cabinet would be hindered by the infighting and backbiting that have frustrated our efforts up until now, and particularly in the last 5 years. The authority of the position would be analogous to that exercised by the Director of the Central Intelligence over U.S. intelligence policy. It is crucial that we create this office and that he answers directly to the President of the United States.

In our zeal to make war on the drug pusher and supplier, however, we must guard against the passage of overly-hasty, ill-conceived legislation. In the long run, such a bill could possibly work to the favor of those we wish to stop by allowing possible legal recourse. We must, rather, spend the required time to formulate lasting legislation that will effectively block the supply and abuse of drugs.

The threat facing our society, our families, and our way of life is very real and very dangerous. Yet we must never lose our resolve. The enemy will try any tactic, use any device, any weapon, but we must forever carry on the battle. We must all join together

to fight the drug pusher in the streets, in the hills, in the wilderness, and in the cities. Our freedom, our futures, and our families are at stake. We will win this battle—because we are Americans. But the fight may not be easy.

I appeal to my Senate colleagues to join me in supporting this bill. The commitment we make is a commitment to the future—a future, I pray, which will be free of the temptation, the waste, and the damage of drug abuse.

Mr. President, I yield the floor.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I join my colleagues in urging this body to act promptly and forcefully on the problems of drugs in this country. I say this having been acquainted with the problems of drug enforcement going back to 1959 in my work in the district attorney's office in Philadelphia, and continuing with my work in the Judiciary Committee of the U.S. Senate, including the introduction of a number of bills which relate to this problem.

Some say that the Senate is acting in response to a public outcry, and that we may be acting with undue haste.

Mr. President, I believe that we have ample time to give due deliberate consideration to the issue before us. Some we can accept, others we may have to reject, but the time for action is present.

These are not issues which are new to this body. We are familiar with them from having studied them in the past. The experience has been that it does take a public demand and a public outcry for matters to advance on the legislative agenda of the Congress, to receive such attention and such action.

I have sponsored legislation, Mr. President, which is almost 4 years old, which would allocate 1 percent of our Federal budget, or approximately $10 billion a year, to law enforcement. These legislative initiatives were introduced in the 98th Congress and reintroduced in the 99th Congress, calling for improved investigation, improved court administration, improved and expanded prison facilities, including the construction of some 200,000 jail cells.

But now, in the wake of an enormous problem which is confronting the country, and in the wake of public recognition in some polls boosting this issue to the No. 1 spot in public concern, this body and the House of Representatives are looking at the drug problem. Indeed, it is time for action.

Mr. President, I commend the leadership of the Senate for bringing this matter to the floor, and I commend my distinguished colleague, Senator PAULA HAWKINS from Florida, for focusing the attention of the Senate, the attention of the Congress, and, in part, the attention of the country on this issue.

During the course of the past 6 years while Senator HAWKINS and I have worked together, many of us have deliberated on these issues. Senator HAWKINS has an extra special concern. We all have a special concern. I have been worried about the problems of drugs in the big cities and small towns of Pennsylvania. Senator HAWKINS has a unique concern because of the expansive coastline of Florida, which is the point of entry for so many drugs. She is to be commended for what she has done.

Mr. President, this proposal will attack the drug problem at all levels, which is urgently needed.

The first line of attack is interdiction, to stop drugs from coming into this country from foreign sources. To do that, we need the assistance of aircraft, we need the assistance of boats, we need the assistance of more personnel. That is provided for in this bill.

We perhaps ought to back up one step and try to take further action to stop the growth of drugs at their source. In my work on the Foreign Operations Subcommittee for the past 2 years, I have pressed officials of the Department of State, including the Secretary of State, in hearings before the Foreign Operations Subcommittee to get tougher with foreign countries which have not reduced the production of drugs. I have given notice in the Foreign Operations markup of my intention to offer an amendment to reduce our foreign aid to some of those countries which are producing the drugs. That is even an ancillary step toward interdiction, to take stronger measures to stop the growth of drugs on foreign soils which then come into this country.

Beyond that, we need more resources for strike forces, more U.S. attorneys, more assistance for the DEA agents.

Then the next step is more prison space, a subject which long has had the attention of the distinguished majority leader [Mr. DOLE], who has worked on expanding prisons, as has this Senator. These ingredients, most of them, are present in this bill.

□ 1350

Also, this bill provides for important rehabilitation and education programs. It is not enough to work on the supply side with interdiction and enforcement of drug pushers, but it is important also to work on the demand side with education and rehabilitation programs.

Recently, I visited a series of drug rehabilitation and treatment centers—Saint Francis Hospital in Pittsburgh, the drug treatment facility in Wilkes Barre, the TASC group in Greensburg, and the Butler alternative to street crime program. Across the country, there is an urgent need for more resources on rehabilitation of those who are addicted to drugs.

Mr. President, there are two other provisions of the bill which I should like to note especially, bills which I had pending in the Judiciary Committee and which have been incorporated in this bill. One is legislation which would make it a violation of Federal law to sell illegal drugs in the proximity of schools. We find that the drug merchants are going into the vicinity of schools with impunity and poisoning children in the grade schools. There ought to be enhanced penalties on that particular kind of offense.

Another provision which is incorporated in this bill is an amendment to the Armed Career Criminal Act, which classifies drug pushers as career criminals, and calls for mandatory sentences of 15 years to life.

For the first time, in legislation passed in 1984, which this Senator had introduced in 1981, the Federal Government has taken a firm hand in street crime by making it a Federal offense for anyone who is a career criminal, defined as someone who has committed three or more robberies or burglaries, to be found in possession of a gun. This is a Federal crime, prosecutable in Federal court, with the individual judge calendar provision so the speedy trial law applies, with mandatory sentences of 15 years to life.

Earlier this Congress, in response to the success which the Career Criminal Act has had, I introduced legislation to expand this statute to make drug sales and other crimes of violence a predicate for application of the mandatory sentences of 15 years to life and utililzation of the career criminal provisions. That bill has been reported out of the Judiciary Committee and now is ready for independent floor action but has been incorporated in the general bill now before the Senate.

Mr. President, I think the time has come to act on drugs in a very forceful way. The incidence of drug abuse has grown enormously since I first saw it when I joined the district attorney's office 27 years ago in Philadelphia. It is time that we acted in a concerted way and I think this bill, although there are some parts that I disagree with and some amendments that I will vote for on modification of the bill, is timely. I think it is high time we took a strong stand. I thank the Chair and I yield the floor.

Mrs. HAWKINS. Mr. President, the Senator from North Carolina [Mr. BROYHILL] wishes to make a statement.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. BROYHILL. Mr. President, I rise in support of this legislation. I

think it is overdue and the American people are very much concerned about what is going on. I know legislation has been introduced not only in this body but also in the other body. The other body has already passed a bill. Recommendations coming out of the White House express the concern of the American people over drug abuse occurring in our schools and in the workplace, tearing apart families, ripping apart our schools and costing us in the workplace.

I know the surveys we have been reading with respect to the statistics on drug abuse and we want to make sure we address this problem.

I think the reason we find this body reacting the way it is has to do with the stories that we hear when we go home. We hear stories about drugs tearing apart families and our schools.

The legislation that is before us is the product of a bipartisan effort to come up with some meaningful additions to help us deal with this problem. No. 1, of course, is to deal with the flow of drugs across our borders and the need to have stronger means of stopping that flow.

More than that, we need help in our States; we need to help them with their efforts to educate and prevent drug abuse through our schools and also through community-based programs.

This is a responsible bill. I am sure there will be amendments adopted that we will need to consider carefully but will help strengthen the bill. But we are not going to solve this problem with the passage of this legislation. The problem is going to be solved when the American people, starting at the community level, begin taking the necessary steps to ensure that this kind of behavior is brought to an end. Our citizens working together are the key to ending this problem.

Mr. President, nearly two-thirds of all American high school seniors have used an illicit drug, at least once, by the time they finish high school. Approximately 92 percent of all high school seniors have used alcohol. The tragic consequences of drug use and alcohol abuse by students and citizens across this country have reached epidemic proportions. The effects are felt not only by these individuals and their families. They are evident in communities across our Nation. As a nation, we cannot afford to lose the skills, talents, and vitality of these individuals.

The legislation before us today is the bipartisan product of months of negotiations. While local and State law enforcement officials and other concerned groups are trying to rid our schools and streets of drugs, the Federal Government must keep doing its part to stem the flow of illegal drugs.

The grave threat to the American people posed by this influx of drugs makes necessary strong action.

We must assist the States in their efforts to educate and prevent drug abuse and alcohol abuse through our schools and community-based programs.

The legislation raises the current alcohol, drug abuse, and Mental Health Administration block grant authorization for fiscal year 1987 to $675 million. This is an increase of $375 million. This block grant, first established in 1981, gives States on a population per capita basis an allocation which allows them the flexibility to provide those programs that they determine will serve the greatest need. These additional funds will enable my State, North Carolina, to enhance its current drug abuse program. Furthermore, it will provide additional services and treatment for those individuals who need it most.

The legislation also directs the Attorney General to work with the States to enforce State and local laws established to combat this growing problem. It provides for additional personnel, equipment, facilities, personnel training, and supplies for more widespread apprehension of persons, who violate State laws relating to the production, possession, and transfer of controlled substances.

It also makes sure that those responsible for supplying our citizens with these illegal products pay for their crime.

Mr. President, parents can make sure their children are aware of the dangers of illegal drugs. Workers can protect themselves against accidents by requesting employers to take steps to ensure that their work environment is drug free. Members of business and civic groups can sponsor antidrug educational campaigns. And citizens who witness drug-related crimes can provide tips to police by calling hotline switchboards that many communities have set up.

Working together, I am sure that we can win this war.

I thank the majority leader for permitting me to have a few minutes to express my views.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. DOLE. Mr. President, let me thank everyone on each side. In a few minutes, we shall be taking up the tax reform conference report. What we are attempting to do now is follow the suggestion outlined earlier by the distinguished Senator from Connecticut [Mr. WEICKER] to make certain we are not subject to a point of order. I think we have cleared one of those away on each side. I am prepared to do it either way. I am hoping he will let us try to work that out, as he indicated earlier he would. We are in the clearing process now, and can satisfy the Senator's objections either late today or when we come back.

Mr. WEICKER. Mr. President, I suggest to the majority leader again that I am satisfied, as long as the point was raised and recognized as being a valid point. It can be worked out now, worked out tonight, worked out at the end of the bill, as long as there is a recognition that the point that was made is valid.

Mr. DOLE. I have discussed it with the distinguished Senator from Florida [Mr. CHILES]. We have indicated two options—two revenue bills. We are not in the process of seeing which way we are going to go.

Mr. CHILES. I think that is going to take a little longer on our side and with the indulgence which the Senator from Connecticut has offered, I think we will be able to do that.

Mr. WEICKER. As long as I have assurance that the problem is going to be worked out, the word of the distinguished Senator from Florida and the distinguished Senator from Kansas is OK with me.

Mr. DOLE. We have given notice that we will attempt to do that.

□ 1400

I think the Senator from Illinois wanted to speak.

Mr. CHILES. I think we have about one more statement on our side that I know of right now and then I think if the distinguished majority leader wishes to go off the bill for a while we could then go to tax reform.

The PRESIDING OFFICER (Mr. BROYHILL). The Senator from Illinois is recognized.

Mr. DIXON. I thank the Chair very much. I thank the majority leader.

Mr. President, today the Senate considers sweeping legislation designed to meet this Nation's drug problem. The terrible effects of drug abuse in our schools and on our streets have forced the Congress to act. As a cosponsor of the legislative package before the Senate, I am the first to admit that the bill is not a perfect one.

It is not ideal, Mr. President, but it is a start. It represents a great deal of negotiation within the State, and today it enjoys broad bipartisan support. This legislation strikes at drug-related crimes in the area of law enforcement and sentencing reform. Penalties for drug offenses will be increased.

In the area of narcotics interdiction, this package devotes substantial resources to stem and eventually halt the flow of illegal drugs into this country from abroad. This legislation will give our Government and enforcement authorities the tools needed to seize and prosecute those who transport drugs into America from abroad. These tools include surveillance aircraft to track ships and planes, radar systems to detect illegal narcotics deliveries and high-speed pursuit heli-

copters to carry out drug interdiction missions. The number of Coast Guard and Customs Service personnel, the people who actually carry out interdiction missions, will be increased, and their resources improved.

Internationally, Mr. President, I support the carrot-and-stick approach toward drug-producing foreign nations that receive American assistance. The Senate will likely increase the amount of funds available to narcotics "source countries" in an effort to aid in crop eradication and crop substitution. However, this legislation will also invoke serious penalties upon nations which do not pursue a vigorous anti-narcotics campaign.

Finally, Mr. President, other major provisions of S. 2878 will expand and improve current networks of alcohol and drug abuse services in education, treatment, and rehabilitation. These cannot be "quick fix" services but rather a mix of services requiring a long-term investment.

It is my desire that in this legislation, we enhance a true partnership between States and the Federal Government to eradicate this devastating problem of drug and alcohol abuse.

Throughout my own State of Illinois, a network of local programs exist in treatment, prevention, education, and intervention. These community-based programs were designed not only to provide quality services, but have grown to become a source of expertise in substance abuse issues, involve significant community interests, and have often been cited as leadership models for other programs throughout the Nation.

Mr. President, this has not been good enough. Signficant gaps still exist in available alcohol and drug abuse services in Illinois.

Current treatment programs are severely overcrowded. According to information supplied to my office, in some instances, drug abusers must wait as long as 8 to 10 weeks for admission to a treatment program. The demand for prevention services at the local level far exceeds the available resources to respond to the demand. Certain population groups remain underserved, including juvenile offenders, school dropouts, and many others. I feel certain this is not unique to the State of Illinois.

In conclusion, Mr. President, I believe S. 2878 represents a remarkable compromise. This bill does not, in my view, contain everything this country needs, especially in the areas of interdiction or education and prevention. It is, however, a first step in a time when the Congress is faced with serious budgetary restraints.

I am delighted, Mr. President, to enthusiastically support this legislation.

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.

□ 1410

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.

Mr. MATHIAS. Mr. President, very few Americans, and certainly very few Members of the Senate, doubt the need to deal forcefully with the drug problem which is besetting the people of the United States. The effect of drugs on our safety, on our economy, and, most importantly, on our children, threatens the welfare of our entire society.

The President of the United States, our colleagues in the other body, and those who helped to put together the so-called bipartisan package in the Senate should be commended for their efforts to confront this very serious problem and to move it in the direction of some successful solution.

It sometimes happens, however, that in our haste to do something about a serious problem, we create a whole new array of problems.

□ 1420

And I fear that in our haste to do something about drugs before the end of this session of Congress, in other words almost immediately, we are in danger of doing what Alexis deTocqueville warned us against 150 years ago: "flattering the passions." Because when we flatter the passions, we are in danger of forgetting fundamental principles. The threat is not impotence, because there is power in Congress. Rather it is the precipitous use of legislative power that poses the greatest threat to our individual liberties and social institutions.

Very candidly, none of us has had an adequate opportunity to study this enormous package. It did not emerge from the crucible of the committee process, tempered by the heat of debate. The committees are important because, like them or not, they do provide a means by which legislation can be carefully considered, can be put through a filter, can be exposed to public view and public discussion by calling witnesses before the committee. That has not been the origin of this bill. Many of the provisions of the bill have never been subjected to committee review. The bill before us, with all due respect to those who drafted it, is a rough draft. It is the one that needs refining.

I have to say, further, that this drug bill is a moving target. I have considered what I might say here in the Senate when the drug bill came to the floor, and I have to scrap several previous drafts of remarks that I might have made because the bill has changed so radically. You cannot quite get a hold on what is going to be in the bill at any given moment. We have had drafts of different portions of the bill circulating around the Senate corridors within the last 24 hours.

Really, the only thing that we can be sure of is that the ink on the bill that finally comes before the Senate is not going to be dry. So I would warn Senators when they pick this bill up not to smudge their fingers with the wet ink because that is the kind of process we are engaged in.

The original text of S. 2850, the bill introduced by the majority leader on Tuesday, raised a great many serious questions. Some of these questions are no doubt answered by the refined version of the legislation, Senate bill 2878, that was introduced last night. But the questions remain relevant because of the likelihood that many provisions deleted from the original bill, or presented in a revised form, will undoubtedly resurface in the guise of amendments to the latest draft.

We can also be confident that the text that we will ultimately debate will contain the ambiguities and obscurities that inevitably mar complex legislation that is written and considered in haste, without the benefit of the normal process of legislative deliberation, without going through the committee filter, without having the input of the public through the calling of witnesses.

We may soon be voting on major revisions in a number of important areas of the law, creating rules which will apply far beyond the drug situation because they will be precedential. They will be important issues such as establishing a Federal death penalty, vitiating the exclusionary rule, and robbing mental health programs of their already meager funding.

In a spasm of effort to deal with a pressing problem, and no one here doubts that this is truly a pressing problem, we are trampling on subjects that, although controversial, have heretofore always been taken very, very seriously.

We simply must not be slaves to the moment or instruments of our passions. It would be the ultimate folly to sacrifice our liberties and imperil vital health programs, only to discover that the drug crisis has not abated.

If we are contemplating changes to important individual freedoms, if we are about to alter major social commitments, then those modifications simply must be discussed fully. They must be understood totally. The consequences must be anticipated.

We have to ask ourselves, what does the provision achieve? What are we really going to get with the high price we are going to pay? How effective is it

going to be? Is there any better alternative? Is there another way to do it?

Finally, I think we cannot avoid the nagging question of how the Nation is going to pay the bill for a drug program. There is no question that we should pay it. But exactly how are we going to pay it?

In a few days, perhaps even before the end of today, we will vote on a monumental tax bill, but it is a tax bill which we are assured by its authors is revenue neutral. So we are not going to raise any revenue out of that bill to pay for a drug program. There is no money in it for a drug program.

The other body has been very aboveboard and quite direct about its drug bill. They added $2.1 billion to the continuing appropriations resolution and they financed it by an across-the-board cut of all other programs. They said, "This is going to cost us over $2 billion. It is money we need to spend, and we will just take a little bit off the top of every other program and find that $2 billion."

It is a very direct approach, and it raises a little cash. But I do not think it reflects very much considered judgment about budget priorities.

The President was equally up front about how to pay for the proposal. he knew that there was a bill that was going to be presented and had to be paid and he suggested a way to pay it. He said take a billion dollars from funds now allocated to other domestic programs.

The Senator from Connecticut [Mr. WEICKER] has declared this type of proposal to be not a war on drugs but a war on the mentally ill, a war on the sick and the poor.

Mr. President, I ask unanimous consent to have printed in the RECORD an article from the Chicago Tribune which reports Senator WEICKER's speech.

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

WEICKER SEES CREATIVE BOOKKEEPING, NOT NEW CASH

WASHINGTON—Sen. Lowell Weicker charged Thursday that President Reagan's antidrug program will be financed by "stealing" funds from other programs, not by new dollars.

Weicker, chairman of the Senate appropriations subcommittee that handles health and education programs, said that the $900 million in "increased resources" planned by Reagan will come from money now allocated to other domestic programs.

"The President does not propose spending new money on the war on drugs," Weicker said in a Senate speech. "Rather, he proposes stealing the money from one program to spend it on another."

Weicker said it was his understanding that $100 million will be taken from student aid programs and given to local school districts for drug education and law enforcement coordination. He said $233 million will be shifted from current drug programs and allocated to the National Institute of Drug Abuse for drug treatment, prevention and research.

Among the cuts, Weicker said, will be $75 million in block grants for community and migrant health centers; $2 million from the block grants for preventive activities to reduce morbidity and mortality; $88 million from the National Institutes of Health earmarked for research $6 million from the National Institute of Mental Health for prevention of mental illness; $1.3 million from the National Institute of Alcohol and Alcoholism; and $60 million from the low-income home energy program.

Weicker said states will be able to shift alcohol, drug abuse and mental health block grants to increase drug abuse activities, if they do so without additional money.

□ 1430

Mr. MATHIAS. Before the Senate passes the bill, every Senator and all of the Nation's taxpayers ought to know how these programs are going to be paid for.

Is it going to be new money? Is it going to be money taken from other programs? Is it going to be shifted around in some way which is good? Or is it going to be paid for by robbing programs that are already far too small?

In sum, there are a number of unanswered questions, and there is very little evidence to answer them, at least on the present record. Perhaps the biggest question of all is, even with all of the recommended changes, will this bill be effective, or are we spinning our wheels? Is all of this concern going to be squandered on a wasted effort?

Only careful and thoughtful deliberation can answer that question, and I urge every Senator to bring that kind of deliberation to this process, because the American people, our families and our children, deserve nothing less.

Mr. HECHT. Mr. President, I rise today to speak in opposition to something which seems to have become a veritable American tradition; the tolerance of widespread drug abuse in our Nation's schools. Concurrently, Mr. President, I wish to express my steadfast support for S. 2878, the Antidrug Abuse Act of 1986, of which I am a cosponsor.

Mr. President, statistics show that nearly two-thirds of our American teenagers have used an illicit drug at some time before their senior year of high school. A particularly unfortunate aspect of this fact becomes more apparent when one considers that drug use impairs the memory, alertness, and achievement of our teenagers; with frequent users of marijuana earning below average and failing grades twice as frequently as their classmates. How will we be able to educate our young—the inheritors of our Nation—in an environment so clouded with the ill effects of drug abuse?

Moreover, Mr. President, not only have many of our Nation's schools witnessed an increase in drug abusing students, but in some cases these educational institutions have inadvertently come to furnish a veritable free market in which drug dealers may merchandise their goods. Drug transactions occurring on high school campuses, in fact, have come to represent a significant percentage of all drug sales to American teenagers. Even more frightening is that statistics show a number of illegal drugs—particularly marijuana—are used on school grounds. Students provide the demand, drug dealers provide the supply, and in too many cases, our schools provide a marketplace for this deadly exchange.

Mr. President, in current attempts to curtail the use of drugs, education programs have been implemented to reach young children before they are exposed to drugs. These programs, however, are not being taught in our junior high schools, as some might imagine—no, the proliferation of drugs is too widespread for preexposure programs to be successful at that late level—rather, these programs are targeted at fourth and fifth graders. In other words, Mr. President, the problem has become so great that we must now fill the days of our 9- and 10-year-olds with the harsh reality that they may face a near-term drug confrontation.

I wish to point out to my colleagues that the escalation of drug abuse is shown not only by the number of this scourge's victims, but may also be measured in the potency and availability of today's illicit drugs. The purified form of cocaine known as "crack," for example, has lead to a number of drug-related deaths.

In closing, Mr. President, I would simply like to remind my colleagues of the responsibility we all share to protect and nurture our young people. Today, in America, the most serious threat to our children is drug abuse. The continuing tolerance and misconception of this Nation's drug problem stand as obstructions to the corrective action which must be undertaken if we are to rescue our young people, our future, from this terrible epidemic. Congress has an obligation to remove these obstructions. To this end, I wholeheartedly support the omnibus antidrug measure introduced in the Senate, and urge my colleagues to do the same.

Mr. COCHRAN. Mr. President, the bipartisan measure now before the Senate represents more than just a few weeks' work on directing our national attention and resources to combat the drug problem.

This package draws on measures which have been introduced and debated in both Houses of Congress, some of which have already been approved by this body. Also included are proposals sent to us by the President

and Mrs. Reagan as part of the national crusade they are leading against the war on drugs.

I am pleased to be a cosponsor of this comprehensive package, which attempts to coordinate activities and resources to arrest both the supply and demand for illegal drugs.

My State of Mississippi, along with other Gulf Coast States, is a prime entry point for much of the drug-smuggling activity in our country. The people of Mississippi don't want that distinction, and I believe this bill will help us do something about it.

Title III of this bill will do much to strengthen drug interdiction efforts. It contains language, already passed by the Senate, to provide $212.1 million to the Customs Service and Coast Guard for better intelligence and interdiction. It also allows at least 500 Coast Guard personnel to be assigned to naval vessels to assist in drug interdiction.

The bill tightens customs procedures and requirements, increases penalties, and expands the authority of the Secretary of the Treasury in various customs matters.

The bill also directs the Department of Defense to be an integral part of the comprehensive, national drug interdiction program. It permits the Department of Defense to loan personnel to civilian law enforcement agencies to operate and maintain equipment used in foreign interdiction activities.

It is necessary that we secure greater international cooperation with U.S. efforts to combat drug trafficking. This package increases international narcotics control assistance by $55 million for fiscal year 1987, including at least $10 million for procurement of aircraft to interdict drug traffic primarily from Latin America.

In addition to interdiction efforts, the bill would enhance law enforcement efforts at the State and local levels against drug trafficking. It also provides additional resources for eliminating drug use in the schools and work place, and for enhancing drug abuse treatment capacity.

The elements of this legislation which increase public awareness and prevention of drug abuse are necessary components of this comprehensive effort to achieve a drug-free society. We can best help our citizens understand the high stakes involved in drug abuse by providing support to those community-based education and prevention programs which have already proven themselves effective.

I am pleased to be a part of this effort in the Senate to develop legislation that will translate our Nation's commitment to arrest drug abuse into action.

Mr. MOYNIHAN. Mr. President, I rise today to join my colleagues in introducing this comprehensive, bipartisan narcotic control bill which provides desperately needed funds and programs to combat the drug abuse crisis in this country.

That the issue of drug abuse is one of great concern to the people in this country is no surprise. A New York Times survey conducted last month revealed that 13 percent of those interviewed named drugs as the Nation's most important problem, more than those who cited unemployment, fear of war, or other economic difficulties. To illustrate the degree to which this issue has intensified in the minds of the American public, in an April survey, only 2 percent selected drugs as the country's most important problem.

Irving Kaufman, Chairman of the President's Commission on Organized Crime, has called for "persistent and unyielding assaults on both supply and demand." I agree—we can only make progress by addressing both parts of the drug equation. And we must make such "assaults" effective by providing adequate assistance to those Federal, State, and local authorities who face the difficult task of stamping out drug use in this country.

That is exactly what this bill seeks to do: Provide additional resources to reduce demand for illegal drugs and to limit their supply.

Just yesterday, the Washington Post reported that 80 percent of all the lethal derivative of cocaine, crack, available in the United States, originates in New York City. It is all too apparent that New York City is badly in need of additional funding to disrupt the production and distribution of crack and other illicit drugs; it is not alone. Stopping cocaine and crack addiction must become a priority for all of us. A civilized society cannot ignore these cries for help.

We have an obligation to take active measures in the war against drugs, before it is too late. Drug, related injuries, including crime-related deaths, have become all too commonplace. Just in my own State, I am acutely aware of a marked surge in crime in the last 6 months directly attributable to drugs. In July, the New York City Police Department reported that the number of major crimes rose to 249,090, and that was just for the first 5 months of this year. Of the 653 murders which occurred during this year, 35 percent were drug related. In addition, reported injuries due to cocaine smoking rose from 600 to 1,100 between 1984 and 1985; and 83-percent increase.

Our total package offers a multipronged attack against illegal drugs and the threat it poses to our society. To address this problem, this proposal includes $115 million for State and local assistance law enforcement programs. I had provided for this same assistance in S. 15, the State and Local Narcotics Control Assistance Act, which I introduced on the first day of the 99th Congress, the same time crack hit the streets of New York—and other urban areas—but before it hit the papers.

In fact, the provisions of S. 15 comprise the majority of the law enforcement provisions in this bill. These provisions assist local authorities in the apprehension, prosecution, and adjudication of criminal defendants, building correctional facilities, and implementing illicit crop eradication programs in States.

The most disturbing aspect of this problem deals with the young people of this country. In 1985, the New York State Division of Substance Abuse Service released the results of a survey on drug use among secondary school students in New York. The survey estimated that an astounding 60 percent of our secondary school children, more than 900,000 students, reported having tried illegal drugs. Even more distrubing was the estimate that 31 percent of all seventh grade students had tried illegal drugs while in elementary school. Children all, some of whom were only 12 years old. And they are likely to continue to use drugs, with increasing frequency and dependence.

Equally as tragic is the phenomenon of crack babies. During a recent visit to Harlem Hospital, I saw 1-pound babies writhing with horrible withdrawal pains. They are called crack babies and they began their lives addicted to crack because their mothers were hooked on the drug.

To combat the demand for drugs, this bill provides funds for education and prevention aimed at our Nation's youth. Treatment and rehabilitation are also essential elements of any effort to keep people off drugs. S. 15 called for $125 million for grants to States for education, prevention, treatment, and rehabilitation programs aimed at keeping people off drugs, or rehabilitation drug users for productive employment and drug free lives. I am pleased to report that the bipartisan measure we introduce today also provides $125 million for this purpose.

My provisions of this bill dictate that 75 percent of the State and local grants for alcohol and drug abuse prevention, education, and treatment shall be distributed relative to the needs of each State. It is my intent that these grants will provide direct aid to those States, such as New York, which are totally besieged by a drug and alcohol epidemic. At my request, this bill also directs the National Institute on Drug Abuse to research narcotic antagonists for treatment of cocaine and heroin addiction. Perhaps if these efforts are successful, we will be able to still the cries of the babies I held in Harlem.

Drug problems throughout the country all stem, in part, from the huge supply of illegal drugs into this country. In order to decrease the supply of drugs into this country, this bill increases enforcement funding for Federal agencies, including Customs and the Drug Enforcement Administration, provides funds for the purchase of aircraft for drug interdiction, calls for tariff penalties against uncooperative source countries, and increases international narcotics control, including new research for chemical herbicides for eradication of coca plants, and loans through the Multilateral Development Banks for eradication and crop substitution.

This is not the first flood of drugs into our Nation which I have witnessed in my years of public service. I faced a similar crisis in 1969, when I was a special assistant for urban affairs for President Nixon. While today the crisis involves "crack," then it involved heroin, a narcotic derived from the poppy plant just as cocaine is derived from the coca plant. At that time, poppy plants were grown primarily in Turkey, processed into heroin in Marseilles, and then smuggled into New York.

In order to cut off the supply of heroin, I persuaded the President to provide financial assistance to help Turkish farmers make the transition from a poppy-based agriculture to a more general agricultural economy. With our help, the program to eradicate illicit poppy production succeeded and the French connection "collapsed," creating a severe shortage of heroin in every major drug center in the country.

It comes as no surprise to me, then, that our focus has now turned to countries like Bolivia, Peru, and Columbia as they provide the raw materials for some of the world's most powerful drug traffickers. I support the efforts of our government and the Bolivian authorities in trying to reduce the supply of cocaine from those countries through programs of crop eradication and substitution. Our bill calls for loans to such countries through Multilateral Development Banks for crop eradication and substitution.

Some might say that we can't afford to allocate more money to the fight against illegal drugs. But I say we can't afford not to. The cost of drug abuse to our society are enormous. According to a study commissioned by the Alcohol, Drug and Mental Health Administration, in 1984, drug abuse costs society a total of $60 billion every year. This includes $20 billion spent to prosecute and imprison criminals convicted of drug dealing and related crimes. It also includes the $2 billion we spent each year to treat and rehabilitate drug abusers. Clearly, there is too great a disparity between the cost of drug abuse and the amount of money we spend to prevent it.

The time has come to provide sufficient ammunition to the Federal, State, and local officials who are on the front lines of the fight against drug abuse. This bipartisan measure is that ammunition, and I urge each of my colleagues to support this important initiative.

Mr. ANDREWS. Mr. President, I want to support S. 2878, the Anti-Drug Abuse Act. This bipartisan effort represents a comprehensive strategy to stop drug abuse. Two weeks ago, in a nationally televised address, President Reagan stated that "drug abuse is a repudiation of everything America is. The destructiveness, and human wreckage mock our heritage."

We must not and cannot fund this legislative initiative at the expense of other essential federally funded programs. This past year, we have worked long and hard to guarantee that this Nation's budget sufficiently funds education, health, agriculture, transportation, and defense programs, while reducing our national deficit.

I note that this bill provides for increased authorizations for the Coast Guard. Bill language also calls for the Department of Defense and its resources to be an integral part of a comprehensive national drug interdiction program. Department of Defense cooperation is crucial to the success of our antidrug effort. I believe that the capital assets and personnel levels of the Coast Guard need to be augmented to effectively wage the war on the illegal smuggling of drugs into the United States.

As chairman of the Appropriations Subcommittee on Transportation, I have advocated for years that the Coast Guard use Navy assets, in particular the E-2C aircraft in the drug fight. Right now the Navy flies E-2C's in training missions over the Caribbean and gulf coasts. What better use of this flight time could there be than to permit Coast Guard personnel to be on-board to target maritime smuggling suspects. That intelligence, gathered with the use of Navy equipment, could then lead to an actual inspection and arrest by the Coast Guard vessels.

I have pushed this approach for years, but we've met with continued resistance from the Defense Department. Today, we have an eager and ready Coast Guard which desires joint use of these assets, and a Defense Department which has finally listened to Congress' message to help out in the drug war.

However, when we assign law enforcement duties to the Armed Forces, we must be careful to insure civilian control over this effort. The Posse Comitatus Act was enacted following the war between the States to preclude the use of Federal troops in enforcing public law. We found in the past, both in our own history and in the history of other nations, that the use of military forces to keep law and order has resulted in the decline of liberty.

Despite some reservations, the need is clear that this legislation is a much needed first step in the continuing war against substance abuse.

During the next few days, we will will have an opportunity to consider these initiatives in more detail as the Senate deals with the appropriations to implement this legislation.

ORDER OF PROCEDURE

Mr. DOLE. Mr. President, we hope to turn to the tax conference report momentarily. The principals are here, Senator LONG, Senator PACKWOOD. As far as I know, there is no objection turning to the conference report, but I want to wait until the distinguished minority leader is available.

Let me indicate while we are waiting that it is still my hope to complete business by the third of October, and it can be done. But there is not much room for slippage. That would mean completing drugs and the tax bill by the weekend. On Monday and Tuesday of next week, the continuing resolution. On Wednesday of next week, I think there will be a veto override which I understand will be debated at some length. On Thursday and Friday, until sundown on Friday, probably the impeachment trial. And then other little assorted things that come in and out.

That is the best-case scenario. I get encouraging sounds from the House side that they now believe that they are within striking distance, depending largely upon the continuing resolution. which only passed the House by one vote.

I know a lot of my colleagues are concerned about whether they should schedule any activity between, I guess, the sixth of October and the 11th of October. I would hope you can, but I do not know. We could still be here that week.

□ 1450

Mr. President, while we are waiting, let me dispose of three legislative matters.

EXPRESSING THE SENSE OF CONGRESS IN OPPOSITION TO EMPLOYMENT DISCRIMINATION AGAINST CERTAIN INDIVIDUALS

Mr. DOLE. Mr. President, I send a concurrent resolution to the desk and ask for its immediate consideration. This concurrent resolution is offered on behalf of Senators HEINZ, GORE, DOLE, BURDICK, MELCHER, LAUTENBERG, HAWKINS, SPECTER, EXON, DIXON, MATSUNAGA, GLENN, SIMON, CHAFEE,

DURENBERGER, INOUYE, CRANSTON, HECHT, HART, KERRY, HUMPHREY, WARNER, WILSON, COHEN, MCCONNELL, BUMPERS, STAFFORD, ABDNOR, TRIBLE, GORTON, RIEGLE, and PRYOR.

The PRESIDING OFFICER. The clerk will state the concurrent resolution.

The assistant legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 166) expressing the sense of Congress in opposition to employment discrimination against individuals who have, or have had, cancer based on such individual's cancer history.

The PRESIDING OFFICER. Is there an objection to the immediate consideration of the concurrent resolution?

Mr. BYRD. No objection.

Mr. CRANSTON. Mr. President, I am pleased to join the distinguished Senator from Pennsylvania [Mr. HEINZ] in introducing Senate Concurrent Resolution 166, expressing the sense of Congress in opposition to discrimination against individuals who have or have had cancer.

Mr. President, biomedical science has made remarkable progress in the fight against cancer. Many cancers, particularly those afflicting young people, are treatable—even curable. We applaud our scientists for helping transform more and more cancer victims into cancer survivors.

Recovered cancer patients are able and desire to enter or reenter the workforce to become productive Americans.

That's what makes it especially tragic that, after winning the fight for their lives, many cancer patients are then faced with another uphill battle against discrimination.

Mr. President, according to the American Cancer Society, 1 out of every 5 persons with a cancer history—more than 1 million persons—has encountered employment discrimination.

Mr. President, section 504 of the Rehabilitation Act of 1973, of which I was a principal coauthor, prohibits discrimination against handicapped individuals under any program or activity receiving Federal financial assistance or conducted by a Federal agency. Taken together with sections 501 and 503 of this act—requiring Federal agencies and Federal contractors, respectively, to take affirmative action to employ and advance disabled persons—this legislation has been and continues to be instrumental in opening doors previously used to shut out disabled Americans. For the purposes of these provisions, section 7(7)(B) of the Rehabilitation Act of 1973, defines the term "handicapped individual" explicitly to include any person "who first, has a physical or mental impairment which substantially limits one or more of such person's activities, second, has a record of such an impairment, or third, is regarded as having such an impairment." Without question, persons with cancer or a history of cancer are covered by this definition and are thus entitled to every effort of the Federal Government available under this law to protect them from discrimination.

Although great strides have been made under sections 501, 503, and 504 in helping ensure that persons with disabilities are not denied full participation in our society, it is tragically evident from the figures I have earlier cited regarding the number of individuals with a history of cancer who have been the victims of employment discrimination that we still have much to accomplish if disabled persons are to be provided the rights and opportunities that are each American's due.

Mr. President, if is my hope that this resolution will help promote a greater awareness and understanding of individuals who have or have had cancer. I urge all of my colleagues to review and support this resolution.

Mr. HATCH. Mr. President, I would like to commend Senator HEINZ for the work he has done on Senate Concurrent Resolution 166, expressing the sense of Congress in opposition to employment discrimination against individuals who have, or have had, cancer based on such individual's cancer history. I would also like to express my general support for the concept of educating the public about the progress we have made in treating cancer.

Today, 1 of every 2 persons diagnosed as having cancer is cured. That means that there are more than 5 million people alive today who have had cancer. And there is no doubt that many of them are discriminated against when it comes to employment or insurance.

The solution to this problem is public awareness. People who have had cancer historically had a much shorter life expectancy. Insurance companies base their rate on historical data. Today, because more people are living with cancer, insurance companies will adjust their rates for cancer patients downward.

Likewise, employers have been reluctant to hire and train persons with a history of cancer, who might have a shortened life expectancy. In addition, employers were concerned about frequent hospitalization and its effect on employees' productivity and their health care costs. But today, many cancer patients can be cured and return to many years of productive employment.

As I and other Senators have pointed out, it is important that the public learns about the progress we have made. Attitudes toward cancer patients should and are changing. Most of us now personally know someone who has been cured of cancer.

But let me express a word of caution. I am cautious about trying to change these attitudes through legislation. Among employee benefits, for example, is insurance. Insurance rates are generally determined by one's risk of injury or illness. People who smoke, are overweight, have high blood pressure, or have been exposed to AIDS are charged higher rates because they present a greater risk. Those presenting a lower risk should and do pay less. Thus I am not willing to mandate equality in the marketplace which would amount to a forced cross-subsidy, but I am willing to endorse a broad policy statement opposing unfounded disparate treatment.

Mr. President, having said that, I would like to again commend Senator HEINZ for his work and leadership in this area. I hope that I can work with him to increase the public awareness of the progress we have made in this area.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

The concurrent resolution (S. Con. Res. 166) was agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, reads as follows:

S. CON. RES. 166

Expressing the sense of Congress in opposition to employment discrimination against individuals who have, or have had, cancer based on such individual's cancer history.

Whereas there are more than five million Americans in our Nation with a cancer history and an estimated one million of them face the terrible injustice of employment discrimination;

Whereas one out of every two individuals now diagnosed as having cancer is cured, and as a result, the number of survivors will continue to dramatically increase;

Whereas employment discrimination against cancer survivors ranges from job denial to wage reduction, exclusion from and reduction in benefits, promotion denial, and in some cases outright dismissal; and

Whereas we must permit, and encourage, cancer survivors to remain fully integrated and productive members of society: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that the Congress—

(1) opposes employment discrimination against individuals who have, or have had, cancer based on such individual's cancer history, and

(2) urge that such individuals receive fair and equal treatment in the workplace.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the concurrent resolution was agreed to.

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

The motion to lay on the table is agreed to.

EXPORT IMPORT BANK ACT AMENDMENTS

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate now turn to the consideration of calendar 975.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 5548) to amend the Export Import Bank Act of 1945.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its immediate consideration.

The Senate proceeded to consider the bill.

AMENDMENT NO. 3033

(Purpose: To achieve various foreign and domestic economic policy and trade objectives)

Mr. DOLE. Mr. President, I send an amendment to the desk on behalf of Senator HEINZ and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE], for Mr. HEINZ, proposes an amendment numbered 3033.

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

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

The amendment is as follows:

At the end of the bill add the following:

"POLICY TOWARD UNITED STATES BUSINESS TRANSACTIONS IN ANGOLA

"SEC. . (a) The Congress finds that—

"(1) the Marxist Popular Movement for the Liberation of Angola (hereafter in this resolution referred to as the "MPLA") has failed to hold fair and free elections since assuming power in Angola in 1975:

"(2) Angola currently harbors more than 35,000 Soviet and Cuban troops and advisers;

"(3) the Cubans and Soviets have channeled more than $4,000,000,000 in assistance and military aid in furtherance of this intervention in Africa;

"(4) the MPLA government of Angola obtains more than 90 percent of its foreign exchange from the extraction and production of oil;

"(5) most of Angola's oil is extracted in Cabinda Province, where 75 percent of it is extracted by the Chevron-Gulf Oil company;

"(6) the MPLA has refused to take meaningful steps to end its dependency on Soviet and Cuban forces, engage in national reconciliation efforts within Angola, or encourage the independence of Namibia;

"(7) United States business interests are in direct conflict with United States foreign policy objectives in aiding the MPLA government of Angola, which directly opposes Jonas Savimbi and UNITA, recipients of United States support; and

"(8) imposition of severe economic sanctions will encourage the MPLA to promote a fair political solution and negotiate with the United States toward a peaceful settlement.

"(b)(1) It is the sense of the Congress that the interests of the United States are best served when United States business transactions conducted in Angola do not directly or indirectly support Cuban troops and Soviet advisers.

"(2) The Congress hereby requests that the President use his special authorities under the International Emergency Economic Powers Act to block United States business transactions which conflict with United States security interests in Angola.

"GROUP ELIGIBILITY REQUIREMENTS

"SEC. . (a) Section 222 of the Trade Act of 1974 (19 U.S.C. 2272) is amended to read as follows:

" "SEC. 222. GROUP ELIGIBILITY REQUIREMENTS.

" "(a) The Secretary shall certify a group of workers (including workers in any agricultural firm or subdivision of an agricultural firm) as eligible to apply for adjustment assistance under this chapter if the Secretary determines that—

" "(1) a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision of the firm, have become totally or partially separated, or are threatened to become totally or partially separated,

" "(2) sales or production, or both, of such firm or subdivision have ceased absolutely, and

" "(3) increases of imports of articles like or directly competitive with articles—

" "(A) which are produced by such workers' firm or appropriate subdivision thereof, or

" "(B) in the case of workers of a firm in the oil or natural gas industry, for which such workers' firm, or appropriate subdivision thereof, provides essential parts or essential services,

contributed importantly to such total or partial separation, or threat thereof, and to such decline in sales or production.

" "(b) For purposes of subsection (a)(3)—

" "(1) The term 'contributed importantly' means a cause which is important but not necessarily more important than any other cause.

" "(2) Natural gas shall be considered to be competitive with crude oil and refined petroleum products.

" "(3) Any firm, or subdivision of a firm, which—

" "(A) engages in the exploration for oil or natural gas,

" "(B) produces or extracts oil or natural gas, or

" "(C) processes or refines oil or natural gas, shall be considered to be a part of the oil or natural gas industry and to be a firm providing essential services for such oil or natural gas and for the processed or refined products of such oil or natural gas.

" "(4) Any firm which provides essential parts, or essential services, to another firm that conducts activities described in paragraph (3) with respect to oil or natural gas, as its principal trade or business, shall be considered to be a part of the oil or natural gas industry and to be a firm providing essential services for such oil or natural gas and for the processed or refined products of such oil or natural gas.".

" "(b) Subsection (c) of section 251 of the Trade Act of 1974 (19 U.S.C. 2341(c)) is amended to read as follows:

" "(c)(1) The Secretary shall certify a firm (including any agricultural firm) as eligible to apply for adjustment assistance under this chapter if the Secretary determines that—

" "(A) a significant number or proportion of the workers in such firm have become totally or partially separated, or are threatened to become totally or partially separated,

" "(B) sales or production, or both, of such firm have decreased absolutely, and

" "(C) increases of imports of articles like or directly competitive with articles—

" "(i) which are produced by such firm, or

" "(ii) in the case of a firm in the oil or natural gas industry, for which such firm provides essential parts or essential services,

contributed importantly to such total or partial separation, or threat thereof, and to such decline in sales or production.

" "(2) For purposes of paragraph (1)(C)—

" "(A) The term 'contributed importantly' means a cause which is important but not necessarily more important than any other cause.

" "(B) Natural gas shall be considered to be competitive with crude oil and refined petroleum products.

" "(C) Any firm which—

" "(i) engages in the exploration for oil or natural gas,

" "(ii) produces or extracts oil or natural gas, or

" "(iii) processes or refines oil or natural gas, or

" "(iv) provides essential parts, or essential services, to another firm that conducts activities described in any of the preceding clauses as its principal trade or business,

shall be considered to be in the oil or natural gas industry and to be a firm providing essential services for such oil or natural gas and for the processed or refined products of such oil or natural gas.".

"(c)(1) the amendments made by this section shall apply with respect to petitions for certification which are filed or pending—

"(A) on or after September 30, 1986, and

"(B) before October 1, 1987.

"(2) Notwithstanding any other provision of law, no worker shall be eligible for assistance under subchapter B of chapter 2 of title II of the Trade Act of 1974 if—

"(A) such worker is covered by a certification made under subchapter A of such chapter only by reason of the amendment made by subsection (a) of this section, and

"(B) the total or partial separation of such worker from adversely affected employment occurs after September 30, 1987.

"OPPOSITION OF MULTILATERAL ASSISTANCE FOR FOREIGN SURPLUS COMMODITIES AND MINERALS

"SEC. . (a) The Secretary of the Treasury shall instruct the United States Executive Directors of the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Inter-American Development Bank, the International Monetary Fund, the Asian Development Bank, the Inter-American Investment Corporation, the African Development Bank, and the African Development Fund to use the voice and vote of the United States to oppose any assistance by these institutions, using funds appropriated or otherwise made available pursuant to any provision of law, for the production or extraction of any commodity or mineral for export, if—

"(1) such commodity or mineral, as the case may be, is in surplus on world markets; and

"(2) the export of such commodity or mineral, as the case may be, would cause substantial injury to the United States produc-

ers of the same, similar, or competing commodity or mineral.

"(b)(1) The amount of payments which the United States may make to the paid-in capital of an international financial institution described in subsection (a) during any capital expansion or replenishment of such institution may not exceed the amount of funds which such expansion or replenishment minus an amount which bears the same proportion to the aggregate amount of assistance described in paragraph (2) furnished by such institution as the United States share of the expansion or replenishment bears to the total amount of the expansion or replenishment.

"(2)(A) The aggregate amount of assistance referred to in paragraph (1) is the amount of assistance furnished by an international financial institution to all countries during the period described in subparagraph (B)—

"(i) to support the production or extraction of any commodity or mineral for export, if—

"(I) such commodity or mineral as the case may be, is in surplus on world markets; and

"(II) the export of such commodity or mineral, as the case may be, would cause substantial injury to the United States producers of the same, similar, or competing commodity or mineral; and

"(ii) to subsidize (other than under clause (1)) the exports of commodities and minerals from such countries.

"(B) The period referred to in subparagraph (A) is the same number of years as the capital expansion or replenishment period which immediately preceded the first year of the expansion or replenishment period.

"(3) For purposes of paragraph (2)(A)(ii), the term "subsidize" is used within the meaning of the Agreement on Interpretation and Application of Articles V, XVI, and XXIII of the General Agreement on Tariffs and Trade and the annex relating thereto, done at Geneva on April 12, 1979.

"(4) Any funds witheld from payments to an international financial institution pursuant to this section shall be used to reduce the public debt in the manner specified in section 3113 of title 31, United States Code.".

Mr. METZENBAUM. Mr. President, reserving the right to object, would the Senator explain what the amendment is all about?

Mr. President, I have no objection.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3033) was agreed to.

Mr. HEINZ. Mr. President, today the Senate is considering for the second time in 2 months legislation to extend the charter of the Export-Import Bank and to create a mixed credit warchest to combat use of predatory financing by other trading nations. This bill represents a compromise worked out by the Senate and House Banking Committees between the language passed by the Senate in July and the House-passed Eximbank bill. The committees met informally rather than going through a formal conference procedure because of the approaching expiration of the Bank's charter on September 30, and because the substantive differences between House and Senate bills on Eximbank and warchest authorities were few and relatively minor.

There is no need for me to elaborate on the need for quick action on this legislation. U.S. trade performance continues to be dismal, and a strong Export-Import Bank is essential to reversing our record trade deficits. Without this legislation the Bank's authority will lapse in a week's time, leaving U.S. exporters to try to compete singlehandedly against government-subsidized competition. In addition, the U.S. Government is locked in negotiations to reduce use of predatory mixed credits in export financing. The negotiations resume on October 6, and passage of the warchest legislation will provide U.S. negotiators with an important tool for working out an agreement.

I would like to go through the provisions of H.R. 5548 to review briefly the minor differences between this compromise bill and the Senate-passed version of H.R. 4510 and to explain the reasons for changes made to the original Senate language.

As in the Senate bill, the Bank would be permitted to charge reasonable fees to cover the cost of its seminars and publications. While the marginal cost wording of the Senate bill has been dropped, the intent of this provision is to permit the Bank to recoup only those additional costs associated with holding a seminar or producing a publication, not to charge fees covering salaries, rent, or other components of the Bank's normal administrative expense budget.

Similar to the Senate language, the bill calls upon the Bank to take steps to improve the competitiveness of and access to its medium-term programs. H.R. 5548 does not include the Senate specification that medium-term financing should be made available in the form of direct credits and for deals below the current Bank threshold of $10 million. However, it would be expected that one of the options the Bank would consider for improving its medium-term program would be to provide direct credit for smaller and shorter term deals as intended in the Senate language.

Section 5 of H.R. 5548 addresses the Bank's competitiveness mandate. Current law requires the Bank to be fully competitive, but stipulates that—

rates, terms and conditions need not be equivalent to those offered by foreign countries, * * *.

This would be changed to read:

Rates, terms and conditions need not be identical in all respects to those offered by foreign countries, * * *

The substitution of "identical in all respects" for "equivalent" is meant to strengthen the Bank's competitiveness mandate by removing any possible ambiguity in the current language that all of the Bank's programs are to be fully competitive. "Need not be equivalent" might be read as a relaxation of the competitiveness requirement; the new language requires that the Bank be fully competitive without qualification, but with the understanding that each individual rate, term, and condition of an offer need not be identical to that of a foreign financing offer, as long as the financing package as a whole is fully competitive.

Section 6 directs the Bank to offer multiple-exporter risk protection coverage through creditworthy trade associations, cooperatives, and the like. The Senate language has been modified by addition of language stating:

Nothing in this provision shall be interpreted as limiting the Bank's authority to deny support for specific transactions or to disapprove a request by such an organization to participate in such coverage.

This addition is intended to make clear that the multiple-exporter coverage is not an entitlement program and that the Bank would continue to make its normal determinations about the credit risk of individual transactions or issuance of insurance policies.

Section 7 is a slight variation on the Senate's program access language. It is intended to broaden access to the Bank's programs by ensuring that an entity is not denied access solely because that entity is not a bank or is not a U.S. person. At the same time, it is not intended to limit the Bank's flexibility in determining access to its programs based on other criteria or to restructure them in any way. Thus, the Bank would still be able to establish rules for access to its programs as part of the process of implementing the mandates contained in its statutory charter, such as finding reasonable assurance of repayment and avoiding competition with private capital. The Bank would also be able to establish guidelines for access that permit it to administer its programs in an effective and efficient manner.

Section 8 relates to Bank credits for Marxist-Leninist countries; it retains the language affecting Eximbank financing for Marxist-Leninist countries contained in Senate-passed H.R. 4510. This provision does not affect the portion of current law providing a national interest waiver where the President determines that extension of credit to a proscribed country is in the national interest. Since the existing waiver authority is retained, for any country for which a general national interest determination has already been made prior to enactment of this bill, the legislation would not require the making of a new general national interest determination.

Section 9 places an explicit prohibition on financing for Angola as in the Senate bill but with two small

changes. Drawing from the House language, the prohibition would not apply to food or agricultural commodities; and the certification required of the President would focus not on Cuban military personnel or military personnel from any other controlled country but on combatant forces or military advisers of the Republic of Cuba or of any other Marxist-Leninist country. This clarification would ensure that military attachés, guards, or other military personnel normally assigned to embassies and not involved directly or indirectly in combat or combat preparations would not be covered by the certification. This provision would not apply to past credit approvals by the Bank.

As in both Senate- and House-passed versions of H.R. 4510, transferability of Eximbank guarantees is included in section 10 of the compromise. The language improves on the Senate formulation by providing for unrestricted transfer of medium-term and long-term obligations insured or guaranteed by the Bank. This change in the Bank charter represents a significant step in attracting new and cost-effective capital in support of U.S. exports by making these obligations highly liquid assets and encouraging the development of a secondary market in such assets. Section 10 also makes clear that transferability would apply only to guarantee and insurance transactions receiving final approval from the Bank after the date of enactment of the bill.

In combination with the language of section 7, section 10 directs the Bank to permit transfers by and to the widest range of potential capital sources without affecting or limiting in any way the Bank's guarantee or insurance. There should be no confusion that the language permitting transfer from the originating lenders or their transferees to other lenders is intended to limit transferability in any way. In this formulation, the term "other lenders" is not to be narrowly construed to mean simply another bank or a financial institution that normally makes export loans. Since the asset in question is a loan—a loan made by the original lender and guaranteed or insured by the Bank—any person or entity acquiring ownership of that asset should be deemed to be a "lender" under the language of this provision. This could include, but would not be limited to, non-commercial-bank lenders such as pension funds, savings and loan associations, insurance companies, and commercial credit or finance corporations, both foreign and domestic. The purpose of this provision is to permit the original lender to sell or transfer the loan to the widest possible range of potential capital sources.

Transferability is important to investors for several reasons. Some investors require liquidity to meet potential withdrawals. Other investors face regulatory or internal requirements stipulating that any asset they purchase can be resold. All institutional investors require the flexibility to adjust their portfolios based on their perceptions of interest rate or other market developments. Broad transferability is already available for loans which are guaranteed by other U.S. Government agencies.

By requiring unrestricted transfer rights and thereby creating a market for Bank guaranteed loans, the bill would open up new avenues of capital support for U.S. exports. For purchasers of U.S. exports, participation of the broadest range of private capital sources will translate into more accessible funding on more attractive terms and at lower interest rates. This provision, threfore, meets the requirements of both sound export policy and sound fiscal policy. The urgent need for improved American trade competitiveness can be satisfied without adverse impact on the federal budget deficit.

Section 14 of H.R. 5548 extends the charter of the Bank for 6 years to September 30, 1992, rather than 10 years as in the Senate bill. While this shorter term would provide less of the stability and continuity we had hoped to provide the Bank and U.S. exporters, it is nevertheless an improvement over the average 5-year extension provided in past charter extensions and the 3-years of the last extension.

Section 15 provides guidance on matching foreign official export credits in the United States. Under section 1912 of the Export-Import Bank Amendments of 1978, Eximbank is permitted to offer financing support to U.S. suppliers who would otherwise lose sales in the U.S. market as a result of credit subsidies from other governments to support sales by foreign producers. The intent of Congress in this provision was to provide a strong and effective deterrent to foreign producers seeking to penetrate the U.S. market through predatory export financing. Since this use of Bank authority involved broad issues of U.S. economic and export policy, the Secretary of the Treasury was granted a role in considering these deals.

The amendments to section 1912 in the Senate bill arose from concern that the provision was not being implemented as intended by the Congress. The experience of several U.S. producers seeking assistance under its provisions indicated that Treasury was unwilling to authorize financing, denying credit where the competing offer came from a country not a signatory to OECD export credit agreements or failing to certify that financing was a significant factor in the sale.

To correct these deficiencies, the language of H.R. 5548 would make clear that this provision extends to credits "irrespective of whether these credits are being offered by governments which are signatories" to OECD financing agreements. In addition, the breadth of Treasury discretion would be further limited by requiring Treasury approval unless the Secretary determines that financing is not a significant factor. This change places the burden of proof on the Treasury and requires that a denial of credit be based on clear demonstration that financing is not likely to be a significant factor in the sale.

Section 19 of H.R. 5548 establishes within the Export-Import Bank the tied aid credit warchest which was the subject of title II of the Senate's bill. This warchest is intended to provide the U.S. Government with the tools necessary to eliminate the trade-distorting practice of mixing foreign aid with export credit, and appropriation of $300 million is authorized for this purpose. The administration is anxious to have this provision enacted to support its negotiating efforts in the OECD.

The structure and purpose of the warchest have been carefully designed. It could be used for both offensive and defensive purposes; that is, it could be used aggressively to take markets away from other countries, and defensively to protect American exports facing unfair mixed credits financing. Its overriding purpose is to strengthen the hand of the Secretary of the Treasury in negotiating a comprehensive agreement to limit the use of mixed credits.

To serve that purpose, it is essential that the Secretary, who is in charge of these negotiations for the United States, be able to play a role in the use of the funds from the warchest. Thus, though it is lodged administratively in the Bank, the actual use of funds would be done with the participation of the Secretary. This involvement in the use of these funds is assured by the language in this section which requires the Bank to administer this tied aid credit program in accordance with the Secretary's recommendation on how such credits could be used most effectively and efficiently to promote the negotiation of a comprehensive international arrangement restricting the use of tied aid and partially untied aid credits for commercial purposes.

While the formulation of the warchest in H.R. 5548 differs in a number of particulars from the Senate-passed bill, it incorporates all of the elements of the Senate bill and enjoys the support of the administration and exporters.

Section 20 of the bill authorizes the Bank to make interest subsidy payments, the so-called I-Match Program, on a trial basis. Under this section, the Bank would be permitted to make in-

71-059 O-87-44 (Pt. 18)

terest subsidy payments to private lenders to subsidize export loans when below-market financing is required to compete with foreign subsidized financing. This I-Match authority, which would be granted for 2 years, would become effective only if three conditions were met: first, the funds for the interest subsidy payments must be appropriated; second, loan guarantees accompanying these payments must not be scored as budget authority; and third, the Bank must have been authorized a direct loan budget of at least $700 million. This last condition does not mean that the Bank must actually have loaned $700 million before I-Match becomes available, but that I-Match authority can become effective in any fiscal year only if the Bank has been provided sufficient authority in the budget to make at least $700 million of direct loans. This last requirement also reflects congressional concern that even with a functioning I-Match, the subsidy mechanism may not be appropriate or workable for many of the credits the Bank extends.

I-Match has been included in the bill on a trial basis despite some misgivings by the Senate. Both the administration and the House are convinced that the concept can work and are anxious to test it. The conditions attached to I-Match in this section are intended to ensure that, for the 2 years of its operation, the program will remain an experimental or pilot program. At the end of 2 years and based on the Bank's reort on the success of the program, the Congress can decide whether or not it should be expanded.

Finally, I would like to discuss those elements of the Senate bill that are not part of H.R. 5548. The only provision dropped that related to Eximbank operations added a review procedure by the National Advisory Council on International Monetary and Financial Policies [NAC] where the Bank rejected a sovereign guarantee based on the lack of reasonable assurance of repayment. The provision was intended to underscore the congressional intent in the Bank charter that the Bank should assume risks that private lenders will not. It would require the Bank to look not only at the financial assessment of a particular loan but to rely on the advice of the State and Treasury Departments in the NAC for a strategic, long-term assessment of the creditworthiness of a country or project.

While the House and the administration argued that NAC review was too cumbersome to work in these cases, the charter clearly expresses congressional intent that the Bank must operate in risky situations and consider the impact of a credit on long-term U.S. export market share or a country's long-term economic strength and ongoing economic adjustment efforts. In meeting congressional intent in this area, the Bank would be expected to look at the extent to which OECD or other export financing agencies are remaining on cover in a country and would be expected to consult with the Departments of Treasury or State on the impact of its credit decision on bilateral economic relations. The Bank should also be prepared to provide information to the Congress on cases in which credit was denied based on the absence of a reasonable assurance of repayment, including the extent to which there were competing offers for the sale.

The other Senate provisions that are not part of H.R. 5548 are those amendments added to the Eximbank bill on the Senate floor that are unrelated to the Bank's operations. Because of the procedure followed in developing this compromise proposal, the nongermane amendments have not been included. I agree with the sponsors of these provisions that if the Senate wishes to have them considered by the House, the only way to do so is to add them back to H.R. 5548 and go to conference. In saying this I do not wish to imply that House conferees will be likely to accept controversial, nongermane amendments. However, by adding them back we will at least provide an opportunity for consideration of these issues. Therefore, I am proposing an amendment to H.R. 5548 adding back provisions, exactly as passed previously by the Senate except for Dole amendment, originally introduced by Senators NICKLES, SYMMS, and DECONCINI, that will have to be addressed in conference.

Rapid Senate action is needed on this measure if we are to complete a conference and pass final legislation in time to prevent expiration of the Bank's charter on September 30. H.R. 5548 is an excellent compromise on the Exim and warchest issues and incorporates those elements of both Senate and House bills essential to the smooth operation of the Bank over the next 6 years. The bill enjoys widespread support among exporters and the institutions that finance exports. I urge your support for the bill as amended.

Mr. BYRD. Mr. President, I am pleased to see that this reauthorization of the Export-Import Bank includes the amendment which I offered to that legislation.

Exim has supported more than $12 million in West Virginia coal exports since October 1, 1985. I am gratified that the Bank is supporting one of our most competitive exports, because coal is vital to many jobs in my State, and in several other States.

But I have been deeply concerned about the direction of some of Exim Bank's lending. In particular, I have called to my colleagues' attention the case of the El Cerrejon—pronounced El Sarahone—mine in Colombia, South America. The Export-Import Bank provided a loan of $200 million to support development of that mine, even though the coal it produces will compete directly with U.S. coal.

The amendment I introduced on July 21, 1986, and which is included in this legislation will go a long way toward putting an end to Exim financing for production of foreign commodities—including coal, steel, chemicals, fertilizer, and others—that would compete with U.S. products and which cause lost jobs in this country. This amendment will prohibit loans which would result in a surplus of a commodity or would compete with U.S. commodity production unless Exim weighs the short- and long-term benefits to employment and industries in this country and determines that the benefits of the loan outweigh the harm to U.S. firms and workers. This is a tough standard, but a realistic one. Congress will closely watch its operation.

Now more than ever, we must expand our exports. We are losing our lead as the world's greatest exporting nation. In the most recent month for which trade figures are available—July—we imported twice the dollar value of our exports. This is totally unacceptable, and it is cheapening the quality of life for our people.

I commend the members of the Banking Committee, and Senators PROXMIRE, GARN, and HEINZ in particular, for their work on this legislation and their help in assuring the success of my amendment. I am grateful for the support of Senators FORD and ARMSTRONG and my many other colleagues who supported this important amendment. I believe it will give the Bank a very clear signal of the intent of Congress. The Fertilizer Institute has indicated that the pendancy of this legislation caused Exim Bank to reconsider a loan that would have resulted in competition with U.S. commodities. I trust the passage of this legislation will guarantee continued vigilence by the Bank.

Mr. PROXMIRE. Mr. President, I rise to support the enactment of H.R. 5548, a bill to amend and renew the charter of the Export-Import Bank. That charter will expire on September 30, next Tuesday. This bill will, among other things, renew the Bank's charter for 6 additional years.

On July 21 and 22 of this year we spent 2 days on this floor debating and amending Senate bill 2247 which renewed the charter of the Bank. Just 1 week earlier the House had passed its own bill, H.R. 4510, to do the same. On July 22 we struck all but the enacting clause of H.R. 4510 and inserted the text of our own bill. Since there were some major differences between the two bills it was expected a formal conference would follow to iron them out.

However, becaue of some jurisdictional problems in the other body, we did not convene a formal conference. Instead we decided to work with the House in preparing an entirely new bill embodying the compromises we would have reached in a conference. The bill before us, H.R. 5548, is the result of those intensive negotiations between the Banking Committees of the House and Senate. The House took the bill agreed to just last week, and passed it on September 22, 1986. It does not contain everything that I would like and it contains some things that I don't like. But overall it's a fair compromise and I hope my colleagues will support it.

As you know I have never been a supporter of the Export-Import Bank and I continue to have severe reservations about the wisdom of giving foreign consumers subsidies to purchase goods from American corporations. I realize that Congress is not going to discontinue this program this year so I have endeavored to make sure the cost of operating the Bank is made as explicit as possible, and to ensure that the Bank does not fund foreign projects that result in harm to our workers, farmers and companies. I have also worked to prevent the Bank from lending new money to Communist countries and in particular to prohibit it from making new loans to Angola until combat personnel and military advisers from Cuba and other Marxist-Leninist countries leave that Communist dominated land. H.R. 5548 has provisions reflection my efforts to achieve each of these goals.

Section 5 of H.R. 5548 addresses the Bank's competitiveness mandate and substitutes "need not be identical" for "need not be equivalent" in section 2(B)(1)(b) of the Bank's charter. I want to make absolutely clear that this amended competitiveness mandate does not require the Bank to match every element of an official export credit package being offered by a foreign export credit agency for a given transaction. It only means that the financing package a whole should be competitive with the foreign offer. So the Bank can continue to operate to neutralize the effect of foreign credits on international sales competition without trying to match foreign offers term for term.

Section 8 of H.R. 5548 specifically forbids the Eximbank to make any new loans or loan guarantees in connection with the purchase or lease of any product by a Marxist-Leninist country and then defines the term "Marxist-Leninist" to mean any country which "(I) maintains a centrally planned economy based on the principles of Marxist-Leninism, or (II) is economically and militarily dependent on the Union of Soviet Socialist Republics or on any other Marxist-Leninist country." The section then establishes a list of countries presently deemed to be Marxist-Leninist but provides authority for the President to add or delete countries from the list. The section further provides that the loan or loan guarantee prohibition can be lifted in situations where the President determines a waiver is in the "national interest."

Section 9 of H.R. 5548, however, adds a special provision dealing with loans, loan guarantees and insurance to the Marxist-Leninist government of Angola. There the prohibition cannot be waived "until the President certifies to the Congress that no combatant forces or military advisers of the Republic of Cuba or of any other Marxist-Leninist country remain in Angola." That section incorporates the substance of the amendment I offered to the Export-Import Bank's charter during our consideration of its renewal on the Senate floor in July. I cannot for the life of me understand why the Reagan administration makes Eximbank loans worth hundreds of millions of dollars to the Communist Government of Angola while at the same time providing millions of dollars to Dr. Jonas Savimbi and UNITA to topple that same government. This provision is designed to stop that kind of nonsensical behavior by this administration.

Section 10 of H.R. 5548 requires all Eximbank loan guarantees to be fully transferable. I do not think this is a wise provision and note that the Treasury Deparment opposed its inclusion in the compromise bill. Since both Houses had a similar provision in the bills they originally adopted it was not possible to delete it. But I do want to state my concern about the provision. It will remove lenders from having interest in the credit worthiness of the loans they generate since they will be backed by a U.S. Government guarantee and will be sold by lenders to the financial markets. This type of provisions could ultimately cost our taxpayers plenty. The better course, if we were to have such a provision at all, would be to limit it only to situtations needed to conclude an export sale.

Section 11 of H.R. 5548 is a provision I heartily endorse. Senator BYRD originally offered this provision on the floor and I worked to ensure that it is in this compromise bill because it is such a good provision. It prohibits the Bank from making any loans or guarantees that will result in the production abroad of any commodities that will compete with U.S. production of the same or similar commodity if such production will cause substantial injury to the U.S. producer of that commodity. The prohibition does not apply where, in the judgment of the board of directors of the bank, the short- and long-term benefits to industry and employment in the United States are likely to outweigh the injury to U.S. producers of the same, similar, or competing commodity.

That section should be read in conjunction with section 12 of H.R. 5548 which contains a provision I authored and which was in the bill passed by the Senate in July. Section 12 requires the Bank to consider and address in writing the views of parties or persons who may be substantially adversely affected by the loan or guarantee prior to taking final action on it. We expect that this section will ensure that the cost-benefit analysis done in section 11 is in writing and incorporates the views of those domestic workers, or farmers, or companies, who might be adversely impacted by the Eximbank's loans or guarantees. As I said prior to the Senate's passage of section 12 in July "I hope the administration will take this position very seriously and will positively seek out and give a day in court to those adversely affected * * *." It is important that Americans not be injured by the actions of their own Government and this provision is intended to protect them from inadvertent actions by the Export-Import Bank.

Section 13 of H.R. 5548 authorizes the appropriation of $145,259,000 for fiscal year 1987 to cover the subsidy cost of new direct loans obligated by the Bank in that fiscal year. This provision is based on a similar provision that was in the bill the Senate passed in July. At that time I said the appropriation of $145,259,000 to the Bank for fiscal year 1987 was to cover the net subsidy cost of new direct loans under a program limitation of $1.8 billion * * * this new procurement will result in much better budgeting practices as the true subsidy cost of the Bank will be highlighted in the budget. In July I explained that the subsidy cost mentioned in the provision was to be measured by the difference between the interest rate charged by the Bank on its loans, and the rate that would be charged by a private sector lender on loans of comparable risk and maturity. Although section 13 will not have an immediate effect because of complications involved with other aspects of the congressional budgeting process, we have kept it in the bill as an indication of our intention to continue efforts to identify the subsidy element in the Eximbank's program and to have that subsidy appropriated each year by Congress. This is the only way to end the myth, perpetuated by some beneficiaries of the Bank's programs, that there is no cost to the taxpayer involved in the Bank's operations.

Section 19 of H.R. 5548 establishes within the Export-Import Bank the so-called tied aid or mixed credits warchest that the administration has requested. I am not in favor of this so-called warchest legislation, as it will

authorize spending $300 million of our taxpayers' money over the next 2 years in order to subsidize the sale of $1 billion of American goods to developing countries.

The announced purpose of this new spending program is to combat the use of mixed credits by other nations and thus to help eliminate this pernicious practice. A more likely outcome, in my view, is that foreign companies damaged by our warchest will prevail on their governments to increase their own subsidies. The warchest provision, however, was in the bills passed by both the House and Senate and therefore it is in this compromise bill as well.

The stated purpose of establishing the warchest is to strengthen the hand of the Secretary of the Treasury in negotiating the comprehensive agreement to limit the use and abuse of mixed credits. To serve that purpose, it is essential that the Secretary, who is in charge of these negotiations for the United States, be able to direct the use of the funds from this warchest. Thus, though the warchest is lodged administratively in the Bank, the actual use of the funds in the warchest will be under the absolute control of the Secretary of the Treasury. We made this clear by putting language into section 19 which requires the Bank to administer this tied aid credit program "in accordance with the Secretary's recommendations on how such credits could be used most effectively and efficiently to promote the negotiation of the comprehensive international arrangement restricting the use of tied aid and partially untied aid credits for commerical purposes." As noted this language is meant to make absolutely clear that the Secretary of the Treasury will decide exactly when and how that fund is to be used.

I want to also draw the attention of my colleagues to the fact that the bill authorizes funds for the warchest only for fiscal years 1987 and 1988. Before any decision to authorize new funds I will insist on hearings in the Banking Committee. As section 19 of H.R. 5548 states this warchest is to be "temporary." We will have to be vigilant to ensure that beneficiaries of the program are not successful in lobbying to make it "permanent."

Finally section 20 of H.R. 5548 for the first time gives the Bank authority to establish its so-called I-Match Program, under which it would make interest subsidy payments to private lenders when below-market financing is required to compete with foreign subsidized financing. This I-Match authority, which is granted for just 2 years, will be effective only if three conditions are met: First, the funds for the interest subsidy payments are appropriated; second, loan guarantees accompanying these payments are scored "off-budget"; and third, the Bank has a direct loan budget of at least $700 million. This last condition does not mean the Bank must actually lend $700 million. It means that I-Match authority is effective in any fiscal year only if the Bank has at least a $700 million direct loan budget in place for that year; that is, that the Bank is empowered to lend that much. This condition is intended to ensure that, for the 2 years of its operation, I-Match will remain an experimental or pilot program. Then, on the basis of this experience, we can decide whether or not it should be extended or expanded. In my view, the best provision in this section is that making any funds expended on the I-Match Program subject to congressional appropriation. That is a precedent I hope the Congress will soon adopt with regard to all of the Bank's programs. Finally I note the bill specifically provides that this new I-Match sunsets on October 1, 1988. I only wish it included a similar sunset provision in the section of the bill establishing the tied aid credit warchest.

For the reasons already stated I hope my colleagues will pass H.R. 5548.

The PRESIDING OFFICER. The bill is before the Senate and open to further amendment. If there be no further amendments, the question is on the engrossment of the amendment and the third reading of the bill.

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

The bill was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

So the bill (H.R. 5548), as amended, was passed.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the bill, as amended, was passed.

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

The motion to lay on the table was agreed to.

TEMPORARY EXTENSION OF THE INTERSTATE TRANSFER DEADLINE FOR H-3

Mr. INOUYE. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of S. 2880.

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

The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 2880) to provide a temporary extension of the interstate transfer deadline for H-3.

The Senate proceeded to consider the bill.

Mr. INOUYE. Mr. President, this matter was discussed fully the other night. The legislation has been covered on both sides of the aisle. It is ready for passage.

Mr. STAFFORD. Mr. President, I support the legislation offered by my distinguished colleagues from Hawaii, Mr. INOUYE and Mr. MATSUNAGA.

During consideration of the Federal-Aid Highway Act of 1986, S. 2405, the Senate agreed to an amendment offered by my distinguished colleagues from Hawaii which would grant H-3 an exemption from 4(f). I opposed the waiver from 4(f) for H-3 and I continue to believe that granting such a waiver is the wrong course of action. It is still my hope that the State of Hawaii and the city and county of Honolulu will agree that the withdrawal of H-3 and the substitution of other highway and transit projects will better meet the transportation needs of the island of Oahu.

During the additional period of time this legislation will provide for the withdrawal of H-3, I hope State and local officials will work together to reexamine the concerns raised by various groups and individuals about the construction of H-3, and to review the transportation needs of the island.

Mr. President, I believe the withdrawal of H-3 and the substitution of other highway and transit projects is the best way to meet the island's transportation needs, and, therefore, I support this legislation.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill (S. 2880) was ordered to be engrossed for a third reading, was read the third time and passed as follows:

S. 2880

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, Subsection 103(e) of title 23, United States Code, is amended by inserting the following new sentence after the third sentence: "With respect to any route which on the date of enactment of the Federal-Aid Highway Act of 1978 was under judicial injunction prohibiting its construction, the Secretary may approve the withdrawal of such route only until ten days after the final legislative day of the 99th Congress of the United States."

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

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

The motion to lay on the table was agreed to.

Mr. DOLE. Mr. President, I suggest the absence of a quorum for just about one minute.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

OMNIBUS DRUG ENFORCEMENT, EDUCATION, AND CONTROL ACT

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate now turn to the consideration of Calendar 979, H.R. 5484, the House drug bill, and that it be in order to send to the desk on behalf of Senators DOLE, BYRD, and others, a complete substitute, which is the text of S. 2878.

The PRESIDING OFFICER. Is there objection? Without objection, the request is agreed to. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 5484) to strengthen Federal efforts to encourage foreign cooperation in eradicating illicit drug crops and in halting international drug traffic, to improve enforcement of Federal drug laws and enhance interdiction of illicit drug shipments, to provide strong Federal leadership in establishing effective drug abuse prevention and education programs, to expand Federal support for drug abuse treatment and rehabilitation effors, and for other purposes.

AMENDMENT NO. 3034

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE], for himself, Mr. BYRD, Mr. THURMOND, Mr. BIDEN, Mrs. HAWKINS, Mr. CHILES, Mr. WILSON, Mr. DECONCINI, Mr. HATCH, Mr. CRANSTON, Mr. GRAMM, Mr. MOYNIHAN, Mr. SPECTER, Mr. DODD, Mr. TRIBLE, Mr. LEAHY, Mr. DENTON, Mr. MITCHELL, Mr. ABDNOR, Mr. NUNN, Mr. ROCKEFELLER, Mr. SASSER, and Mr. DIXON, proposes an amendment numbered 3034, to strike all after the enacting clause and insert the text of S. 2878.

(The text of the amendment is the text of S. 2878, as printed in the RECORD yesterday at page S13648.)

Mr. DOLE. Mr. President, I ask unanimous consent that a section-by-section analysis of the substitute be printed in the RECORD.

There being no objection, the section-by-section analysis was ordered to be printed in the RECORD, as follows:

JUDICIARY

TITLE I: ANTI-DRUG ENFORCEMENT

A. Drug Penalties Enhancement Act of 1986

This section sets forth a series of amendments to stiffen penalties for large-scale domestic drug trafficking. This penalty section incorporates penalty provisions from both the Democrat and Republican drug packages. Provides for increased, stiff penalties for most drug related offenses. The most serious drug traffickers, so-called "drug kingpins", would face a mandatory minimum of ten years, and up to life imprisonment. This bill also increases fines, to reflect the enormous profits generated by drug dealing. Prohibits suspension of sentences and prohibits probation and parole.

Also included, S. 1236—Technical amendments to the Comprehensive Crime Control Act of 1983, as modified.

B. Drug Possession Penalty Act

This section rewrites the penalty provisions for simple possession of controlled substances. These stiff new penalties include increased fines, mandatory imprisonment for second time offenders, and repeal of pre-trial diversion for first offenders.

C. Juvenile Drug Trafficking Act of 1986

This section provides for additional penalties for persons who make use of juveniles in drug trafficking. Doubles penalties for employing or using children to distribute drugs, and also doubles penalties for manufacturing drugs near schools.

D. Asset Forfeiture Amendments Act of 1986

This section provides for the forfeiture of substitute assets where the proceeds of a specified crime are lost, beyond judicial reach, substantially diminished, or commingled.

Cap Removal From Forfeiture Funds

The Department of Justice has a forfeiture fund generated from seizures of assets in drug related prosecutions. The assets consist of cash and proceeds of sales of these assets. By law, these funds can be used for certain law enforcement purposes. However, there is a cap, administered by the Appropriations Committee, on how much of the funds can be used each year. This cap undercuts the basic purpose of the funds which is to have the seized proceeds of criminal activities help finance the war on crime. The Senate compromise bill would remove the cap on the fund and would remove it from the budget allocation process. The bill would not prevent the funds from being sequestered, if there were a sequester.

E. Controlled Substances Analogs Enforcement Act of 1986 (Designer Drugs)

This section makes it unlawful to manufacture with the intent to distribute, or to possess "designer drugs" intended for human consumption.

The compromise provision is identical to S. 1437 as it passed the Senate last December, with the exception of the addition of conforming amendments and stiffer penalties. These conforming amendments incorporate the prohibition of controlled substances analogs elsewhere in the criminal code where reference is made to controlled substances.

F. Continuing Drug Enterprise Act of 1986

Increases fines for the most serious drug kingpins and includes *mandatory* life imprisonment for the absolute top drug traffickers under certain conditions.

G. Controlled Substances Imports and Export Penalties Enhancement Act of 1986

This section imposes stiffer penalties for import and export violations similar to those established elsewhere in the Senate compromise proposal.

H. Money Laundering Crimes Act of 1986

This section of the compromise package provides an offense for laundering the proceeds of certain specified crimes. This section closely tracks the language of S. 2683, which has passed the Senate.

I. Armed Career Criminals

The compromise bill includes the language of S. 2312. Present law defines an armed career criminal as an individual who has three or more convictions for "robbery or burglary". Under current law, if a career criminal is convicted of possession of a firearm, he must be sentenced to 15 years. S. 2312, which was reported by the Senate Judiciary Committee, redefines an armed career criminal as an individual who has three or more convictions "for a crime of violence" or "a serious drug offense, or both".

J. Authorization of Appropriations for Drug Law Enforcement

K. Deleted

L. State and Local Narcotics Control Assistance

Provides $115 million to state and local law enforcement agencies for drug law enforcement. The Federal share would be 75%, the state share 25%.

M. Study on the Use of Existing Federal Buildings as Prisons

The Secretary of Defense shall conduct a study to identify any building owned or operated by the United States which could be used, or modified for use, as a prison by the Federal Bureau of Prisons.

N. Drug Law Enforcement Cooperation Study

The National Drug Enforcement Policy Board, in consultation with the National Narcotics Border Interdiction System and state and local law enforcement officials, shall study Federal drug law enforcement efforts and make recommendations. The Board shall report to Congress within 180 days of enactment of this subtitle on its findings and conclusions.

O. Deleted

P. Narcotic Traffickers Deportation Act of 1986

This section simplifies the current provision of the Immigration and Nationality Act authorizing the exclusion and deportation of individuals convicted of drug related crimes, and specifies the violation of foreign drug laws as grounds for deportation or exclusion.

Q. Federal Drug Law Enforcement Agent Protection Act

This provision provides rewards to those assisting with the arrest and conviction of persons guilty of killing or kidnaping a Federal drug agent. (formerly S. 630)

R. Common Carrier Operation Under the Influence of Alcohol or Drugs

This provision makes it a Federal criminal offense to operate or direct the operation of a common carrier while intoxicated as a result of using alcohol or drugs. (formerly S. 850)

S. Freedom of Information Act

This section will prohibit public disclosure of law enforcement investigative information that could reasonably be expected to alert drug dealers and organized crime of law enforcement activity related to them. A Drug Enforcement Administration study found that 14% of all drug enforcement investigations were significantly compromised or cancelled due to public disclosure of information related to these investigations and informants involved in them. The Director of the FBI and the Department of Justice support this legislation. As well, this language was unanimously approved by the Senate in the 98th Congress.

T. Prohibition on the Interstate Sale and Transportation of Drug Paraphernalia

The Mail Order Drug Paraphernalia Control Act, prohibits the sale and transporta-

tion of drug paraphernalia through the services of the Postal Service or in interstate commerce. It also provides for the seizure, forfeiture, and destruction of drug paraphernalia.

U. Manufacturing Operations

Outlaws operation of houses or buildings, so-called "crack houses", where "crack", cocaine and other drugs are manufactured and used.

V. Study Related to Drug Crime Reporting

This section requires that the Bureau of Justice Statistics, in cooperation with the Federal Bureau of Investigation and other Federal enforcement agencies as well as other Federal, state and local statistics groups, gather, compile, and publish comprehensive data on drug trafficking and abuse.

W. Study Related to Precursor and Essential Chemical Review

This section requires that the Attorney General conduct a study concerning the need for legislative, regulation, or other alternative methods to control the diversion of legitimate precursor and essential chemicals to the illegal production of drugs of abuse.

X. Controlled Substances Technical Amendments Act of 1986

This section makes technical corrections to the Controlled Substances Act. The provisions of this subtitle were passed by the Senate when it passed S. 1236 on April 17, 1986. The provisions of this subtitle were included in the House Drug Bill, the Senate Democrat Drug Bill, the Senate Republican Bill and the Administration package.

TITLE II. INTERNATIONAL NARCOTICS CONTROL

Strengthening U.S. narcotics control efforts abroad

1. Authorization of Funds

Authorizes $63 million in additional narcotics assistance for FY 1987, provided that the President submit a plan on how $45 million of those additional funds are to be used. $10 million of the funds are to be used for interdiction and eradication aircraft, primarily in Latin America.

2. Restrictions on Aid to Foreign Countries

Revamps present law governing foreign aid, favorable U.S. votes in multilateral development banks, and Generalized System of Preferences tariff benefits to narcotics producing and narcotics transit countries. Under bipartisan provision, these benefits will be denied all major illicit drug producing countries or major drug-transit countries unless the President annually certifies that the country is cooperating fully with the United States in combatting narcotics production, trafficking, and narcotics money laundering, or is taking adequate steps on its own. The President may give a positive certification to an otherwise uncertifiable country for "vital national interest reasons", but reasons must be fully explained in the certification. All certifications are subject to Congressional resolutions of disapproval under expedited procedures.

3. Retention of Title on Aircraft

U.S. Government will retain title to interdiction/eradication aircraft provided under foreign assistance to the maximum extent practicable. Contains finding that Mexico has used U.S. provided aircraft inefficiently.

4. Records of Aircraft Use

Secretary of State required to keep detailed records of aircraft provided to Mexico, and make them available to Congress upon request of the Chairmen.

8. Mansfield Amendment

Amends present "Mansfield amendment" which prohibits U.S. participation in arrests overseas. U.S. personnel may "assist" in arrests, but not make arrests directly. They may take reasonable self-defense actions in such actions. Applies to all countries unless the President certifies for an individual country that it is against the national interest.

11. Conditions on Assistance for Bolivia

In light of Bolivian cooperation in Operation Blast Furnace, 1987 conditions on assistance are changed. First half of assistance is conditioned on continued cooperation in interdiction operations, second half assistance on development of plan to eradicate coca and demonstrated progress in meeting plan's objectives.

15. Intelligence Support to Combatting the Drug Problem

Makes collection of data on narcotics production and trafficking a priority one task for the intelligence community in the yearly intelligence strategy report. Specific mandate is given to collect sufficient data so that highly reliable estimates may be made of narcotic crop production and yields for major producing countries.

16. Reports on Certain Countries; Restrictions on Assistance

President must list countries which as a matter of policy promote narcotics trafficking, have senior officials involved, in which U.S. drug enforcement personnel have suffered violence at the hands of officials of that country, or have failed to provide reasonable requests for law enforcement cooperation, including aerial pursuit of smugglers. No foreign aid may be provided, and MDB aid must be opposed for any listed country unless President certifies overriding national interest, assistance would improve prospects for cooperation with country in halting flow of illegal drugs, and the government of such country has made bona fide efforts to investigate crimes against U.S. drug enforcement personnel.

Other Provisions:

5. $1 million earmark for research on aerial herbicide for coca.

6. GAO study on narcotics assistance programs.

7. Report on extradition cooperation.

9. Report on U.S. system to prevent visas being provided to drug trafficking.

10. Mandates a threat assessment of drug trafficking in Africa.

12. Report by President on steps taken to combat narco-terrorism.

13. Call the Secretary of State and Coast Guard to negotiate new interdiction procedures with foreign countries for vessels of foreign registry.

14. Adds Secretary of State to decisions on posse comitatus.

17. U.S. Executive Directors to MDBs directed to support programs of drug eradication.

18. Deleted.

19. Deleted.

20. Deleted.

21. Declares drugs a national security problem and President urged to engage NATO allies in cooperative programs.

22, 23. Supports UN Conference on Drug Abuse and Illicit Trafficking.

24. Mandates study of effectiveness of UN drug programs.

25. Calls for more effective implementation of international drug conventions.

26. Call for a Mexico-United States Intergovernmental Commission.

27, 28. Reports on opium production in Pakistan, Iran, Afghanistan and Laos.

29. $2 million for USIA drug education programs.

30. $3 million AID authorization for drug education programs.

31. Report on international drug education programs.

TITLE III. INTERDICTION

A. National Drug Interdiction Improvement Act of 1986

This section includes the authorization contained in the FY 1987 DoD Authorization bill providing $212.1 million for enhanced intelligence collection activities and for drug interdiction aircraft and aerostat radar to be used by the U.S. Customs Service and the U.S. Coast Guard.

It authorizes an additional $90 million for DoD aircraft and aerostat radar to be used by civilian agencies in drug interdiction efforts.

It provides $45 million for DoD to purchase radar systems for Coast Guard surveillance aircraft and $15 million for the Tactical Law Enforcement Team.

It provides additional authorizations in the amount of $153 million for the Coast Guard and $115.90 million for the Customs Service. It also authorizes $25 million for the establishment of command, control, communications, and intelligence (C-31) centers and $7 million for drug interdiction helicopters for Hawaii.

This section allows Coast Guard personnel to be assigned to naval vessels to assist in drug interdiction and mandates that at least 500 Coast Guard members be so assigned each year.

It establishes a joint United States-Bahamas Drug Interdiction Task Force and authorizes $15 million to implement the task force.

B. Customs Enforcement Act of 1986

This section:

Clarifies definitions in the Tariff Act.

Increases vessel arrival reporting requirements and provides substantial criminal and civil penalties for violating the arrival reporting requirements.

Clarifies existing law to require that persons arriving in the U.S. as pedestrians immediately report their arrival to the U.S. Customs Service.

Establishes forfeiture and fines as the penalties for failure to declare items which are imported and increases the penalties for filing false manifests and for unlawfully unloading merchandise.

Makes it unlawful to possess merchandise while knowing or intending that it be unlawfully introduced into the U.S. or to transfer merchandise between an aircraft and a vessel on the high seas if the plane or boat is of U.S. nationality or if the circumstances indicate that the purpose is to introduce the merchandise into the U.S. in violation of U.S. law. Violators are subject to civil and criminal penalties and civil forfeiture.

Streamlines the procedure for forfeiture of conveyances for payment of penalties. It also provides for the forfeiture of conveyances used to transport controlled substances, but provides for the return of the conveyance if it is determined that neither the owner nor the operator of the conveyance knew nor should have known about the presence of the contraband.

Expands the Customs civil search and seizure warrant to cover any article subject to seizure, such as conveyances and monetary instruments, rather than just imported merchandise.

Amends the Tariff Act to treat amounts tendered in lieu of merchandise subject to forfeiture in the same manner as the proceeds of sale, so that they may be deposited in the Forfeiture Fund, and to allow agency expenditures to be paid before liens.

Allows Secretary of the Treasury to exercise some discretion in determining the amount of rewards for informants.

Permits the Secretary of the Treasury to require landing certificates to comply with international obligations, such as bilateral or multilateral agreements to reduce or prevent smuggling.

Clarifies the Secretary's authority to exchange information with foreign customs and law enforcement agents.

Grants the Secretary authority to operate customs facilities in foreign countries and to extend U.S. Customs laws to foreign locations (with the consent of the country concerned).

Authorizes the Secretary to utilize commercial "cover" corporations and bank accounts and to lease property and pay for services without complying with the normal requirements which would reveal government involvement when such activities are needed in authorized investigative operations. It also makes clear that the usual laws governing banking deposits and space rentals do not apply in such undercover operations.

Establishes that, while documented yachts do not have to make formal entry, they must report their arrival to customs and declare any goods on board.

Eliminates restrictions on the ability of Customs officers to enlist the aid of other law enforcement officers or civilians in apprehending violators, raises the penalties for failure to render assistance, and provides protection for civilians who render such aid.

Raises the amount which must be reported by a person who exports or imports monetary instruments to $10,000.

Makes it unlawful for a U.S. citizen or a person aboard a U.S. aircraft to possess controlled substances with an intent to manufacture or distribute or for any person aboard an aircraft to possess with an intent to manufacture or distribute a controlled substance knowing or intending that it be unlawfully introduced in the U.S.

Provides criminal penalties for willfully operating aircraft at night without lights in conjunction with drug trafficking and for the willful use and/or installation of unlawful fuel systems in aircraft. It also subjects unlawful fuel systems and the aircraft in which they are installed to seizure and civil forfeiture.

C. Maritime Drug Law Enforcement Prosecution Act of 1986

This section resolves prosecutorial problems which arise during criminal trials as a result of the execution of existing authority, which allows the Coast Guard to stop and board certain vessels at sea and make arrests and seizures for violations of U.S. law.

In addition, this section creates a new offense to make it unlawful under U.S. law to possess with intent to distribute a controlled substance aboard a vessel located within the territorial sea of another country where that country affirmatively consents to enforcement action by the U.S.

D. Reports on Department of Defense Drug Control Activities

This section requires the National Drug Enforcement Policy Board to report to Congress on the manner and extent to which the Department of Defense should be involved in drug law enforcement activities.

It also mandates a joint National Drug Enforcement Policy Board/Department of Education report to Congress on drug education efforts in schools operated by the Department of Defense.

E. Driving While Impaired by Drug Intoxication to be Punishable Under the Uniform Code of Military Justice

This section makes it an offense under the U.S. Code of Military Justice to drive while under the influence of drugs.

F. Drug Interdiction Assistance to Civilian Law Enforcement Officials

This section permits the Department of Defense to loan personnel to civilian law enforcement agencies to operate and maintain equipment used by those agencies to assist foreign governments in drug interdiction activities.

G. Air Safety

This section establishes a Federal violation for the use of an unregistered or fraudulently aircraft in conjunction with transporting controlled substances and provides for the seizure of such aircraft. It also allows States to impose criminal penalties for the use or attempted use of forged or altered aircraft registrations.

H. Communications

This section would authorize the Federal Communications Commission to revoke the licenses of individuals who use their licenses for drug-related activities and to seize communications equipment used in such activities.

I. Drug Law Enforcement Cooperation Study

The National Drug Enforcement Policy Board, in consultation with the National Narcotics Border Interdiction System and State and local law enforcement officials, shall study Federal drug law enforcement efforts and make recommendations. The Board shall report to Congress within 180 days of enactment of this section on its findings and conclusions.

J. Emergency Assistance by Department of Defense Personnel

The first subsection, by slightly amending existing statutes, provides for limited use of the military in drug interdiction. Current law allows the use of military personnel and equipment outside of the land area of the U.S. to enforce the Controlled Substances Act or to transport civilian law enforcement officers seeking to enforce the Controlled Substance Act upon the declaration of an "emergency circumstance" by the Attorney General and the Secretary of Defense. The bill clarifies the term "emergency circumstance" by declaring that an emergency circumstance exists when: (1) the size and scope of the suspected criminal activity in a given situation poses a serious threat to the interests of the United States; and (2) enforcement of the law would be seriously impaired if assistance were not provided. It also mandates that the Secretary of State shall be consulted prior to declaration of any emergency circumstance.

The second subsection allows military personnel to intercept vessels and aircraft for the purpose of identifying, monitoring, and communicating the location and movement of the vessel or aircraft until such time as Federal, State, and local law enforcement officials can assume responsibility. Current law provides that the military may not be used to interdict or to interrupt the passage of vessels or aircraft.

TITLE IV. DEMAND REDUCTION

A. Treatment and Rehabilitation

This title reauthorizes the Alcohol, Drug Abuse and Mental Health Services Block Grant at higher funding levels of $675 million. Five percent is set aside for model community programs aimed at high risk. Of these funds, the Secretary, acting through the Alcohol, Drug Abuse and Mental Health Administration, shall reserve $125 million for state alcohol and drug abuse treatment programs to be distributed on the basis of population and need.

This title also eliminates various restrictions now imposed on states on the uses of funds under the alcohol and drug abuse provisions under the block grant except that at least 80 percent shall be used for alcohol and drug treatment and rehabilitation services.

Another provision tracks previously reported legislation from the Senate Committee on Labor and Human Resources, S. 2595, "The Alcohol, Drug Abuse and Mental Health Amendments of 1985" with certain modifications. The modifications which include the following:

One year reauthorization at $129 million for the National Institute of Drug Abuse and $69 million for the National Institute on Alcohol Abuse and Alcoholism; deletion of sections 10 and 11; addition of the following provisions:

The title further requires that the Secretary of Health and Human Services shall prepare a National Plan to Combat Drug Abuse.

The title establishes an Alcohol and Drug Abuse Clearinghouse for the dissemination of materials concerning education and prevention of drug abuse.

Additionally, we require the Secretary of Health and Human Services, through the FDA, to conduct a study of alkyl and butyl nitrates and report to the appropriate congressional committees as to whether this substance should be treated as a drug under the Food, Drug and Cosmetic Act.

The section also provides $11 million in new treatment funds for veterans programs.

B. Drug-Free Schools and Communities Act of 1986

This title contains a provision which authorizes a new $150 million state-administered grant program to establish drug free schools and communities. Of this amount, at least $80 million will be available for state (10%) and local (90%) education agencies. The remaining $50 million shall be made available to community prevention and education programs.

The Secretary of Education shall retain $20 million for national programs of which $10 million is used for regional training centers. In addition, the Secretary of Education and the Secretary of Health and Human Services shall provide assistance to communities and schools where appropriate.

C. Action

Current law authorizes approximately $2 million under the direction of ACTION for volunteer demonstration projects, of which about $500,000 is currently allocated to drug abuse prevention, education and treatment through the use of volunteers. This provision would increase the current authoriza-

tion by $3 million, which would be earmarked for expansion of the drug program.

D. The Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986

The primary purpose of this title is to authorize the development and implementation of a coordinated, comprehensive program for the prevention and treatment of alcohol and substance abuse among Indian tribes and their members. In order to better focus some of the existing programs of alcohol and substance abuse, this title directs the two Departments, Interior and Health and Human Services, having primary responsibility for Federal programs of assistance to American Indians, to enter into a Memorandum of Agreement.

Recognizing the vested interest and the authority of the tribes over their members, this title provides for the tribes to develop and implement their own coordinated approach, tailored to the local needs, through Tribal Action Plans.

The programs authorized in this title include a number of programs targeting Indian youth, including authority for the construction of emergency shelters, juvenile detention centers, and regional treatment centers.

Finally, to ensure that the current and new programs will be effective, this title provides for the training of key tribal, Indian Health Service and Bureau of Indian Affairs personnel in the areas of alcohol and substance abuse.

TITLE V. TAX CHECKOFF

When taxpayers file their income tax returns, they would be allowed to designate that all or part of any refund due be contributed to a Drug Addiction Prevention Trust Fund. Taxpayers may also make additional contributions to the Trust Fund at the time they file their tax returns.

Mr. DOLE. Mr. President, I want to make one comment on a discussion we had earlier with the Senator from Connecticut [Mr. WEICKER].

What we did in effect was satisfy the concern, the just concern, that the distinguished Senator from Connecticut had with reference to revenue matters and the constitutional question that was involved. I thank the distinguished Senator for raising this question last evening. I believe we have now corrected that to his satisfaction.

I again thank the distinguished minority leader for his cooperation.

Mr. WEICKER. Mr. President, I thank the distinguished majority leader and the distinguished minority leader. I think my only comment would be that most importantly, more importantly than satisfying my objections, they have satisfied the Constitution of the United States and the bill is now in its proper perspective.

TAX REFORM ACT OF 1986—CONFERENCE REPORT

Mr. DOLE. Mr. President, I ask that the Senate turn to the consideration of the conference report to accompany H.R. 3838, the tax reform bill.

The PRESIDING OFFICER. Is there objection?

Mr. METZENBAUM. Mr. President, reserving the right to object, and I do not intend to object, as I previously discussed with the majority leader we have not had a sufficient amount of time to apprise ourselves as to the contents of the conference report.

□ 1500

I just found on my desk this afternoon two books, consisting of 1,811 pages. That would be bad enough, but then, we have been attempting to obtain the transition rules. Those were not made available to us until 6 o'clock or quarter to 6 last evening. There are 400 items that were not in either the House bill or the Senate bill. We are attempting to determine what those are all about, what they cost, what their impact is, whether they should or should not be.

I do not wish to delay the progress of the Senate in considering this measure, but I do want to say to the leader that we have not had a chance at this point even to find out what we are talking about.

In fairness, I should point out that the House passed the bill without having even a list before it. They knew nothing at all about what was in the transition rules as far as I can find out. And we are not talking about an insignificant amount of money. We are talking about $10.6 billion.

I will say that the chairman of the Committee on Finance has made the list available to me as of last night and I understand that he probably was under some constraint as to making them available prior to the final vote in the House last night. I have not had any discussion with him on that subject but I just have to read between the lines.

Under the circumstances, I see no reason why we should not turn to consideration of the conference report provided the leadership understands that I have no intention of delaying consideration, but I do not believe we can have an expedited procedure.

On the other hand, I want to say I have no intention to delay the bill just for delaying purposes alone. I believe those who have statements at this point might want to proceed. I would have no objection to that. But I want to have plenty of time to do such research as we think necessary and make such comments as we think appropriate. Under those circumstances, I have no objection.

Mr. DANFORTH. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. DANFORTH. Mr. President, in somewhat the same vein as the comments of the Senator from Ohio, 2 or 3 days ago, Senator WALLOP and I wrote a letter to David Brockway, who is the staff director of the Joint Committee on Taxation, asking him to furnish us with a list of those provisions that are in the conference report that is now before us which were neither in the Senate bill nor in the House bill nor known or approved by the conferees prior to the signing of the conference report. That letter has not been responded to as yet by the Joint Committee on Taxation.

I think it is important to have at least some knowledge of those provisions which have been inserted in the bill which are entirely new matter before we proceed to vote on the conference report. My belief is that the joint committee could furnish us a pretty good list of such provisions in a period of about 5 or 6 hours.

I also do not want to slow down progress in debating this conference report. That is not my intention. But I do believe that it is reasonable for us to have identified for us those sections and provisions of the conference report which were never heard of or discussed by anybody prior to the signing of the conference report. Therefore, it is my hope that that information will be made available prior to the time that we vote.

I hope that the chairman of the Finance Committee or the majority leader or anyone else who has input with the Joint Committee on Taxation could communicate with the staff of the joint committee and make that information available.

The PRESIDING OFFICER. Is there further discussion? Hearing none, the request of the majority leader is agreed to. The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3838) to reform the internal revenue laws of the United States, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

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

(The conference report is printed in the House proceedings of the RECORD of September 18, 1986.)

Mr. DOLE. Mr. President, let the RECORD reflect that that is about a 12- or 14-inch document there. It indicates that there is some justification for what the two Senators were saying.

We certainly have no intention to try to steamroll this through the Senate and as long as nobody has any objection to delay or to rush it, it is all right. Everybody will have an opportunity to speak, to ask questions. The distinguished chairman is here and the distinguished ranking member [Mr. LONG], who, I might say, will be participating in his last action in the Senate on a major tax matter. I am certain we all have great respect and

will continue to have for the outstanding work Senator LONG has done.

I am pleased we are on the conference report.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. PACKWOOD. Mr. President, we are now going to start the debate on the conference report on the tax reform bill. It is the conference report that the House passed overwhelmingly yesterday. I want to make a procedural suggestion first. That is that those who want to speak might talk either to Senator LONG or to me so we can get some idea of how long Senators wish to speak and in what order. I know Senator DANFORTH wants to speak, and I suggest we alternate between Republicans and Democrats.

I assume Senator LONG will want to speak after I finish, then we shall go to Senator DANFORTH, and then to whomever wants to speak on the Democratic side.

I want to refer to the new matter that has appeared in the bill. Senators METZENBAUM and DANFORTH both referred to additional provisions added to the bill after the conferees finished their work last August.

Most of the matters added were so-called transition rules. Chairman ROSTENKOWSKI, and I were given authority by our conferees to allocate a specific sum of money to these rules. The reason we were given this authority is that many, many cities, counties, States, businesses, universities, convention centers, had to wait until the final outcome was known to determine whether they would need a transition rule. A transition rule is simply a bridge from the old law to the new, easing passage from one to the other. Until the conferees made their decision on the substantive portions of the bill, the need for transition relief could not be known. Therefore, this delegation of authority was necessary.

At Senator DANFORTH'S request, we added the Chrysler St. Louis, Illinois and Missouri facilities for about $78 million; bonds for Gannon costing about $4 million; St. Louis Sewer District, $5 million; St. Charles Riverfront, $4 million; Monsanto Chemical, $2 million; Tobacco Row for $8 million.

I could go on. These are all new requests.

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

Mr. PACKWOOD. Yes.

Mr. DANFORTH. All those specified transition rules were known by the Members of Congress before the bill was passed.

Mr. PACKWOOD. No, these are new ones.

Mr. DANFORTH. I think Members all knew them before the bill was passed.

□ 1510

Furthermore, my letter to the staff of the Joint Committee on Taxation asks for new matters other than transition rules. I understand that some transition rules were added, but in addition to the transition rules which are new matter, there were substantive provisions in the bill which were unknown by the conferees at the time the bill was passed.

What I asked the staff of the joint committee for was a list of those nontransition, substantive matters that were added subsequent to the time of the signing of the conference report by the conferees.

Mr. PACKWOOD. I apologize. The Senator is correct. However, my point was, that when the conference was completed, I had requests from 94 Senators for over 1,000 new transition rules. The conferees had allocated about a billion dollars to pay for the Senate transition rules the total of which would have cost, as best we could tell, in excess of $10 or $15 billion. We quit attempting to estimate their cost after a while. We simply could not do them at all.

So there are many, many transition rules. The Senator from Missouri is also correct in saying that there are some new provisions. Not many but some.

Having said that, let me go back and explain to the Senate, if I might, how we got to where we are, what process the Senate went through, what process we went through in conference, and why some of the things that the Senate wanted very dearly were not obtained and why some of the things that the House wanted very dearly were not obtained. Then, I want to explain what the bill finally does and what I believe the bill means for this country.

First, remember the process. Shortly after the 1984 Presidential election, the Treasury Department put forth a study called Treasury I. It was the first proposal for tax reform to come forth in this process. Now, any of you who listened to the House proceedings yesterday could not help but be moved by Speaker O'NEILL'S comments, especially his reference to the 1952 Democratic platform imploring Congress to move forward on tax reform. I do not mean to suggest that Treasury I, which came out after 1984, was the first tax reform proposal we have ever had. Senator BRADLEY from New Jersey has been advocating tax reform for at least 4 to 5 years in a plan called the Bradley-Gephardt plan. Many of his suggestions are incorporated in this bill.

But for purposes of my comments now, let us start with Treasury I. It was issued shortly after the election in 1984. It had some immediate supporters. It had some immediate detractors. Several month later, the President introduced his bill. Some people dubbed it Treasury II. It was somewhat changed from Treasury I but it bore many of the hallmarks of the reforms that were in Treasury I.

The President's bill was first taken up by the House. Under the Constitution, tax bills must initiate in the House of Representatives; they cannot initiate in the Senate. We in the Senate do not have to pass a tax bill if the House sends us one, but we cannot pass a tax bill unless they first pass it.

The House started its hearings in the spring of 1985. In the summer of 1985, the Senate started its hearings. We did not yet have a bill because the House was not to act until November of last year. But between Treasury I, the President's proposal, and the hearings that the House was having, we had a reasonable idea as to what a tax reform bill might accomplish. We certainly had an idea of what it could encompass.

So last summer we had, as I recall, a total of 35 or 36 hearings in the Finance Committee. Sometimes they would last 2 or 3 hours a day, sometime they would last 7, 8, 9 hours a day. And those hearings were a revelation to me.

One of the privileges of my life has been to be the chairman of the Finance Committee. But one of the responsibilities that comes with that privilege, quite often, is to preside at hearings when none of the other members are there. And consequently, with the exception of perhaps 5 or 6 total hours, I was present at all 35 or 36 days of hearings and all of the hours of those hearings.

The reason the hearings were a most revealing experience was because of the range and depth of the witnesses who appeared. At the end of the hearings I asked one of my staff to get me a list of the witnesses and the groups that they represented. I did not reread their testimony. I was interested to discover if there was any group in America that had not been represented at the hearings.

We could not necessarily have every insurance company, but we could have the trade association that represented insurance companies; we could not have every auto manufacturer, but we could have the trade association that represented the auto manufacturers.

When I finished going through the list, I fully realized that there was not a social or economic decision made in this country that was not in one way or another influenced by the Tax Code, whether it is giving to the church or your college, whether it was investing in real estate or grocery stores, or whether it is a decision to invest in equipment for your factory. All these decisions in one way or another are influenced by the Tax Code.

I came to the conclusion that we were attempting desperately to overregulate the country through the Tax Code. I came to be a believer in the theories that Senator BRADLEY had put forth and thought that we should try to move in the direction he proposed. Fortunately, during the hearings, I had asked many of the witnesses how low they thought the maximum individual rate would have to be before they would not care too much whether or not they lost their particular deductions. To put it another way, when would the rate be low enough so that whether they gave to charity or whether they invested in equipment would not be influenced by the Tax Code.

Now, most people said, as far as the individual rates were concerned, in the range of 20 to 30 percent. I began to wonder whether we could lower individual rates in a package that the Finance Committee, followed by the Senate and Conference Committee, could support.

In the fall I began to talk with the members of the Finance Committee one at a time, asking them what they wanted in a tax bill. This is where I made my mistake. I underestimated their response. In almost every case the first thing that Senators would say was something like this: "Wouldn't it be nice, wouldn't it really be nice if we could have a tax reform bill that we could be proud of, a real tax reform bill, one that closed the loopholes, one that took some of the poor off the tax rolls, a real tax reform bill. I guess this isn't the time for it, maybe the next Congress; we don't seem to be able to move fast enough. However, I would like to have in the next bill"—and he would list A, B, C. Most of the A, B, C's were needed for their States—parochial interests. There is nothing wrong with that. If a Senator does not watch out for his State, nobody will. Nobody need be ashamed that we attempt to defend the interests of our States.

After having talked with all 20 members, over a period of 70 hours, I attempted to draft a tax bill that accommodated all of their interests. It was not a bad bill. It had some good things in it. It had a good minimum tax in it. And that minimum tax would subsequently be carried forward to be part of this conference report now. It was not a bad tax reform bill, but it was not a great one, either.

□ 1520

We began our markup in March. By this time, the House had passed its bill. The bill had been reported out of committee on a close, controversial vote. Most Republicans did not support it.

The bill could possibly have died in the House had the President not intervened. He sent a letter to all Republican Members indicating that he thought the bill then before the House was a bad bill, and if he got the bill to the White House in that form, he would veto. However, he urged passage of the bill to let the Senate work on it, to see if the process will produce a better bill.

The President deserves credit, because the bill could have died then. The House passed the bill, and it came to the Senate.

The Finance Committee markup did not proceed well. The committee progressively made the bill worse and worse by voting to add loophole after loophole, until finally the bill was so out of whack in terms of revenue neutrality, that, as best I can estimate, it was $100 billion negative over the 5 years.

Finally, on a day when it was obvious that we were going to vote another $20 billion or $30 billion in exemptions that day, I exercised the prerogative of the chairman and took the bill down. At that stage, I sat down with my staff and said, "Since we are not making any progress on the bill before us, let's go back to square 1 and draft a brand new bill and, for better or for worse, let's make it a real tax reform bill." I remembered that 6 months ago, the Members had said they want a real tax reform bill, and we would see if they would accept it.

In relatively short order, not more than 3 or 4 days of work, the outline of the bill was ready. It had a top rate of 27 percent for individuals, 15- percent minimum, and only two rates; 80 percent of Americans would have been within the 15-percent rate. A family of four people would have to earn about $40,000 before they would go above the 15-percent rate.

The bill closed most loopholes that allowed people to escape paying taxes. The bill guaranteed that all profitmaking corporations would have to pay taxes, no matter what their exemptions, deductions, privileges, and loopholes were.

On a Thursday, that bill was put before the Finance Committee, and immediately six Members came to me and said they liked the concept and they wanted to work on it. Those colleagues on the Democratic side were the Senator from New Jersey [Mr. BRADLEY], the Senator from Maine [Mr. MITCHELL], and the Senator from New York [Mr. MOYNIHAN]; on the Republican side, the Senator from Missouri [Mr. DANFORTH], the Senator from Rhode Island [Mr. CHAFEE], and the Senator from Wyoming [Mr. WALLOP].

Between that Thursday and a week from Tuesday, 12 days later, the seven of us would sit and hone the bill, change it slightly, and then meet with the other committee members. Lo and behold, 12 days later the bill passed out of the committee by a vote of 20 to zero, and subsequently was passed on this floor by a vote of 97 to 3.

That is the background of the Senate bill. That bill took about 6 million working people off the tax rolls. I emphasize "working people." These are not people on welfare. People on welfare do not pay taxes. These were people making $9, $10, $11, or $12,000 a year. There are people in this country who work full time and make no more than that. These people are now on the tax rolls. They had not been on the tax rolls at one time, but they had been gradually inched their way back on. This bill takes them off again.

Most of these taxpayers, are women, many of them divorced, with children. They are trying to get by on $10 or $11,000, while paying $3, $4, or $500 a year in Federal income tax. It is simply not fair.

Second, we dramatically lowered the rates. For individuals, the top rate had been 50 percent. We lowered it to 27. For corporations, the top rate had been 46 percent. We lowered it to 33 percent.

We added a $2,000-personal exemption. Again, this is a tremendous help for families, a tremendous help for the poor a family of four—a man, a woman, and two children—the bill provides $8,000 in exemptions. If you do not itemize, you have a $5,000-standard reduction. So there is $13,000 in exemptions before you pay any tax at all.

We put in very stiff corporate and individual minimum taxes. To put it in perspective, so that you can understand how dramatic this was, the current minimum tax that is in the present law—corporate—over 5 years raises about $2.5 billion. The one in the Finance Committee bill raises about $35.5 billion over 2 years. So it was an extraordinary minimum tax, both in terms of the quantity of money it raised and the fact that it was impossible to avoid.

On the individual tax, the principal thing we did was severely limit the benefit of so-called tax shelters. We did this through our passive loss provision. Without unduly boring the Senate, let me call them paper losses. That is not really an accurate term. But what very wealthy individuals would do is invest in properties, usually real estate but not always, that generated paper losses. They would offset the paper losses against their regular income. This would reduce their regular income, their taxable income, down to zero. They paid no taxes.

Everyone in this Chamber has gone home and had this question put to them. These are people making $15 or $16,000 a year. "Senator, I don't mind paying my fair share, but why don't they pay something?"

The "they" are the corporations making hundreds of millions of dollars

profit and paying nothing, and individuals of great wealth who pay nothing.

Every year, the story is printed in the papers—and I paraphrase—844 Americans last year made over $1 million and paid no taxes. That, justifiably, galls the average taxpayer who is making $15,000 a year and paying $1,000 in taxes. This bill closes those loopholes.

Then, Mr. President, we tried to equalize the taxes among different kinds of business. We did not totally succeed, but it was an immense step forward from the present law. We wanted people to invest in a duplex or a grocery store because the investor thought that he or she was a good property manager or a grocer, not because the Tax Code tilted toward the duplex or the grocery store.

□ 1530

We did not achieve perfect equality among all kinds of businesses, but we came a lot closer than where we are now.

We tried to equalize the taxation among different kinds of income, whether that income is capital gains or income from dividends or interest, or income earned from the sweat of your brow as a wage earner working in the factory. We, by and large, achieved that.

However, in order to do that and in order to get the rates down very low, we did not just close what most people would think of as loopholes. "Loopholes" is a very pejorative term. You think of loopholes as favoring a special interest group, normally characterized in editorial cartoons as a rather fat fellow wearing a vest with dollar signs and cash coming out of his pocket who represents evil big business. Those are loopholes in the public's mind.

Every single witness that we had before the committee represented a "special interest group." However, many, many, many of those were groups that the public would not think of as evil. How about the National Council of Catholic Charities? How about the National Collegiate Athletic Association? How about the Independent Sector, which is the umbrella group that represents most of the charities? How about the American Association of University Women?

Most people do not think of these groups as evil or trying to do in the good of the country. They are perfectly legitimate, decent groups. They all had an interest in the bill.

In order to get the rates down to the level we sought, 27 percent for individuals, 33 percent for corporations, we could not collect enough revenue merely by closing what most people think of as "loopholes." The loopholes are investments in lamas, the cattlefeeding operations, and the buildings that have no tenants. However, we had to eliminate a lot of other deductions. These were the toughest votes that we had to make in committee and the toughest votes that had to be made on the floor.

The elimination of the deduction of the sales tax, the elimination of the deduction of what we call above the line charitable contributions—charitable contributions made by people who do not itemize but who are allowed to deduct a charitable contribution. The elimination of the IRA, which has been substantially restored in our negotiations with the House. The elimination of consumer interest, the interest you pay when you finance a car or borrow on your insurance policy. Those are all eliminated and most people would not think of those as loopholes.

Every time we looked at one of those, whether it was the sales tax or consumer interest, or IRA's or charitable contributions above the line, we gulped twice and thought to ourselves, will the public accept this bill if we get rid of something they regard not as a loophole but as a cherished deduction in exchange for the lower rates?

But we went ahead, voted it out of the committee, eliminating many of those deductions that most people would regard as legitimate, brought the bill to the floor, and it passed. It passed 97 to 3.

The conference report is not going to pass 97 to 3. Many of the agreements made with the House in the conference have upset some of our Members.

Bear in mind, I have never been to a conference where either the House or the Senate wins everything. This is a bicameral legislature, and the two Houses are equal, No bill ever gets to the President unless the House and the Senate agree.

I have been here close to 18 years and never once have I seen a genuinely controverted conference where either the House or Senate won everything after passing dramatically different bills.

It became very obvious that if we were going to get a bill, the House would have to give and the Senate would have to give.

Some of the things that the Senate conceded in conference have caused pain to some Members in the Senate, enough to cause them to vote against the bill.

So again I want to reflect upon what it is we wanted, what it was the House wanted, and why in some cases we won some and the House won some.

First, bear in mind that the House made some very tough votes when they passed their bill. I discovered that, as a rule of thumb.

If the particular tough vote had been made in the House, then the House was very concerned about protecting that decision. The House had already taken the heat, the special interest groups had already hit them, and they had already stood up to them and said, "No." They did not want to give up to the Senate because they would have taken all the heat already. The Senate would be seen as saving the special interest groups. The House would get no thanks. All they had done is irritate a bunch of people whom they voted against.

So on both the House side and the Senate side it was my experience in the conference, the Members defended most vehemently the provisions they had been criticized most for.

The Senate had many of those provisions as well. One was the so-called passive loss rule. The House had no comparable provision. This provision was the one that irritated more individual wealthy people in the country than any other single provision in the bill. This provision limits the paper losses that the very wealthy use to offset their other real income, and thus reduce their taxable income to zero. We knew what we were doing when we put that in the bill. We understood it would make some of the very wealthiest people in the country pay taxes and understandably they were not going to like it.

The people affected by the passive loss rule are disproportionately influential in their communities. These are the people we, as Members of Congress hear most from. When we closed that loophole, we took a lot of flack in the Finance Committee. Once we took that flack, we did not want to give up the provision in conference.

The same is true for the very tough corporate minimum tax. This minimum tax, Mr. President, is, I think inescapable once it is in full effect. There will not be a profit-making corporation in the country that can escape taxation, and believe me, there are lots of corporations that wanted out from under this provision.

So after we had taken the flack here, we did not want to give up to the House.

The House, as I say, had made some tough decisions. One of the tough decisions involved changing the method used to compute the tax on pensions of retired Federal employees. Henceforth, it was going to be computed from the day of retirement. The Federal employees did not like this.

In the Senate, our provision was prospective. However, the House having taken the heat for it, did not want to concede when it got to conference. They would not budge a day. I can understand why they were so adamant.

Long-term contracts was another controversial issue. This involves a method of accounting used by defense and other contractors that have projects that run a long time. When you are building a dam, you do not

build a dam in a week. When you are building a B-1 bomber, you do not build a B-1 bomber in a week, and if you are building a number of B-1 bombers the process goes on over a long period of time.

The House dramatically changed the completed method of accounting. Most contractors did not like this change. The House took unmitigated grief when they passed the provision. Understandably they did not want to loosen it very much when it came to conference, although they did loosen from where their position had been.

The same is true for banks. The House hit the banks much harder initially than did the Senate.

□ 1540

As a matter of fact, they had a very controversial vote where the banks won one day and the next day they lost. Again those House members who took the grief did not want to move from their provision.

When it came to charitable contributions, the issue of donation of appreciated property became an interesting point of dispute between us. Here the administration was on the side of the House.

Appreciated property, to use an example, property which bought for $100,000, and 20 years later is worth $1 million. You give it to your college. Under current law, you can deduct the entire $1 million as a charitable contribution. You can arrange your affairs in such a way that you can reduce your taxable income to zero.

The House included charitable contributions of appreciated property as a preference for the minimum tax. For mimimum tax purposes, your deduction would only be $100,000. For purposes of the regular income tax, you could still take the $1 million deduction.

The House would not give up on this provision either.

So, as we began to negotiate with the House, they gave a lot. They agreed to start with the Senate's low rates. The House conferees did not believe that the conference would stick with the low rates. They thought, when we were really faced with the tough decisions, that the pressure would be so great that we would raise the rates.

However, the Senate had already fought that battle. We knew we had gone through it, we had taken the heat, and we thought we had to take it again.

We started, by and large, with the Senate's position on the minimum tax, and stayed there throughout. The closing of tax shelters through the passive loss rule, we started with our position and pretty much stayed there throughout.

The House did not have the $2,000 personal exemption for everyone. The Senate did, and we stayed with the Senate position throughout.

With only a few exceptions, we stuck throughout the conference with decisions to eliminate the things that people would not call loopholes—consumer interest, sales tax, capital gains. The House, to their credit, stuck with us.

On the issues the House had taken the grief for—the retired Federal employees, completed contracts, the donation of appreciated property, the banks, property and casualty—by and large the bill reflects those tough decisions made by the House. It was a genuine compromise in the best sense of the word.

Now, we come to the so-called transition rules. I know the press loves to make great fun of these. As I said at the start of my comments, transition rules are designed to ease the passage from the present law to the new law. These are necessary because people had relied upon the law as it was. In those cases, they deserved a transition.

First, the chairman of the Ways and Means Committee and I set down some specific guidelines that transition rules could not violate. They could not be exceptions to the book income provisions of the corporate minimum tax. None of them are. They could not violate the passive loss provisions that the Senate had in its bill. None of them do. Had we started to make exceptions to the corporate minimum tax or started to make exceptions to the so-called passive loss rules—there would have been no end to the exceptions.

On the very last night, when the chairman of the Ways and Means Committee and I were negotiating the last settlement, we made the only exception to the passive loss rules. It was not a so-called rifle shot. It was not one project. It was in the area of low-income housing.

The reason we made an exception for low-income housing was that investment in low-income housing is different than investment in most other kinds of real estate. Under the law today, when most people invest in commercial real estate, expect the buildings to generate cash flow, and to appreciate in value. Investors get tax deferral and capital gains on sale.

The problem with low-income housing is that projects usually do not appreciate in value. In addition, many projects do not generate positive cash flow. So that the principal reason for investing in low-income housing is solely the tax losses.

What we were afraid of, if we did not make an exception—the only one in the passive loss rules—for low-income housing is that investors would simply walk away from the property, banks would have to take them back, and eventually we might have to take them back. We would then have hundreds of thousands of low-income tenants on our hands, and we would be faced with either appropriating a great amount of money so they could continue to live there or, worse, throwing them out, converting the projects to middle- or upper-income projects. That is the reason that exception was made.

There were four or five other basic principles that the chairman of the Ways and Means Committee and I agreed the transition rules must not violate. By and large, the transition rules adhere to these principles.

There are, however, about 380 transitions, what I call rifle shot transitions, that are in the conference agreement that were not in the Senate bill and were not in the House bill.

There will be criticism, I know. Who is to say which project deserves a transition. Those are subjective judgments.

It would be foolish of me to say that, on occasion, politics did not enter those judgments. If the Speaker of the House requested from the chairman of the Ways and Means Committee a transition rule, my hunch is that the chairman of the Ways and Means Committee would give it a reasonably high priority in his thinking.

If Senator DOLE requested one of me, I would give it a resonably high priority in my thinking.

But, Mr. President, as honestly as we could, we tried to be fair in the transitions and we tried to make sure that they did not violate the basic tenets of the bill.

□ 1550

To put that in perspective, over the next 5 years the Federal Government will collect revenue of about $5 trillion; trillion dollars. This tax bill is the most dramatic change in the history of the Tax Code.

Mr. President, 1 percent of $5 trillion is $50 billion. One-tenth of 1 percent is $5 billion. The transition rules cost approximately $10 billion. Put in the perspective of the overall bill, the transition rules mean so very little.

After the conference concluded, Chairman ROSTENKOWSKI and I allocated approximately $3 billion in transition rules.

I am sure we made mistakes. I am sure we made some technical errors that we will have to correct. We found one—literally—where the city of New Orleans had been typed in instead of Pensacola. We meant Pensacola. It came out New Orleans.

There is another one where both the House and the Senate conferees had agreed to drop out a particular transition. We were both agreed. When the bill came out it was in there. It had not been dropped out. Those are technical errors.

Then there will be a few where some Members of this body, and the press,

will want to focus on as being venal or corrupt. Mr. President, they are not. Whether or not Chairman ROSTENKOWSKI and I in every case exercised our discretion in the way a particular Member would want is, I think, based pretty much upon the preferences of the Member. If that Member got his or her transitions—or the bulk of them—they would think we exercised our discretion appropriately. If they did not, we were venal and corrupt.

Now we are done. The House has passed their bill. The Senate passed its bill. The conference met. We agreed upon one bill in conference. The House passed it yesterday. It is a bill that we cannot exactly foretell the economic consequences of. There is no one who can tell you for sure. If we had not passed this bill at all, there is no one in this country that could tell whether the present Tax Code would have helped or hurt business. We could have had 20 days of hearings with 50 economists, and we would not have known from the economists whether the bill would help or hurt.

Mr. Feldstein says it hurt. Mr. Macon says it helps. The argument is sort of "My dad can beat up your dad." For every economist who says it will help, there is one who says it will hurt. I believe it will help. It seems to me, Mr. President, that if henceforth, people are going to make investments solely for the purpose of a return on their investment, or to put it more crassly, solely for the purpose of making money, that is going to be better for the economy than making investments in the hope that you receive tax benefits. There will be no more investments made, if this bill passes, for the sake of generating paper losses; no more cattle feeding operations where you can buy a $10,000 share which is designed to lose money. No more investing in llamas, kangaroos, or syndicated shares of a greyhound.

I do not know if you know, Mr. President. You can buy part of a greyhound. You do not have to buy the whole hound. This is for people who have never seen a dog track in their lives.

This bill will encourage people to invest in things that they know about, things they think they will make money. I think at last the person is going to invest in the grocery store or duplex because they think they are a good grocer or property manager. That ought to be good for America.

Mr. President, that was not the sole reason for this bill. If there was any single motivating factor that was the key to this bill passing the Senate, it is that this is a fairer Tax Code than we have now. Henceforth, we can go back to our constituents, and with pride say that those people who previously paid no tax will now pay something. They are going to pay a lot. They have not paid before. But they are going to pay now. The Jane or Joe pulling green chain in an Oregon mill making $16,000 or $17,000 and paying $800 or $900 in taxes, will no longer have to hear the stories of unfairness. Those will be gone.

Will the bill work? Will it make the economy grow more than if we change the Tax Code, No one knows. But as the old saying goes, Mr. President, no guts, no glory.

The way we were going was wrong. It was unfair. And we were unjustifiably intruding ourselves in every decision, economic, philosophical, personal, and charitable that people were making.

So for better or for worse, we are going to try a new road. I think it is worth it. I hope the Senate will support the conference report.

Mr. DANFORTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. DANFORTH. Mr. President, does the Senator from Louisiana desire to talk at this time, the ranking member? I would be happy to proceed.

Mr. LONG. Mr. President, it does not make much difference to the Senator from Louisiana. Let us debate it for awhile. I invite the Senator to go ahead and make his speech.

Mr. DANFORTH. I thank the Senator from Louisiana.

Mr. President, a number of Senators have asked me what my intention is with respect to debating this bill. People have asked me whether I am going to debate it at length, whether I want to filibuster the bill, and the answer to that question is no. I am not going to filibuster. I do not have any desire to prolong the consideration of the Senate. I did have a preference that we wait until next week to take the bill up because of the other matters that I have to deal with. But I was perfectly willing to cooperate with the majority leader in considering the bill today.

I am not going to filibuster the bill but on the other hand I do believe that the bill deserves reasonable consideration by the Senate. The bill, as is commonly known, was agreed to by the conference committee in a very summary fashion. We did not have any text before us. We had broad outlines of an agreement before us, and a majority of the conferees signed the papers.

□ 1600

Subsequent to signing the papers, the two chairmen negotiated the details of the bill, and not only the details but some very important elements of the bill, and not just the transition rules, either.

(Mr. McCLURE assumed the chair.)

Mr. DANFORTH. The conference report was first made available to staff last Friday, and it is quite a weighty document, literally, some 900-plus pages of text, plus several hundred pages of report language. It is obvious that this conference report has not been gone over with a fine-tooth comb.

I do not think we are going to go over it with a fine-tooth comb, but I do not think we should have the bum's rush either.

Senators ask me, "What is your intention?" My intention is to attempt to describe some of the fundamentals of the bill that I think are wrong. I think this is a bad piece of legislation, and I want the Senate to know why I think it is a bad piece of legislation. Not because I think that I am going to win this vote. I do not. But I do not think that we should make decisions with blinders on. I do not think we should make important decisions in a cavalier fashion. As everybody understands, this is an important bill. It is a revolutionary tax bill. At the very least, it deserves our consideration and reasonable discussion on the floor of the Senate.

So it is not my intention to filibuster; it is my intention to describe it and discuss it. I do not intend to be popping up over and over again, or slowing down Senators. A lot of people have said they want to go, that they have a speech to make, this, that, or the other thing, and I do not want to get into people's hair.

On the other hand, I do not intend to be given the bum's rush.

So, Mr. President, I do ask unanimous consent that the remarks I have been giving and am continuing to give not be considered a speech within the two-speech rule.

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

Mr. DANFORTH. Mr. President, let me first say something very personal.

Some people have asked me, press people, mainly, "What does your opposition to this bill do with relationship with the chairman, Senator PACKWOOD? What does your strong feeling, your vocal opposition to this tax bill, do to your working relationship and your personal relationship with Chairman PACKWOOD?"

I am going to answer that right now from my standpoint.

BOB PACKWOOD has been a personal friend of mine since well before I was elected to the U.S. Senate. Who else but Senator PACKWOOD would have gone to Ashland, MO, to dedicate a new America, no less, during my ill-fated campaign of 1970?

During the past almost 2 years I have watched BOB PACKWOOD operate as chairman of the Senate Finance Committee. He had very big shoes to fill. When I first went to the Finance Committee, Senator LONG was our chairman, a legend who is soon to be leaving the Senate. One of the great

experiences of serving here has been to serve with RUSSELL LONG on the Finance Committee and also on the Commerce Committee. A great chairman of our committee.

He was succeeded by BOB DOLE, also an excellent chairman who had to move through the Finance Committee on the floor of this Senate and conference a series of very complicated tax bills. He did an outstanding job in his stewardship of our committee.

So BOB PACKWOOD had very large shoes to fill when he became chairman of the Senate Finance Committee.

The first thing of real consequence he was faced with was a demand on the part of the administration that we address tax reform. Senator PACKWOOD has gone through the chronology of tax reform legislation, what led up to the moment we are at today.

There were many times when it was the commonly held belief that there could be no tax bill, that it was dead.

I never thought it was dead. One of the reasons I never thought it was dead is because of my respect for the ability of Senator PACKWOOD.

Last winter, the Finance Committee went on a retreat to West Virginia. It was snowing. We sat around a big table and we talked about what we were going to do in tax legislation. At that time a lot of people thought there was no chance to pass the bill. BOB PACKWOOD persevered.

Then, as our chairman pointed out, the bill went through markup in the Finance Committee and it fell on hard times. It became the usual tax Christmas tree. It was the opposite of reform. People thought, "Well, this is dead. This is going nowhere. This is a travesty."

Senator PACKWOOD did the boldest thing I have ever seen done in the Senate: he took that bill away from the Finance Committee and then several days later he came back to us and said, "What do you think about a proposal with two individual rates, 15 percent and 27 percent, and a 33-percent corporate rate?"

That bold stroke captured the imagination of committee members.

We were electrified by it. With all the diverse opinion that is present in our committee, we went to work on that bill and we reported out of the Finance Committee, by a unanimous vote, this revolutionary tax bill.

Then we went to the floor of the Senate and amendment after amendment was offered, and amendment after amendment was beaten back by Senator PACKWOOD.

We passed the bill with three dissenting votes.

Then, in conference, he was faced with an extraordinarily difficult situation, which I will describe in short order, and despite this extraordinarily difficult situation, he managed to get a majority of the conferees in the Senate to go along with the bill.

So I have a great respect for our chairman, and I want to make that clear at the outset.

Mr. President, I have to say that all along, my view of tax reform has been mixed. I have recognized the down side, the difficulties, and at the same time I have aspired with our chairman to accomplish true tax reform.

When the House passed its bill the latter part of 1985, I examined the House bill and I could not have been more critical.

I issued a statement at that time which said:

> The House bill penalizes savings and investment and stimulates immediate consumption. It hinders economic growth and risks triggering a recession. It is the legislative equivalent of reckless driving.

That is how I felt about the tax bill. All along it has been my own belief that the closer we were forced to come to the House bill, the less palatable the product became, as far as this Senator was concerned.

I thought the House bill was bad for America.

But I wanted to be part of the process. I wanted to participate in true tax reform. I was impressed by the bold stroke of our chairman—excited by it—and so I joined in the process. As Chairman PACKWOOD pointed out, there was a core group, and we met day after day. We met, I remember, one Saturday all day in the Finance Committee room. There were six Senators who were in that core group, and I was one of them. MALCOLM WALLOP was another. We were two of the strongest supporters of the chairman's tax reform initiative. Gung ho.

We supported him in committee. We cast tough votes in committee. And we came out on the floor and we spoke for his tax reform initiative. We helped to beat back amendments. We cast the tough votes, and we spoke out against the amendments that were offered.

Now, Senator WALLOP and I, both members of the core group, find ourselves among the very strong opponents to the product of the conference.

□ 1610

Because as the conference proceeded, the bill became increasingly objectionable, increasingly difficult as far as we were concerned.

Some people say, well, is this just a matter of pique on your part? Is this just because some of your Missouri concerns were not taken care of? My answer to that is, in all honesty, no. I went into this whole process realizing that particularly the completed contract method of accounting was something that was going to be very, very difficult to win with. I have had this sort of mental picture in my mind that when I pass on to my reward, whatever it is, I am greeted, hopefully at the pearly gates by St. Peter, and he says "What did you do with your life?" My answer is, "Well, I spent about 6 months of it trying to save something called the completed contract method of accounting."

That was always difficult and I realize that.

I think that at the end of the conference, I was clinging to the process despite reservations about the economic consequences because I thought that when I jumped ship, all of my baggage would be tossed overboard with me. So I was grabbing on to the railing, but not jumping. But I have to say that even at a time when it looked very rosy for some of my pet projects, I was calling up economists. I was asking them their views and I was voicing concern about where we were heading. I was voicing it during meetings of conferees—meetings of Senate conferees in our chairman's office, meetings between the Senate and the House conferees in closed session here, in the Capitol Building. So it was not really a matter of just pique on my part, or spite on my part.

Well before some of my concerns went down the tube, I was really concerned about the course of the bill. I can remember at a meeting with the House conferees saying that if this bill went much further in the direction that it was heading, I was going to have to oppose it and oppose it very, very strongly.

Mr. President, as was pointed out in the morning paper, one of the House Members yesterday, during consideration of the bill on the House floor, said that this is a matter of relative degrees of gray, and I agree.

No tax bill is entirely good and no tax bill is entirely bad. At no point in this process did we have a bill which I believed was entirely good or entirely bad. The conference report that we have before us has some very good things in it. All along, this bill has had some very good things in it. This bill takes 6 million low-income people off the tax rolls. That is good. That was an objective worth pursuing and the bill will do it.

It could have been done, incidentally, for about $2 billion. Senator MITCHELL and I for some time had been working on a bill to remove low-income people from the tax rolls. It could be done for about $2 billion. But it is done in this bill and that is good.

The bill reduces rates, both individual rates and corporate rates, and who can object to that? Obviously, if we can do it and do it responsibly, everybody wants rates reduced. That is good. And that is something that was done in this bill: We reduced rates.

We expanded the earned income tax credit. The earned income tax credit is

our way in the Internal Revenue Code of offsetting Social Security tax payments for low-income wage earners. We expanded the earned income tax credit. That is good. That is something we did in this bill. This bill is not all that dear. It has good aspects in it as well as bad.

We ended a lot of tax shelters. Senator PACKWOOD, in his description of the bill, has gone into this in at some length. It is absolutely true that the current state of the Internal Revenue Code is a mess. It is perfectly ridiculous that in our Tax Code we are providing incentives for people to get into things that they really should not be in. Why, for example, when our famers are producing half again more than the American people can consume, do we want to have tax incentives to put dentists and doctors into the business of farming? It does not make any sense and the bill does deal with the problem of shelters. I think that it deals with them effectively and that is good.

The bill provides for pension reforms, new pension rules with respect to vesting and integration and nondiscrimination. Most people who are students of pension law, tax law relating to pensions, believe that these are significant reforms that are found in this bill. That is good that we reformed the pension system.

We have a new concept of minimum taxes. As our chairman pointed out, all the time we are hearing from our constituents, how can it be that somebody with $1 million income does not pay any taxes? All of us believed all along that there should be some attempt to fashion a meaningful minimum tax so that wealthy people cannot exploit loopholes and escape taxes altogether, so you no longer see people who wear buttons that say, "I paid more taxes than General Electric." Our code cries out right now for reform by way of both corporate and individual minimum taxes and we do it in this bill. And that is good. So there are good things that are accomplished in this tax bill and they were always in the tax bill.

The question in this Senator's mind has always been, what would I be willing to pay for these reforms? What should we as a country pay to accomplish the tax reforms that are good? What things should we do to the bill, to the tax law, as tradeoffs for the reforms that are not too dear a price to pay for what we are attempting to accomplish?

Above all what risks to the economy are we willing to incur in the process of providing America with tax reforms?

I was willing to pay a lot to accomplish tax reform. When I signed on to the chairman's process and when I became a member of the core group and when I supported the Senate bill on the floor last summer, I was willing to pay a lot for tax reform. I was willing to agree to things that were truly obnoxious to me that were in the Senate bill because I thought that these were prices that, while tough and stiff and expensive, could be paid.

□ 1620

I was willing to raise taxes on corporations, not in some trivial amount but by by $100 billion, which is what we thought we were doing when we were on the floor of the Senate. I was willing to agree to that as part of a comprehensive tax reform bill. I was willing to repeal the investment tax credit. I really do not want to repeal the investment tax credit to be perfectly honest, but I was willing to ante that up, to chip it in as part of a total process of accomplishing tax reform.

I was willing to do something which to me—and I am going to be speaking about this in a little bit—has always been most unfair, but we had to do it, I thought, in order to provide enough revenue to pay for the bill, and that is to make the tax shelter reform, the ending of tax shelters, retroactive. I was willing to hold my nose and do that as part of a tax reform bill.

But the question in my own mind has always been how much am I willing to divvy up, how much should we ante in, how high should the price be for the kind of low rates that our chairman conceived of last spring.

What happened, Mr. President, as we proceeded in the conference, was that the price became higher and higher and higher, and we had to keep ponying up more and more and more to meet the demands of the bill. We had two problems. One probably was the House of Representatives. That was not so bad because it is always true that in any tax conference there are compromises, and you have to meet them somewhere halfway. And the House did have a different philosophical position in its bill, especially with respect to what it was prepared to do to business, than we have in the Senate. But we all understand that you go to conference and you cannot get your way.

But there was another wrinkle in this, and this is where really, in my opinion, came the cropper in the conference. We found that we had to keep throwing more and more revenue into the bill to attain the principle of revenue neutrality. We agreed in the Senate, the House agreed, everybody agreed that the bill had to be revenue neutral. There was no question about revenue neutrality. But what we found out when we went into conference was that we had to keep dumping more and more revenue into the bill to get to revenue neutrality. We thought we had accomplished revenue neutrality in the Senate. We had not even come close. No sooner had the bill left the Senate floor than the Joint Committee on Taxation began redoing their revenue estimates and finding us more and more short in the revenue that we thought we were producing in the Senate, so that in addition to attempting to catch up with the House in its demands on a philosophical basis to change what we did, we had to pour in revenue. And this became, Mr. President, an almost frantic effort on the part of the Senate conferees.

It was not that we could find it in one big pocket or another big pocket. Mostly what we did was to go through long lists of things that produced a few hundred million here and a few hundred million there. The biggest thing we did in the aggregate was to increase taxes on corporations. A lot of people will say, "Well, that is all right; corporations do not vote."

But it is also said that corporations do not pay taxes, that people pay taxes, and that what we do in increasing the burden on corporations is to hurt people by either increasing their prices or throwing them out of work. Mainly what we did in the process of the conference was to find money, large amounts of money, by increasingly upping the tax bill on corporations.

By my reckoning, a minimum of $37 billion in additional corporate tax burden was added during the conference over the 5-year period of the bill. It was, indeed, a frantic process by those of us who were conferees. We raised an additional $13 billion from depreciation by lengthening useful lives. We moved depreciation on research and development equipment for a 3-year life to a 5-year life. We made the R&D tax credit 20 percent instead of 25 percent, which it is under current law. We agreed to eliminate in full the deductibly of State and local taxes. We added endlessly to accounting changes, nickeling and diming them over and over again, changing accounting rules. We eliminated corporate capital gains. We raised to unconscionable levels the tax burden on Americans doing business abroad. We enacted a whole series of provisions to nail our colleges and universities. We went through an almost inexhaustible list of other changes, and finally at the very end, we were forced to do something that we, in the Senate promised we would never do, and that is to increase the rates from 27 to 28 percent for individuals and from 33 percent to 34 percent for corporations.

That was grudging, because, Mr. President, the whole nature of this bill right from the outset has been that we, in the Congress, have become—and myself included—intoxicated by low rates. We have been willing to do anything to accomplish low rates. We were willing to dump more and more taxes on our industrial sector, on re-

search and development, on education in order to placate this god that we had formed of low rates.

And so as we proceeded through this process of coming up with more and more revenue in the bill, some Senators in the core group defected. I was one of them.

Now, Mr. President, I suppose everybody in the Senate has his or her basic standard of what makes for a good tax bill. Some people say that the basic criterion should be fairness. Some people say that the basic criterion should be low rates. My test of a good tax bill has always been the same. My test has always been, what would the bill do for the economy of our country? How will the bill affect the American economy?

□ 1630

It is of little value to our constituents to tell them that we have cut their rates but that the economy in which they have to live is going to be worse, because no reduction in tax rates compensates for the loss of a job.

It has always been my view that the test to be applied to tax legislation should not be what the rates are or even fairness, as important as that is, but, rather, that the basic test, the most important test, should be what the bill does to or for the economy.

It is my belief that the bill that is now before us, the conference report that is now before us, is a serious blow to the economy of the United States, that it will have profound repercussions, that it will exacerbate other flaws that we have in the economy, and that it will lead America not in the direction of greater strength but of greater weakness.

Let me spell out what I mean.

Mr. President, this Senator—and I think most Senators—has always believed that the No. 1 economic issue that is before our Government right now is not tax reform. The No. 1 economic issue before us is the deficit in the Federal budget. There is a difference of opinion on that.

Our President has said many times that he believes that there should be two priorities, there should be two items on the front burner. The budget deficit is one thing, and tax reform is another thing. Our President has said that both priorities can exist equally. I have never believed that, and I do not think most Senators believe that. My view has been that the meaning of the word "priority" is "one," and that there can be only one priority; and that tax reform, even perfect tax reform, does not even come close to the budget deficit, which is the real priority before America.

Mr. President, the very best that can be said for this tax bill with respect to the budget deficit is that for about 6 months or so, it has succeeded in pushing the budget to the back burner.

I remember sometime this summer, right when we, in Congress, were in the midst of fighting the battle of the tax bill, reading in a newspaper that our leader, Senator DOLE, had said that from what he saw of the public attitude, the budget deficit had been pushed onto the back burner, that it had been receding in the public attention, that it had gone beyond the other side of the horizon. I think that was an accurate perception on the part of our leader.

The budget deficit has played second fiddle to tax reform. Frankly, we already have been distracted even from doing the job that we promised when we passed Gramm-Rudman-Hollings. Remember, when we passed Gramm-Rudman-Hollings, we promised to put the country on a path toward a balanced budget by 1991 and we promised that we would have a $144 billion deficit in 1987. Well, we have changed our mind on that. The target now is not $144 billion. We have enlarged the target to $154 billion. We have used the cushion that was created to meet the exigencies of changing economic forecasts. We have used the outer rim to become the bull's-eye itself.

The process we are going through right now in reconciliation is hardly a reform of our budget policy. We are selling assets, and we are calling that meeting Gramm-Rudman. In any event, I do not think we have done a very good job on Gramm-Rudman, and I do not think we have done a very good job on the budget. I think it was a mistake to view tax reform something of equal significance to the budget deficit.

That is the best that can be said about the bill with respect to the deficit—that it distracted us from the bigger question of the deficit. But I think it did worse than that. I believe that this bill, in and of itself, is going to make the deficit much larger than it would be if we did not pass the bill.

For one thing, Mr. President, we really do not know the revenue consequences of this tax legislation. We have no idea. Revenue estimates are such an inexact art that we really do not know what we are doing. We say that we guess this is going to be revenue neutral, but we really do not know whether this bill is revenue neutral or not.

During about 2 or 3 weeks, as we are proceeding in conference, revenue estimates shifted by $20 billion.

I can remember that poignant moment just before the conference was completed, 1 day before the conference was completed, when Chairman PACKWOOD went out and saw the press and said that he could have cried at the changing revenue estimates from the Joint Committee on Taxation. He was very candid and very open, as he always is, when he said on the "Today Show" a week or so ago:

> I hope the bill is revenue neutral. We have done everything we can to write it so that it will be revenue neutral. But, very frankly, when you are talking about a bill that goes over 5 years, and we're going to be collecting roughly $4.7 trillion over that time, you could hope it is neutral. Nobody can be absolutely sure.

That is a very candid comment, and it is true. We cannot be sure. We do not know what this is going to do to our budget deficit as contrasted with current law. It is a guess; it is a gamble with the deficit. We are guessing that the figures are right, but they may not be.

□ 1640

Mr. President, let us assume for the moment that they are right; let us assume that the Joint Committee on Taxation is accurate and that they were going to hit our revenue projections on the button. What would that mean for our battle to move the Federal deficit toward balance? What would it mean for the future of Gramm-Rudman-Hollings? Already next year we will have a $154 billion deficit and already we have said that we are going to go from $154 billion to $108 billion deficit in 1988.

And we have further said that not only are we going to do that, not only are we going to get down to the $108 billion, but in the process we are also going to come up with $17 billion somewhere that is going to fill in the gap created by the revenue shortfall that our estimators tell us will exist in 1988.

Mr. President, how are we going to hit the target of $108 billion when hitting that target means that in addition to getting to $108 billion we are going to have to come up with $17 billion because of the programmed revenue shortfall in this tax bill?

My answer to that is we cannot make it, and my answer is that if we pass this bill—and we will pass this bill, let us face it—Gramm-Rudman-Hollings will have a life of 1 year. It was partially successful for 1 year. It did not get us to $144 billion. At least it got us to $154 billion, but, Mr. President, there is not the slightest chance in the world that if we pass this bill we can get anywhere within shouting distance of $108 billion deficit in 1988. There is zero chance of that.

The Gramm-Rudman-Hollings process lasted 1 year and that is it, and somehow we are going to have to find some way to wiggle out of it. Maybe we will wiggle out of it. In any event, if we did not pass the bill, surely the extra load of $17 billion in revenue shortfall will make it absolutely impossible to follow through with Gramm-Rudman-Hollings in 1988. Let us say that now and realize that in the vote that we will take on this confer-

ence report we are voting to kill Gramm-Rudman-Hollings.

Now, I have said there is a $17-billion shortfall if the revenue projections are correct. They are not going to be correct. They are not going to be correct and I want to tell the Senate a few reasons why they are not going to be correct.

First, this is something that we have gone round and round on in the Finance Committee forever. Should revenue estimates be static or should they be dynamic? The figures that we always get from revenue estimators are static figures. They assume no change in economic behavior as a result of changes in tax legislation.

The projections of revenue neutrality that we are working under are static projections. They do not anticipate any downturn in the economy. If there is a downturn in the economy, particularly one created by, for example, repealing the investment tax credit, we are going to be losing revenues because our economy is going to be doing worse.

So, Mr. President, Roger Brinner of Data Resources, Inc., tells us that he estimates that in 1987 our Federal Treasury will be bringing in $21 billion less revenue than that projected by the Joint Committee on Taxation because of the economic consequences of this tax bill.

Then Roger Brinner tells us that in 1988 the tax bill will create a revenue shortfall from current law of $25 billion and in 1989 the figure is $16 billion. Who knows if that is right? But the fact of the matter is that he is at least working into his calculations an anticipation of some readjustment of the economy. You cannot pass this revolutionary tax bill without economic fallout and that kind of fallout is what is being predicted by Roger Brinner of Data Resources.

So the static versus dynamic estimates are one reason why this bill is not going to be revenue neutral. Another reason is that the revenue assumptions in the bill are hopelessly unrealistic and let me give a couple of examples of why I think they are hopelessly unrealistic.

We are estimating that in this bill we are going to pick up tax revenues by increasing the tax on capital gains. That is what we are doing in the bill. We are increasing the tax on capital gains from 20 percent to 28 percent and we are saying that when we increase capital gains taxes, we are going to pick up revenues of roughly, I think this is what the Joint Committee is telling us, of roughly $20 billion.

Now, Mr. President, in 1981 we did just the reverse of this bill. We reduced capital gains taxes from 28 percent to 20 percent. At that time it was argued that when you reduce capital gains taxes you pick up revenue because the number of transactions increases.

And I think Senator LONG will remember those agruments in committee and on the floor.

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

Mr. DANFORTH. I yield.

Mr. LONG. We used to make those arguments both in the committee and on the floor. Those of us contending that succeeded and then we definitely contended, and I believe the fact will prove it worked out, and we argued that a reduced capital gains tax rate will bring about more capital gains, and I believe the record will show it did. I believe the Senator is getting to that.

Mr. DANFORTH. I think that is exactly right. We made the argument in 1981 that when you reduce capital gains taxes, you increase revenue and I believe the facts point that out and I do not think anyone contests that. I am not sure what the number is. But I do not think any one contests that when we reduced capital gains from 28 to 20 percent we picked up revenue.

Now, in this bill we are saying that when you increase capital gains taxes back from 20 to where it was, 28 percent, we are going to pick up $20 billion in revenue.

Mr. President, you cannot have it both ways. You cannot have it both ways. Either we pick up revenues by reducing capital gains rates or we pick up revenues by increasing capital gains rates. It cannot go both ways.

Someone said to me a few days ago: "I know what we are going to do to close the deficit next year. After we pass this bill we are going to reduce the capital gains taxes to 20 percent and argue that that will pick up revenue again.

You cannot have it both ways.

I make this point simply to argue that the estimates that we are working on are totally unrealistic. I will give the Senate another example of how these revenue estimates are unrealistic. The Joint Committee on Taxation says that we will increase revenues by $20 billion by limiting what employees can deduct for employee expenses. Under the current law if there is a business expense incurred by an employer or an employee, in either case they are deductible. Well, they are not deductible in full under this bill.

We put limitations on the deductibility of employee expenses. We claim we are going to raise $20 billion in revenue by limiting the deduction that an employee can take. This $20 billion figure assumes that people are stupid because what employees are going to do is to go to their employers and say, "Look, don't give me the money in the first place. You take a deduction, use it in full, reduce my salary an appropriate amount but do not make me take the cash in and pay taxes on it." That is what is going to happen.

So, Mr. President, we are not going to pick up any $20 billion by limiting the deductions that employees can take. The reasoning is fallacious.

Here is something else we did to try to accomplish revenue neutrality in this bill. In a whole host of areas what we did was sunset preferences in the tax bill. What we did was to say we will provide that, say, the research and development tax credit or the low-income housing tax credit will only last 3 more years so we will count that revenue lost from that credit for 3 years and then we will sunset it so we do not have to worry about its cost after 3 years.

Mr. President, do we seriously believe in the Senate that these various things are truly going to fade out of existence at the end of the sunset 3 years hence?

Do we really believe that when it comes down to it the tax credit for low-income housing has a 3-year life and that that is the end of it?

□ 1650

Of course not. Of course that is not going to be the case. It is, to use the phrase frequently used in connection with our budget computations, it is smoke and mirrors to believe that we create revenue neutrality by this artificial sunsetting of highly popular aspects of the Internal Revenue Code.

What is another way we doctor the numbers on revenues and create real problems for this country in the future? We do it by accounting changes. We raise in this bill $65 billion over 5 years in accounting changes.

Now, Mr. President, what are these accounting changes? They do not change the amount that Uncle Sam is going to bring in. They change when Uncle Sam brings the money in. We have artificially contrived changes in accounting methods to load tax revenues into the 5-year period for which we are projecting revenues for this bill.

We are taking $65 billion of revenue that we would be receiving in 1992 and thereafter and artificially dumping it into the 5 years immediately ahead to try to meet revenue neutrality in this bill. It is phony. It is worse than phony. It is going to come back and haunt us in the future.

The revenue estimates do not take into account the fact that when corporations pay more taxes, as they will under this bill, they will pay lower dividends. It has been estimated that that change is going to cost the Treasury about $10 billion during the 5-year period of the bill.

So, Mr. President, over and over again we have failed to take into account economic reality and we have, in

effect, doctored numbers in order to create the illusion of revenue neutrality when this bill is not going to be revenue neutral at all.

So the first effect on the economy is that this bill is going to increase our problems with the budget deficit and make the budget deficit larger than it would otherwise be. The test is the effect on the economy. The first way in which we fail the test is to ensure our chances for dealing effectively with the budget deficit.

There are other effects as well. The bill probably is going to reduce our gross national product. Now I know, as Senator PACKWOOD said, that there are economists all over the place on everything. But surely we are doing no better than flipping a coin if we believe that one batch of economists is right and the other is wrong. And there is a very reputable group of economists who feel that this bill is going to reduce our gross national product.

Murray Weidenbaum, who was the first Chairman of President Reagan's Council of Economic Advisers, now a professor at Washington University, Murray Weidenbaum has projected that this bill will reduce the gross national product by 2 percent for the rest of this decade.

Lawrence Summers, professor of economics at Harvard University, estimates that the conference committee bill will reduce real GNP by 5 percent in 1996.

Wharton Econometrics estimates that the bill will reduce real GNP growth by 6.7 percent in 1987.

These are not fly-by-night economists. These are reputable people who believe that this tax bill is going to reduce our national wealth; that it is going to reduce our gross national product.

Some economists believe that it is going to lead to a recession. Lawrence Chimerine, chairman of Chase Econometrics, has stated that this bill clearly increases the risk of recession. Murray Weidenbaum, again, has said that this bill could be the straw that breaks the camel's back. The international accounting firm of Pannell Kerr and Forster says of the bill that it is a "prescription for recession, an increased budget deficit, and inflation. It is a return to the stagflation which we finally wrung out of the economy."

Mr. President, when we talk about the performance of the economy, of course what we are really talking about in human terms is jobs. I am not sure about the effect of this bill on jobs. I know that again there are several opinions on it.

Professor Weidenbaum thinks that this will cost 1 million American jobs by the end of this decade.

But I do not think that there is any reasonable difference of opinion that this bill is going to seriously hurt the manufacturing sector of our country.

So I think that in addition to the budget problem and in addition to the possibility of reducing our gross national product, another clear result of this bill is that it will increase the cost of capital. It will increase the cost of business plant and equipment. It will do this by repealing the investment tax credit. It will do it by tightening up depreciation benefits. It will do it by repealing the capital gains differential.

Lawrence Meyer and Associates has estimated that repeal of the investment tax credit alone will increase the cost of capital by 12.2 percent.

Professor Summers of Harvard has estimated that the bill would increase the cost of capital by at least 10 percent.

Lawrence Chimerine has predicted, again, a 10-percent increase in the cost of capital.

Mr. President, against what background are we about to vote to increase the cost of capital in the United States? A couple of weeks ago, the U.S. Department of Commerce came out with the projections, revised projections, and stated that this year, in 1986, there will be a 2½-percent reduction in business spending for plant and equipment.

Against the background of a decline in business spending for plant and equipment, we are deciding to increase the cost of capital by 10 or 12 percentage points.

The United States cost of capital already is twice that of Japan. And our industrial base, our manufacturing sector, is by far the most fragile element of our economy.

Now, I know all the talk about the service industries. People say, "Well, we are moving in the direction of services," and that is true, Mr. President. But how much more should we shove the industrial sector into a recession? Are we to have no concern at all about a balanced economy? Do we not care any more whether Americans can make things? Do we not care if we are competitive with the Japanese or the West Germans or the Koreans? Are we intentionally going to increase the cost of capital and let our factories rust out?

Do we really want to say to the people of this country, well, if you are worried about that, you can vote with your feet. I do not think that is what we should do. I think we should strive for a balanced economy, and for a country that can make things and for an industrial sector which can compete with the rest of the world. I do not think we should shove them over the cliff. I believe that is what this bill does.

(Mr. BOSCHWITZ assumed the chair.)

The bill is going to reduce our standard of living. Mr. President, it is widely held that the standard of living in the United States is closely connected to our productivity, and that our productivity in turn is closely connected to our national investment. Productivity is related to investment. In recent years France and Germany have invested about twice as heavily as the United States. And during that time, the productivity growth rate in France and Germany was twice the growth rate of the United States. Japan invested three times as heavily as we did during the same period of time and Japan experienced a productivity growth three times that of the United States.

Mr. President, in the name of lower tax rates we are creating an economy which is less productive, an industrial plant which is aging, and we are creating a lower standard of living for the American people.

Another effect on the economy: This bill will hurt the trade position of the United States. Mr. President, a lot of Senators—and I am one of them—want to pass a trade bill. I spend a tremendous amount of my time worrying about trade matters. How can we improve our trade position? How can we tighten our trade legislation to give Americans a better opportunity in international markets? But, Mr. President, trade legislation in and of itself is nothing in dealing with the trade deficit compared to overall economic policy. It is not possible to pass a responsible trade bill that will deal with the trade problems of the United States if we follow economic policies which hurt our trade position.

And this bill does everything that we can to hurt our position in international trade. First of all, it is a proconsumption bill. The theory of the bill is to reduce personal rates. Let people have more money so that they can consume more. What are they going to consume? Japanese TV's? Japanese automobiles? The bill creates a surge of consumer spending at the expense of savings and investment.

How are we going to be competitive in international trade if we let our industrial plant rust out? And to the extent that funds are provided for investment in America's future, if we do not provide them through our own savings, where are they going to come from? They are going to come from abroad. We are already a net debtor nation. We are the largest debtor in the world. And to the extent that this bill increases the deficit in the Federal budget, and to the extent that this bill provides fewer incentives for personal savings through changes in the Individual Retirement Account, in 401(k) plans, and the like, to that extent we are going to become more dependent on foreign sources of investment

which in turn will bid the dollar value right up again.

Finally, with respect to international trade, Mr. President, this bill in bizarre fashion—bizarre fashion—raises the taxes on Americans doing business abroad by $9.5 billion over the term of the bill; $9.5 billion in increase in taxes on Americans doing business abroad. Why? Why do that? Forty percent of U.S. exports are made to overseas by operations of American businesses. If 40 percent of U.S. exports are by U.S. businesses and their operations abroad, why do we want to increase by $9.5 billion the tax on Americans doing business abroad?

Another economic effect of the bill is its effect on research and development. Mr. President, back in 1978 our country was in the doldrums in spending for research and development. We were spending approximately 2.2 percent of our gross national product on R&D. The level of spending had been flat for a decade or more. Now by 1985, we are beginning to turn the corner. R&D spending has increased to 2.7 percent of GNP, which is a 22-percent increase as a percent of gross national product.

This increase in R&E spending has come about in conjunction with Congress enactment of a special tax credit for increases in R&D spending. Time and time again business people who are involved in high technology industries have come to us, testified in the Finance Committee, come to us individually, and said the R&D tax credit is the most important thing that we can do for them.

We must be competitive in research and development. In civilian R&D spending, Germany's ratio of R&D to GNP is 29 percent higher than the United States. Japan's ratio is 34 percent higher than the United States.

So what we do in this bill? Just as our response to a fragile industrial economy is to increase the cost of capital, so in this bill we increase the cost of research and development. In fact the bill targets research and development for special hits. It reduces the credit on R&D from 25 to 20 percent. It sunsets the credit in 1988. It increases the depreciation period for R&D equipment from 3 years to 5 years and it allocates R&D expenses to foreign source income which will provide an incentive for U.S. companies to do research offshore.

In so many areas, Mr. President, our country can absorb one change or another. We can absorb perhaps the repeal of the investment credit. We can absorb some change in the R&D credit but what we have done in this bill is everything at once. Every way we can find to target research and development for hits, we have done it in this bill. The most promising aspect of America's future, our research edge, our technology edge, the know-how that has always led the way for America is being targeted in this bill for tax hits.

Venture capital—another example of what we are doing to this country's future. That really is the issue I think, Mr. President. What are we doing to the future of America? Venture capital where somebody is willing to take a risk, somebody is willing to take a risk and put off instant payoff for the possibility of long-term reward—so we repeal the capital gains differention.

□ 1710

We tax everything the same.

We say, in effect, to our business people. "Get something safe, get something that returns money now. There is no special reason for you to make a long-term investment or take a long-term risk."

Instant money now. The quick buck. That is the policy of this bill.

The effect of the repeal of the capital gains differential on stock options will mean that it is much more difficult for a new company, a company that is starting up, to go out and hire first-rate, experienced people. What do they have to offer the people? A risk for nothing? Stock options that do not take advantage of the capital gains differential?

Why would anybody want to come to a new company? Why would anybody want to be an entrepreneur? Stay with the old company that just keeps the salary payments going out.

The R&D tax credit reduction, changes in depreciation, all of these impact against our entrepreneurs. All of these impact against those who are investing in something new, who want to invest in something new.

A venture capitalist in New Jersey named James Swartz has said, "It is quite possible we could return to a 1974 environment where there was only one startup during the entire year."

Now, Mr. President, we come to the field of education.

If America has a future, clearly our future is found in our young people, and clearly a top concern of America must be to provide well-educated, competent, young people to lead our country in the future.

Here is what we have done to America's colleges and universities.

The first thing we did was to simply lower rates. I do not object to that. I am for lowering rates. But it should be realized that when rates are lowered people are going to give less to charities, people are going to be giving less money to colleges and universities simply because the tax rates are lower. Fair enough. That is understood. That is what we are doing.

Prof. Lawrence Lindsay, of Harvard University has said that charitable contributions to colleges and universities will decline by 16.5 percent as a result of this tax bill.

Mr. President, we were not content just to lower rates. We actually had a meeting during the consideration of this conference to go through a list of ways that we could hurt our colleges and universities and it ended up we picked everything off the list. So we lower rates. Fair enough. Everybody wants to do that.

But then we start piling it on. Gifts of appreciated property are brought within the minimum tax. That is going to cost. Something like 40 percent, I believe, of all the charitable contributions made to our universities of appreciated property. Now we are taxing those gifts of appreciated property, the appreciated value, under the minimum tax.

We are imposing a new institutional cap on bond issues by private universities. This is going to hurt our No. 1 research universities in America, our top research universities, the Harvards and the Stanfords. They are going to be hurt by this institutional cap. We are saying to them, "Your use of tax-exempt bond funding is going to be arbitrarily limited. Your charitable contributions are going to go down. Your contributions from your alumni are going to go down. And we are going to impose a cap on what you can borrow interest free or tax free."

We have said in the bill, for the first time, I believe, in the history of taxation in the United States, that we are going to start taxing scholarships and fellowships.

Mr. President, it is an indication of the desperation that we were under in that conference to come up with revenue to meet the principle of revenue neutrality that we began looking at scholarships and fellowships as a new area where we could impose taxes. We are going to be taxing students not on the educational tuition part of their scholarships but on their room and board. It is going to particularly hit our graduate students. It is going to particularly hit, say, a graduate student in physics who is married, who maybe has a couple of kids. The scholarship and the fellowship are not worth all that much. We say, "To the extent that your room and your board and your incidental costs are paid, we are going to start taxing you."

Why do that? In desperation to raise revenue.

Then we are deciding also in this bill that interest payments on student loans are no longer going to be deductible.

Mr. President, again, it is one thing to just find an area where we are going to hurt our universities, just as it is one thing to find an area where we are going to hurt research and development, or an area where we are going to increase the cost of capital.

We did not find just one area; we found them all. It was as though we used computers to comb through the Internal Revenue Code to answer the question, "What can we do to universities? What can we do to higher education? What can we do to research? What can we do to technology? What can we do to modern plant and equipment?"

We did everything, and we did everything at once.

With respect to what we are doing to our colleges and universities, Mr. President, listen to a few quotes.

Here is what Sheldon Steinbach has said. Mr. Steinbach is counsel for the American Council of Education. The American Council of Education represents 1,500 colleges and universities.

Mr. Steinbach said:

The bill is the greatest catastrophe for higher education in 25 years.

Is that really what we want to do in the name of tax reform? Is that tax reform, to have a representative of 1,500 colleges and universities say to us, "This is the greatest catastrophe for higher education in 25 years?"

That is what we are doing and we call it reform.

The director of government relations for Stanford University, Larry Horton, said:

We took a bath on the tax bill that was even dirtier and uglier than we had feared. We lost on every major issue. It may be that no other institutions are as adversely affected by the tax bill as are universities.

Finally, Michael Sovern, the president of Columbia University, said, "I do not think they fully understand the damage that they've done."

Why, Mr. President, do damage to our universities? Why do damage to our research community? Why do damage to those who want to invest in new plant and equipment?

Why reward those who already have made their investment, who are willing to bleed their existing plant? Why do it?

Well, we have heard several reasons for what we are doing. I want to run through them.

The first I will not spend any time on at all. Simplicity.

Well, let us make a simpler Tax Code.

I am not going to spend any more time on it because, Mr. President, I do not think anybody believes that this bill simplifies the Internal Revenue Code.

Business Week ran a column on September 15 by Howard Gleckman.

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

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

[From Business Week, Sept. 15, 1986]

TAX REFORM: IF THIS IS SIMPLICITY, SAVE US FROM COMPLEXITY

(By Howard Gleckman)

Simple it ain't. The legislation that began life as "Tax Reform for Fairness, Simplicity, and Economic Growth" will create dizzying new complexities for taxpayers, at least for the next three years. The bill's phase-outs, phase-ins, floors, and ceilings will make tax planning and preparation a mind-numbing experience for corporations and individuals.

The biggest surprises for taxpayers who have not paid close attention to the process will come early next year, and again in early 1988. For all the hoopla about tax reform, 1986 tax returns, due Apr. 15, 1987, will look a great deal like the 1985 forms, because only a handful of provisions take effect before next year. And 1987 returns will be based on a set of rules that apply only to that year. The full effect of the new law will not be seen until individuals fill out their 1988 forms.

NARROW PATH

But even when the new law is fully in effect, taxpayers will face new and unexpected complexities. The House and Senate negotiators who drew up the final bill were forced to tread a narrow path of political acceptability while making sure the final measure would neither gain nor lose revenues. To pay for dramatic reductions in tax rates in the measure that should get final approval this month, the conferees cut back scores of deductions and other tax benefits.

To satisfy political objections, the negotiators killed few write-offs outright. Instead, they limited some deductions so that they would gradually phase out over a period of years. Other tax benefits were restricted or denied to individuals whose incomes are above arbitrary limits. Still other write-offs are available only if they exceed a certain percentage of income.

The conferees also imposed a tough new minimum tax that will require millions of taxpayers to calculate their liability to the Treasury two different ways. Taxpayers who claim certain deductions will have to figure their tax liability with those deductions. Then, under the minimum tax provision, they must recalculate without using the write-offs. They would then pay at whichever rate is higher. For corporations, the minimum levy will mean keeping a second set of books, while trying to fit the square peg of financial accounting standards into the round hole of tax law.

The top tax rate for many individuals will be 28%, only slightly higher than the 21% minimum tax levy. Because the top rate is so close to the level where the minimum tax kicks in, taxpayers cannot cut their taxable income by using very many "preferences," such as tax-exempt bond interest or depreciation, before they become subject to the minimum tax.

Many people will have to calculate the tax, even if they don't have to pay it, just to make sure. Even worse from a planning perspective, they will have to do the calculations throughout the year to make sure their next investment won't force them to pay the minimum tax. "It will be an added complication in planning, because you never know what your next dollar is going to be taxed at," says Gilliam M. Spooner, a partner at Touche Ross & Co.

Some municipal bonds will remain tax-exempt for the "regular" tax but could be hit by the minimum tax. State and local income and property taxes are deductible for the regular tax but not for the minimum. "This minimum tax has got a life of its own," says David A. Berenson, director of tax policy at Ernst & Whinney. "You cannot wait until the year is over to make your computation. You almost have to make it as you go along. Almost anybody has got to go through it."

A handful of the bill's major provisions are unresolved. But the measure hammered out by House and Senate negotiators on Aug. 16—intricate as it is—will become law virtually intact.

Even the tax rates are not simple. The new bill is being advertised as having two individual rates—15% and 28%. In 1987, however, individuals will face a five-bracket system, with a top marginal rate of 38.5% as promised, in 1988 and beyond there will be two statutory rates. But wealthy individuals will pay a marginal rate of 33% on taxable income between $71,900 and $149,250.

LOOPHOLE

Taxpayers and corporations have long had to deal with the concepts of "good" and "bad" income—money that does or does not meet Internal Revenue Service tests for deductibility. Under the new law, those arcane concepts will become even more so. Interest on home mortgages, among the most common tax deduction, is about to become one of the most complex. The law will prohibit deductions for all consumer interest. But it will allow full deductibility of interest payments for first and second home mortgages. The obvious loophole would be for homeowners to borrow against the appreciated value of their houses and spend the money on a car or a vacation.

But the bill shuts that door by limiting the amount of deductible interest to loans against the original purchase price plus any improvements, unless the loan is used to finance an education or pay medical bills. If an owner borrows against the full appreciated value of a home, he will have to calculate how much of the interest payment is deductible. And, to take full advantage of the new rules, a homeowner would have to have kept records of all improvements since he bought the house. "Do you know the cost of the shrubbery you bought four years ago?" asks Ernst & Whinney's Berenson.

Fortunately, taxpayers have at least 15 months to figure all this out. But by then, Congress may have changed the whole thing—in what may be called the Technical Corrections Act of 1987.

Mr. DANFORTH. I will just read the first paragraph of the Business Week column.

Simple it ain't. The legislation that began life as "Tax Reform for Fairness, Simplicity and Economic Growth" will create dizzying new complexities for taxpayers, at least for the next 3 years. The bill's phase outs, phase-ins, floors, and ceilings will make tax planning and preparation a mind-numbing experience for corporations and individuals.

□ 1720

By far the most frequent reason given for the bill is that it is fair. Chairman ROSTENKOWSKI said in his speech a few weeks ago, in Washington, that some people said that the main test should be economic growth but for him, the test is fairness—fairness conquers all.

I am all for fairness. Everybody is for fairness. And I think that a lot of

Senators are going to come to the floor when the time comes to vote and say, "I am for this bill because it is fair."

Mr. President, I would like to examine the argument that this bill is fair. My view is that it is not fair. I think that this bill is jampacked with unfairness, with obvious unfairness. I think when people catch on to the unfairness in this bill, they are going to be as mad at this bill as they are at the present law. Let us examine the question of fairness.

This bill establishes a maximum effective tax rate for individuals of 28 percent. That means that if your income is a little over $70,000 a year, your tax rate is 28 percent. If your income is $700,000 a year, your income tax rate is—guess what? 28 percent. And if your income is $7 million a year, your tax rate is 28 percent. That is your effective tax rate.

Your marginal tax rate actually goes down as your income goes up. What does your marginal tax rate mean? That means the amount that you make on an additional dollar you earn. Say you sell 100 shares of stock and realize a gain of $1,000 or so. What would your tax be on that sale of stock or if you worked another hour? What would your tax rate be on that marginal, incremental hour of work?

What we are saying in this bill is that your marginal tax rate can go down. A person whose income is a little over $70,000 has a marginal tax rate in this bill of 33 percent. A person whose income is a couple of hundred thousand dollars has a marginal tax rate of 28 percent. That means that if somebody has an income of, say, $75,000 and he sells some stock, that gain will be taxed at a rate of 33 percent. On the other hand, if the person has a half-million-dollar income and sells the same stock for the same gain, that gain will be taxed at 28 percent.

This is supposed to be a fair bill. Mr. President, what is fair about that? What is fair about taxing rich people at a lower rate than people in a much lower income bracket? Why is that fair? I do not think it is.

Retroactivity. I was taught when I was growing up that you do not change rules in the middle of the game. Well, we have in this bill. We have changed rules in the middle of the game. We have changed rules in the middle of the game for Government retirees. We have said to people who have retired, "You planned your life; you have made all your retirement plans for years counting on a certain tax treatment of the pensions you receive. And guess what? We had our fingers crossed. Adjust as best you can."

Why is that fair? What principle of fairness says that the Government of the United States of America should change rules in the middle of the game?

The passive loss rules. I am for changing the passive loss rules.

I was one who was willing to go along with retroactivity, I admit it. But I did not like it. But if we are going to do it, if we are going to change retroactively the tax treatment for investments in, say, real estate, why and by what right do we grab this change in the cloth of fairness? Maybe it is necessary to produce revenue, to change the rules in the middle of the game. But, Mr. President, it is not fair and it is not right.

Then we say the bill is fair, but if you live in a State which has a State government that imposes a lot of sales taxes, you will not be able to deduct them. You can deduct your property taxes and your State income taxes but not your sales taxes. So, take a family of four living in Portland, OR, which is not a sales tax State. The family of four has an income of $29,500. They will pay $165 less in Federal income tax than a family that lives across the river in the State of Washington. Why is that fair?

Why is it fair to say that a family of four with $29,500 income in Washington pays $165 more to Uncle Sam than a comparable family right across the river? If we are going to raise revenue, let us at least not be hypocritical enough to say that somehow, this fairness. It is not fair.

We repeal income averaging. In the Senate, we decided we were not going to do it to farmers. Now we are. Why is that fair? Why is it fair to repeal income averaging?

Take a farmer, married, with two children. He earns $15,000 the first year, $15,000 the second year, he is limping along. The third year, he has a good crop and he earns $60,000. Then take a factory worker, also married with two children. The factory worker's family, instead of 15, 15, and 60, earns 30, 30, and 30, the same income each year.

□ 1730

In this case the farmer is going to pay 29 percent more in taxes than the factory worker. Why is that fair? How dare we call that fairness? That is a change in the law, Mr. President. We do not do that today. It is a change in the law. Why is this bill a move toward fairness?

Now, exhibit A in the issue of fairness, the nondeductibility of certain interest. All borrowing is not the same. Under this bill, some interest is deductible, some interest is not deductible. You want to find out what is deductible? Call your lawyer. Call your accountant.

If you own a home, you can deduct your interest payments on a mortgage up to the purchase price of the home plus improvements on the home, and you can use that money for anything you want. If you own a home, you can borrow even over the purchase price and improvements and deduct the interest if the loan is used for education and for medical expenses. So the trick, ladies and gentleman, is to own your own home and the more expensive the home, the better. And if you own two homes, that is great, we say. So we have discriminated in this bill between homeowners and nonhomeowners. We have said that somebody who does not own a home and goes out and borrows against a credit card or buys a car cannot deduct the interest on that consumer loan any more. But we have said that if you own a house and the purchase money mortgage on that house is less than what you paid for the house and less than the improvements on the house, then you can get a second mortgage and use the money to buy your car or use for your credit card. Banks are doing this now. They are setting up plans so that you just go out and get a mortgage on your home and it covers everything if you own a home.

Why is that fair? Why is it fair if two people want to buy a car and one person owns a home he can borrow against the home to buy the car and deduct the interest, if the other person, the one lives in an apartment can't deduct the interest on his car loan? Why let the homeowner get a deduction for the car loan but not the person who lives in an apartment? Why is that fair?

Second homes. You can borrow against your second home and you can deduct the interest on your second home. In other words, let us suppose that you want to put your child through college and you do not have a home. You have an apartment. You live in an apartment. You want to put your child through college. You go out and take a loan. Then you ask your lawyer, "Can I deduct this interest? No, because you are not borrowing against your home." But if somebody else in town, someone on the other side of the tracks, has two homes, has a vacation home in Palm Springs, he can borrow against his Palm Springs vacation home and deduct it. He can use the money to go to Las Vegas. But the person who has medical expenses and is strapped for cash and borrows to pay for his wife in the hospital, he cannot deduct it. But the guy going to Las Vegas with a home in Palm Springs can. Why is that fair? Why is it fair?

Now, get this. Get this. Did the Senator from Louisiana realize, when we were working on this conference report—I am sure he did not—did he realize that in this bill the definition of second home includes yachts? Now, please understand where we are in this bill. Joe Doke's wife is in the hospital.

He goes out and borrows money to pay for his wife's hospital bill. He cannot deduct it. Mr. Gotrocks has a 60-foot yacht. He can borrow against that yacht and he can deduct the interest payments against the yacht and use the proceeds to do anything he wants.

Why is that fair? We say there is fairness in this bill. Why is it fair to count a yacht as a second home and deduct against the yacht? Let us not call the bill fair.

How about student loans? Now, most students borrow money themselves. Most students take out the loans themselves and then when they get out in the world, after they have finished college and they start earning money, they repay their loans. But those loans are outstanding sometimes 10 years after they have gotten out of college and they are still repaying them. Under this bill, those people who borrowed for the purpose of going to school will not be able to deduct the interest.

On the other hand, if daddy has a home in the suburbs and the home has appreciated in value, he can borrow against his home, pay for the student's educational expenses and deduct the interest. Why is it fair to let the father who has the appreciated home borrow and deduct and not allow the student who is out there trying to make his way in the world? What is the fairness? Why is this bill so widely acclaimed as being fair?

Then take the question of employee business expenses. Here is an example to ponder. A doctor makes $150,000. He is self-employed. He pays dues to the American Medical Association, he takes classes, increases his skills and pays for the classes. He is the employer. He is self-employed and he gets to deduct everything. His nurse, however, pays for classes to improve her skills and pay dues to the American Nursing Association. If she is a nonitemizer, she does not get to deduct anything. And if she itemizes, she only gets to deduct to the extent that the expenses exceed 2 percent of adjusted gross income. Why is it fair that the doctor deducts his dues to the American Medical Association and the nurse does not get to deduct her dues to the American Nursing Association? Why do we call that fair?

And then take the repeal of the so-called General Utilities doctrine. Take the example of mom and pop. They have gone into business. They have set up a little neighborhood business. Maybe it is a grocery store; maybe it is a dry cleaning establishment. They have gone into business. They have counted on their business for their retirement. Their plan is to wait until they are 65 years old and just before they are 65 liquidate the business, get out, and retire on the proceeds. So we have repealed the General Utilities doctrine in this bill, and the result is that mom and pop will have their tax liability increased threefold by this legislation. And we say, "Oh, that is fair. That is fair to the little guy who has planned all his life on liquidating this business and going somewhere and retiring" Guess what? Your tax liability will be increased threefold.

□ 1740

Finally, on the question of fairness, there is the whole issue of how renters are doing. I have pretty well spelled that out, I think, on the question of borrowing against the home you own. But another thing they are doing in this bill because of the passive loss rule is to increase the cost of renting. We are going to reduce the supply of rental property.

Martin Feldstein and his wife, Kathleen—he is another former chairman of the President's Council of Economic Advisers—have projected that because of this bill, rents will increase from 10 to 15 percent.

I wonder how many Senators are anxious to go home and brag about the fairness of this tax bill and say to their constituents: "Guess what? We're reducing your tax burden by $4 or $5 a week, and we're increasing your rents by 10 to 15 percent." How many of our constituents would think that is a good bill? I do not think very many of them would. I think the unfairness that permeates this tax bill would come back to haunt those who vote for it.

Another reason that people give for passing the bill: They say, "Look we need certainty in our tax laws. We have been worrying this thing to death for over a year now. Let's get on with it. Let's pass the bill. We need some certainty. We need to know what the rules are. Let's not agonize over this any longer."

Does anybody really believe that adopting this conference report is going to create any certainty at all?

We did not even have the conference report when the chairman of the Ways and Means Committee was telling us that we should start increasing rates. Does anybody really believe that for very long we are going to maintain a 28-percent maximum individual rate when we have $200 billion deficits in the Federal budget? Is that credible?

Then, suppose our economy does take a nose-dive. Suppose we do have a recession? Senator LONG has said this several times. I think he even made a speech on this subject. What is the first thing we are going to do if we have a recession? We have already done it twice. It is as predictable as night following day that when there is a recession, we reinstate the investment tax credit. Always. Where are we going to get the dough? How are we going to pay for reinstating the investment tax credit if we have a recession? Are we going to raise individual rates or blow the deficit? Clearly, we will have to undo this bill, if not next year, the year after. There is no certainty in this bill.

Mr. LONG. Mr. President, I think I can answer that, if the Senator will yield.

Where to get the money at that point? At that point, no one is going to ask any question because there is a recession. No one will ask any question about the deficit because we are in a recession—even to increase the deficit.

Mr. DANFORTH. We are selling assets, so maybe we can have a sale and a lease-back on all these buildings in Washington.

Mr. President, I assure my colleagues that this speech will not go on forever, but I do have a few more things to say.

On the question of certainty, Senators will remember a few years ago when we passed the great withholding on interest and dividends rules. I think it was within a year that public outcry was so great that we were coming back and fixing it. How many more deals like that exist in this bill?

The inventory accounting provisions alone in this bill are going to create an outcry for change.

So I submit that this bill does not lock us in forever. This is going to be changed. Passing the bill does not create certainty. So I suggest that we do it right the first time.

Mr. President, we had hoped, as politicians, that when we were working on this bill we would do something the public would applaud. We would hope that we would pass a bill which the public really liked, which they would acclaim. I am not getting that much acclaim from my constituents. I am not hearing too much from my constituents who support this bill.

A Gallup-Newsweek poll found that only a slight plurality favored the bill. It also found that a plurality of taxpayers though they would pay more taxes, not less. A majority of those polled thought the bill was put together too hastily. And how! Only 1 out of every 4 taxpayers thought the tax bill would help the economy.

A U.S. News & World Report-Cable News Network poll found that 50 percent of Americans preferred the current Tax Code and 38 percent preferred the tax bill that is now before us.

Consumer pollster Albert Sindlinger described the tax bill as a dud with respect to how the public feels about it. I think I know why it is a dud. I think I know why the public has not reacted that favorably to this bill.

First, I think that a lot of people believe they are being had by it. And they are. Renters, for example, are being had. Students, for example, are being had by this bill. I think the public realizes that, and they are very,

very skeptical about it. But there is another and I think more profound reason for the skepticism. I think the American people are wiser about economics and wiser about their Government than we give them credit for being. I think they see this as a good news/bad news story.

We go the the American people and we say: "We've got bad news for you. We've got a $2 trillion national debt. We have $200 billion deficits in the Federal budget. It's terrible. It's wrecking the country. It's a legacy of bankruptcy for our children. That's the bad news. Now the good news: Your personal responsibility for this mess is going to be taken off your shoulders. It's going to be lightened by a tax cut."

Mr. President, people do not believe it. They think it is a politician talking. They think that you cannot have it that way: "You can't tell us that the deficit is a problem and then tell us our responsibility is going to be less than it was before." People do not believe that. They think it is phony. And it is.

How can we get the American people to face up to the practical economic problem before our country, which is the deficit in the Federal budget, if we are always spreading the good news of tax cuts and checks going out: "Don't worry. It's all going out. Don't worry about Gramm-Rudman. We'll sell some more assets."

How can we get people to believe in the seriousness of this budget deficit if all we do is tell them, "You're going to get a tax cut of $4 or $5 a week"?

The final point after all this, Mr. President:

□ 1750

I have heard so many Senators say, "You know, I really don't like the bill, but I am going to vote for it."

I cannot count the number of people who have said to me, "I don't like the bill but I am going to vote for it."

Why? Why vote for something you do not like? Why vote for something that is bad?

Part of the reason, I guess, is inertia. It is not exactly momentum. It is inertia. We get into these big tax bills and get into the mode of one step after another. Eventually, the last thing we do is to pass the conference report. And so we all trudge over to the floor and we vote "aye."

I guess another reason is we can envision the 30-second commercial in the next campaign against us, "Senator Bloke voted against tax reform," and nobody wants to be in the position of opposing tax reform.

And then a number of Senators have told me, "I've got my transition rule."

What difference does it make if we get our transition rule if we are hurting the future of the country?

Then people say, "Well, you know I am in the President's party," or, "I do not want to cross the chairman of the Finance Committee." I am sure the chairman of the Finance Committee would rather I had a different view of the bill. But I do not think it is going to hit me or anything.

Mr. President, I guess the real question for each one of us is what is our duty? Is our duty to go along, to just accept the process as sort of an unstoppable rolling ball that goes on and on and we cannot do anything about it?

Is our duty to get transition rules? Is that the sum total of our duty here in the Senate? Or is our duty to set the course of our country and for its future?

I believe, Mr. President, that we are setting the course for our country here in Congress. And what we are doing on the budget and what we are doing on the tax bill, we are setting the course for our country. I think it is the wrong course. I think we are doing the wrong thing. I think we are running up the deficit. I think we are not showing the courage in getting the deficit under control. I think we are telling people what we think they want to hear. I think in this tax bill we are stimulating consumption at the expense of savings and investment in our industrial base in international trade. I think we are spending now at the expense of tomorrow. I think we are doing that in our budget policies and in our tax policies. I think we are living for today and only for today and not for our children and not for our grandchildren and not for generations to come.

I think that we are allowing our industries to rust out. I think we are allowing our technological resource to dry up. I think we are doing it with our inability to face the budget and I think we are doing it with this proconsumption-antisavings-anti-investment tax bill. I think the vote that we are about to cast is about the future of America and our children.

I yield the floor.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. ROTH. Mr. President, the Senator from Louisiana does not seek the floor at this time.

Mr. LONG. Mr. President, it is all right with this Senator for the Senator to go ahead and make his speech. I will make mine later.

Mr. ROTH. Mr. President, I rise in opposition to the tax reform legislation, and I do so reluctantly. I do so reluctantly because I think it was back in 1976 that JACK KEMP and myself began tax reform. At that time, we proposed that it was important that the marginal rates of taxation be lowered on the American people and that became the centerpiece of President Reagan's economic package when he became President back in 1981.

I have continued to favor tax reform because I think there has been an erosion of confidence in the current system. Frankly, the current legislation does contain a number of reforms that I strongly support.

I strongly support the lowering of the marginal rates to 33 percent.

Few of us would have believed 10 years ago when JACK KEMP and I started out on this path that today we would be talking about reducing the rates to 15 and 28 percent.

I also strongly support the elimination from the tax rolls of 6 million poor people. I support the fact that we are reducing the rate of taxation on business to 34 percent.

Mr. President, I think this legislation is good in establishing a minimum tax, although I am concerned about its contents, but I think it is important if we are going to build confidence into the system again that those who have earnings, that those who are making a profit pay taxes and that is what the minimum tax assures.

I am also pleased that the legislation does reduce in a very substantial way the number of tax shelters.

But, Mr. President, where we got into difficulty was in the problem of how we were going to pay for these cuts.

I strongly agreed and supported both in the Finance Committee and in conference that the legislation should be revenue neutral. Certainly our deficits are so serious that we could not afford a reduction of net revenue to the Federal Government.

But where the mistake was made was in the fact that we could consider no new source of revenue. That was not a decision of the House or the Senate but essentially of the administration. If we had been able to seek new sources of revenue we could have made these reforms, these essential reforms without getting into the kind of difficulty already outlined with such specificity by the Senator from Missouri.

Let me say when I am talking about new sources of revenue I am not talking about a tax increase because I strongly support the President in his desire that there be no tax increase. We have to address the problem of deficit on the spending side. But at the same time it seemed to me desirable to seek new sources of taxes, of revenue to pay for the tax cuts that were being incorporated in the tax reform package.

Mr. President, there are many goals in tax reform. I have mentioned the problem of reducing the marginal rates of taxes which happens in this particular bill.

We eagerly seek to make the tax laws more fair so that the American

public will support it and, like Senator DANFORTH, I question in many ways this legislation's fairness. Presumably when we started out we were going to seek simplicity, but I think all you have to do is to look at those two volumes to know that once again simplicity has been replaced with complexity.

But, Mr. President, the reason I am coming out in opposition to the tax reform is because I do not feel it meets the crying need of the country, not only in this year, but the years to come.

□ 1800

I firmly believe that the greatest challenge this country faces is becoming competitive in the emerging world economy. We have seen time and again American men and women losing jobs, losing jobs because American industrial facilities are not as modern as that to be found abroad, especially in Japan, the Pacific basin and Western Europe.

So I am not satisfied with this bill, because it is giving the wrong signal, the wrong signal with respect to savings which is essential if this country is to become competitive. I am not satisfied with the legislation because it is increasing the cost of capital which directly impacts on the capability of this country's competitive position.

Mr. President, during the consideration of this legislation in the Finance Committee and on the Senate floor, I urged, supported and tried to bring about a continuation of savings incentives.

Back in 1981, as part of our legislation, tax legislation, Congress voted to promote an individual retirement program for the American people. The idea was that each working individual could save up to $2,000 a year tax free and that money would help our citizens meet their needs in retirement.

Let me say, although there is some debate about the effectiveness of this program, I personally think it was a smashing success. Something like 28 million families made a commitment, made a commitment to create an individual retirement account—an IRA—for their future. And that was a commitment not only for 1 year, but for the long term. Today, in this legislation, we are backing off of this program.

Now, let me point out that, this program, in 5 years, has resulted in savings of $250 billion, a tremendous amount of new capital, of new income. And while some of that admittedly would have been saved otherwise, I agree with Martin Feldstein that there were significant new savings resulting from this program.

Now, on the Senate floor, we passed a sense-of-the-Senate resolution that we should make every effort to save IRA's. And I can tell the Members of the Senate, I made that my key interest during the conference. I was pleased that we made some progress, but, unfortunately, not enough.

Under the bill before us, an individual who has earnings of $25,000 or less continues to enjoy a tax deduction for his IRA. A married couple up to $40,000 can have the same. But, unfortunately, from that point on the tax deduction is phased out.

It makes little sense to me that we say to a young man or a young woman:

We want you to start saving now for the future, and as long as you are under $25,000, you can continue to enjoy a tax deduction. But once you get to $26,000 or $30,000, we are going to phase it out.

But, a person who makes $30,000 or $35,000 is not wealthy and the same is true of the two wage earners who make $40,000 or more.

Again, as long as you are under $40,000, one can have an IRA with a tax deduction, but if your joint earnings are in excess of that, the deduction is phased out and at $50,000 there is no deduction whatsoever.

Now, here again we are penalizing those who are ambitious, who are working hard and succeeding.

Just let me point out that many families with two wage-earners earn in excess of $40,000. You can take a young blue collar worker at an automobile plant, say a Chrysler plant as we have in my State. They make as much as $30,000 to $33,000 with overtime. The spouse can be working, let us say as a schoolteacher, and it is not too long before they are over $50,000 which means that the IRA tax deduction is no longer available to them.

Mr. President, I think this is unfair, I think it is inequitable, and I do not think it is in the Nation's interest. Because if this country is to compete in world markets, I think it is critically important that we have individual savings as a continuing source of new funds, new capital.

The United States for the last many years has not saved as much as her competitors. In the case of Japan, it is estimated that the individual saved between 20 and 24 percent. Japanese leaders will tell you that it is these individual savings that have enabled them to buy the newest, the best technology produced in the world—many times American—and incorporate it into their plants. By their having the most modern industrial facilities in the world, they have been able to produce quality merchandise at prices that are attractive, not only abroad, but here at home. The net effect of that, of course, has been the loss of jobs.

So it seems to me that we are giving the wrong signal when we back off of a program that was for the first time beginning to provide some incentives for savings. As I pointed out, the program had succeeded. It had succeeded with 29 million American families establishing an IRA for their future.

□ 1810

On this question of fairness, as I said, I do not think it is fair to phase out the IRA's, but I would also like to point out that this tax package is very unfair in other ways to the middle- and upper-middle-income people. If your income is roughly $40,000 to $50,000 one can on average expect a 9.1 tax cut. On the other hand, if one's income is $50,000 to $75,000, his tax cut would only be 1.7 percent. So that if a family earnings rise from $49,000 to $50,000 their tax reduction drops from 9 percent to a little more than 1 percent.

I would also point out that the amount of tax cut enjoyed by those over $200,000 exceeds those in the category of $50,000 to $75,000. If your income is in excess of $200,000, one will secure a tax cut of 2.3 percent, which is far in excess of the 1.7 for those in the $50,000 to $75,000 or the 1 percent in the category of $75,000 to $100,000. More important, those with earnings from $75,000 to $100,000 will pay a marginal rate of taxation of 33 percent compared with 28 percent for those over $200,000.

But, in any event, there is a basic unfairness in the picture because not only as you move up and beyond $40,000 do you lose the IRA's, but you also lose the personal exemption of $2,000. You also lose when in excess of $70,000 the 15 percent rate on your first $30,000 of income. So that the net effect of these rules and regulations mean that there is an unfairness for those who are dual wage earners, the achievers, the people who have enjoyed upward mobility.

Mr. President, a second reason that I have been concerned about this legislation is that there is no question but the end result is to increase the cost of capital. I mentioned earlier that the most critical problem this country faces is becoming competitive in world markets. The new technologies, the new information age is restructuring our world economy. While everybody says they understand and recognize it, the fact is that few really appreciate its significance. Whole industries are being transformed or changed in production techniques. Unfortunately, those that do not maintain modern facilities will be in deep trouble. Many of us know the problems that have arisen in the past.

For example, the automobile industry became noncompetitive with its antiquated, obsolete industrial facilities.

The Chrysler plant in my home State was threatened with a closedown, and the loss of jobs because the Japanese in particular and others as well had more modern facilities.

This kind of situation is going to continue and not end. It is going to continue because of this technological revolution. Those countries that maintain the most modern industrial facilities are going to lead the world economy. Frankly, today, there are many economists who think Japan, the Pacific basin, including Taiwan, South Korea, and the other countries around the rim of Asia are in the best position to be the industrial leaders of tomorrow.

This country cannot afford this to happen. We not only want jobs for the young, jobs for the underemployed, and jobs for minorities, but we want to make certain that they are well-paid jobs. American workers are the best paid people in the world. And the only way we are going to be able to continue that, the only way we are going to be able to provide the jobs is to make certain that our industrial facilities are the best, that we rather than somebody else incorporate the latest technology on a continuing basis because one of the facts of this tehnological revolution is that change is the only constraint. And those countries which have the savings, which have the funds, and the capital to incorporate them first are going to be the industrial leaders.

This is important not only from the standpoint of jobs, of growth, of prosperity, but it is important from the standpoint of security as well. I do not believe the United States can continue to be the shield of a free world if we permit our basic industries to deteriorate, to rust, and to become obsolete. Yet that is what has been happening not only in the automobile industry as I have just mentioned, but in the steel industry and many other of the basic industries that are essential to the national security of this country.

So it is a matter of great concern to me when I see that we are adopting legislation that creates a higher cost for capital. It is my understanding that the Policy Economic Group has made an analysis of this tax reform package and found that the estimated cost of equipment increases 40 percent. In other words, increased cost of capital necessary to modernize these basic industries to keep this country ahead will cost an additional 40 percent over the current cost of capital.

I might say that the Policy Economic Group used the same calculations that are used by the Treasury. As a matter of fact, the Policy Economic Group runs these same kind of models for the Federal Treasury.

One of the reasons the cost of capital is going up is because we are turning our back on savings. Instead of reducing or minimizing the tax incentives for savings, we should be expanding them. But, as I pointed out, we backed off of the IRA with respect to many people, and that in turn will have a negative impact on the net savings.

But the other area that particularly concerns me is the problem of depreciation. From the very beginning we agreed that the investment tax credit should be eliminated. I was successful as a member of the Finance Committee to get the committee to adopt a depreciation schedule that would enable business to modernize its facilities.

□ 1820

Initially, I wanted to permit a company to expense half the cost of new equipment. The idea of expensing half the cost of new equipment is that it provided a powerful incentive to people making the business decisions to keep their facilities modern.

The Senate Finance Committee did not adopt that amendment but a proposal which was substantially the equivalent. I say that in all humility since it was my amendment. It provided that we call a 200-percent declining balance for equipment with lives of 5 years.

What happened, going back to the problem that I mentioned earlier, was it became essential that we find new sources of revenue to make the tax package revenue neutral. So as the legislation proceeded through the conference, time and again we saw a watering down of the depreciation schedule provided by my amendment. This was done by a number of means such as moving equipment into categories where the depreciation could only be taken over a long period of time.

The net result of these and other changes means that the increased cost of capital is something like 40 percent at the very time we are being challenged internationally as to our competitiveness. The implications of this are indeed serious, because, as I said earlier, we shall not be able to provide meaningful jobs, meaningful jobs that pay well, unless our industrial facilities are the very best to be found anywhere.

Mr. President, there are other areas that concern me about this legislation. Like Senator DANFORTH, I am bothered by matters like retroactivity. I am concerned that Federal employees, all those who have retired since July, find that their pension is subject to taxation even though they have already paid taxes on their contributions to their pension program.

Under current law, these employees get tax free over a 3-year period what they have contributed to the pension on the grounds that that much money has already been taxed once and it is not fair to have double taxation. With that I agree. I would not have changed it.

But if we are going to change it, when you are involving people in retirement, it seems unfair to make it retroactive. Instead, the humane way, the compassionate way, if we were to choose that course, is to phase it in over a number of years.

There is one other matter that I would like to briefly mention because, again, it goes to our competitiveness. That is research and development. I, too, regret that we reduce the amount of credit in this area because we are already losing our technological lead over other countries. I think it is critically important that we do all we can to provide incentives both in the private sector as well as in Government itself to expand and enhance our research effort.

Mr. President, in saying these things, I do want to, in closing, say that I appreciate the strong leadership that Chairman PACKWOOD has given in this drafting of legislation. As I said earlier, I think the difference in this legislation could have been corrected if we had been able to introduce new sources of revenue. But, unfortunately—and this was not the fault of Senator PACKWOOD—but that of the administration—we could not do so, and, consequently, to keep the goal of making the tax reform revenue neutral some very tough and, I think, in many cases, unfortunate decisions had to be made.

I suspect that next year—because there is no doubt in my mind that this legislation will become law—we will revisit many of these problems in what will be a major technical correction.

Again, Mr. President, I regret that I cannot support this tax reform as one who has been a leader in the tax reform movement from the beginning. But I cannot as I think the most important problem this country faces is to create the kind of policies that will create an environment of growth in the world of tomorrow.

I yield the floor.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Maine.

Mr. MITCHELL. Mr. President, for almost 2 years Congress has been working on legislation to reform our Federal system of taxation. It has been a long and difficult process that has taken many turns.

Several times during the process, tax reform appeared dead. Yet the bill has survived because, regardless of its many shortcomings, the basic objective of a fairer tax system endured. The conference agreement before us today has been changed in many respects from the bill that was approved by the Senate in June.

In many instances, I do not agree with those changes, just as I did not agree with many provisions in the bill as it passed the Senate.

But, clearly, in any legislation as complex and comprehensive as tax reform, every Member will find provisions that are unacceptable. That is

certainly true of this bill. Even the chairman of the respective taxwriting committees and other leaders, like Senator BRADLEY, all of whom played such an extraordinary role in drafting this legislation, have made it clear that they do not support every single provision.

I find much in this bill that is troubling, but, on balance, I believe the Tax Reform Act of 1986 is a good bill that will make the tax system fairer. For that reason, I intend to vote for this act.

Perhaps no aspect of Federal policy has as much impact on the daily lives of the American people as the Federal income tax system. For many Americans, the tax system is the only direct contact they have with their Federal Government. It is, thus, an important factor that helps form their attitude toward Government.

Yet, annual surveys of public attitudes toward Government and taxes have found that the Federal income tax has in recent years become the least liked tax.

According to the Advisory Commission on Intergovernmental Relations, 1986 marks the eighth year in a row the public has selected the Federal income tax as the worst tax. The American people believe it is less fair than State and local income, property, and sales taxes.

This increasing disrespect for the Federal tax system results from the pervasive attitude that marginal tax rates are too high and tax avoidance too common.

What the American people must object to is their paying taxes while others are not paying their fair share.

Tax reform attempts to address these problems by eliminating a number of special tax breaks and restricting others, in return for lower marginal tax rates for everyone. The result will be a tax system which ensures that all individuals and corporations pay a level of tax that corresponds to their income.

I am pleased that the tax reform bill before us today removes over 6 million low-income families from the income tax rolls through increases in the standard deduction, the personal exemption, and the earned income tax credit.

I am also pleased that tax reform will ensure that taxpayers with similar amounts of income will pay similar amounts of tax. No longer will we hear distresssing stories of very wealthy individuals investing in tax shelters to avoid income tax. With a much tougher minimum tax and new restrictions on tax shelters, this bill will ensure that those who have the means to pay do in fact pay taxes.

The 30,000 people with income in excess of $250,000 a year who paid virtually no taxes in 1983 will now have to pay some portion of their share.

Finally, the more rational cost recovery system and tax accounting rules that are part of tax reform will reduce the distorting role tax considerations play in business decision making.

Under the current system of investment tax incentives, the Federal Government has injected itself into private sector investment decisions. Through a crazy quilt of tax incentives, the Federal Government has attempted to direct investment into areas that the free market would otherwise not support. The result has been a steady decline in corporate income tax collections, widespread corporate income tax avoidance, and less than optimum aggregate investment in the economy.

Tax reform will increase the role of the free market in business decisions, providing for a more efficient allocation of investment resources into those areas that produce a greater return.

While I am strongly supportive of these changes in investment incentives and limitations on tax shelters, I nevertheless regret the way we have gone about some of these decisions. I am also deeply concerned about the effect tax reform could have on investment in low-income housing.

Perhaps no aspect of the current tax system is as unseemly as the incentives that encourage otherwise rational people to invest in order to lose money. This is particularly the case with real estate, where overly generous depreciation and improper accounting rules encourage the formation of limited partnerships designed to produce large tax losses for investors. Nowhere is this more true than investment in low-income housing, an area where Congress has by design encouraged wealthy people to invest for the tax losses that are generated.

I support the changes in tax reform that will make the system of real estate depreciation less generous and restrict losses from tax shelter activities. But I cannot support the means by which we have changed current law. It is simply not fair for the Federal Government to entice investors into these deals and then change the rules in the middle of the game.

It is particularly wrong to deny tax losses for investments previously made in low-income housing where investors are limited in the rents that may be charged and where appreciation in the value of the property is unlikely. The Federal Government promised these investors tax losses in lieu of rental income. It is wrong to suddenly deny these losses as part of tax reform.

While I am pleased this bill includes a general transition rule for all passive losses and another transition rule for low-income housing, I do not believe either rule is fair or efficient.

By making changes which have a retroactive effect on past investment decisions, Congress will undermine the effort to increase taxpayers respect for the tax laws.

This problem also occurs in another area of the tax bill dealing with the tax treatment of retirement benefits for Government employees. Under current law, the 3-year basis recovery rule determines the taxation of workers who receive retirement benefits funded both by their own contributions and contributions from their employers.

The 3-year basis recovery rule treats up to the first 3 years of pension benefits as a nontaxable return of the employee's pension contribution. For the most part, this rule only applies to Federal, State, and local government employees because few private-sector workers are required to contribute to their pension system.

The tax bill repeals the 3-year basis recovery rule on a retroactive basis back to July 1. That is simply wrong and unfair. Regardless of what one thinks is the proper rule for taxing these retirement benefits, the change should be made on a prospective basis to give workers an opportunity to plan for the change in tax treatment.

In the Senate bill, we delayed the full application of the new rule until 1989.

Thousands of Federal, State, and local government employees nearing retirement relied on the Senate bill to delay their retirement, with the understanding that Congress would not change the rule retroactively. Unfortunately, their confidence in the appropriateness of our decisionmaking has been shaken by the decision of the conference committee to make the new rule retroactive to July 1, 1986.

It is my hope that we can take another look at this issue next year and correct the problem by at least instituting a phase-in of the new tax treatment.

A recent Joint Economic Committee report revealed that .5 percent of American families—440,000 out of 88 million families—control 25 percent of the net worth in the country, with a minimum net worth in that category of $2.5 million an average net worth per family of $8.35 million.

It is these families who can rearrange their investment assets in order to create passive income, such as from rental real estate, to offset passive losses. As an example, a wealthy family will be able to create, through appropriate investments, $1 million of passive income enabling them to use $1 million of passive loss, thus sheltering the $1 million of passive income entirely. The family would only pay tax at 28 percent on earned income, portfolio income or excess passive income.

The tax bill severely restricts the ability of those who (one analyst described as) the "working rich," that is

executives and professionals who earn $70,000 to $200,000 per year, and there those in the middle class, from using passive losses in the same way. They do not have the capital to create passive income, and their use of leverage to make such investments, in order to create passive income, it limited by the deductibility limitations on interest. As an example, following the phase-in period, a professional with $200,000 earned income will pay taxes at the rate of 28 percent on his full income, and if he has $200,000 of passive losses and no passive income, he cannot use those losses at all.

I am concerned that this bill could create a situation where it will be more worthwhile to have passive income—tax-free due to passive losses—than to have primary business income from an active trade or business, the opposite result of the stated goals of the bill.

PROGRESSIVITY OF THE FEDERAL TAX SYSTEM

While I shall vote for the conference agreement on tax reform, I believe it is fundamentally flawed in one major respect. I am deeply disappointed that this legislation abandons our historic commitment to a progressive system of Federal income taxation. The essentially flat rate structure of this bill, with a marginal tax rate that actually declines with income, is inconsistent with basic American concepts of fairness.

I hoped that the conferees would correct this problem and provide more tax relief to the middle class rather than to those with higher incomes. But they did not. This legislation preserves the approach in the Senate bill and continues to give a windfall to the wealthy. This is a problem that can be, must be and, I believe ultimately will be corrected. Unfortunately this is our only chance to enact the many other tax law changes that are true reform.

Although I am mindful of the difficulty of changing tax rates so soon after enacting tax reform, I believe the next Congress will come to appreciate the basic flaw of the tax rate structure in this bill.

Tax reform offers a promise to the American people of a fairer tax system that relates tax liability to the ability to pay. But regardless of the restrictions this bill imposes on tax avoidance, the American people will not support an essentially flat rate tax system.

I regret that the American people will not see this bill as tax reform when they realize that it puts factory workers, nurses, and secretaries with taxable income of $18,000 in the same tax bracket as those earning $200,000 a year, or even $2 million a year.

When the American people discover that the new tax system will cut the taxes of the wealthiest individuals by 20 and 30 percent, they will be sorely disappointed with this legislation.

The proponents of tax reform hail this bill as a tribute to progressive taxation. In my judgment, they are simply wrong. Admittedly, the progressivity of a tax system is an elusive concept that can be measured in different ways. But by virtually any standard, this bill reduces progressivity in our tax system.

Proponents also like to point to figures which measure the distribution of the percentage change in income tax liability. Over and over again we heard during the debate that a bill which gives the lowest income group a 66-percent reduction in taxes compared to the 2.3 percent reduction going to the highest income group must be progressive.

By giving all taxpayers an average tax cut of 6 percent compared to the 2 percent going to the highest income taxpayers, this legislation, they say, will result in the highest income paying a greater share of overall tax liability. From that narrow perspective, and that narrow perspective only, this bill may be described as progressive.

But too much attention is focused on measuring this aspect of the bill. The percentage reduction in taxes received by each income group does not tell the entire story. Indeed, it presents a misleading assessment of the impact of tax reform.

While it is true that the wealthiest Americans will be paying a higher share of the total amount of income taxes, it is a higher share of a very much reduced base. We have decided to cut what is the most progressive tax in the Federal revenue system by $120 billion. The richest may pay a larger share of taxes, but it will be a larger share of a much smaller base.

Congress has decided to take tough action to restrict the amount of losses from tax shelters. That action will increase the tax liabilities of the less than one-half of all high income taxpayers who now shelter a substantial proportion of their income. That is appropriate; it is what we would expect from tax reform.

But the other one-half of high income taxpayers who do not shelter their income will receive enormous tax cuts. According to figures prepared by the Joint Committee on Taxation, under this bill 390,000 taxpayers with incomes over $200,000 a year will receive a tax cut which will average $50,000 in the first year in which this bill goes into effect.

I asked the Joint Committee on Taxation to prepare tables on the distributional effects of tax reform which distinguish between those taxpayers with passive losses and those without passive losses. These tables show that for taxpayers who do not shelter their income, the highest income group receives a larger percentage tax cut than any other income group over $20,000. The highest income group gets the largest percentage tax cut.

These same taxpayers also receive a greater increase in after tax income than any other group. In fact, those taxpayers in the above $200,000 income group who do not have passive losses will experience an increase in after tax income that is five times as much as the increase going to all middle-income groups.

This is the essential problem, one major flaw with the bill. The wealthiest Americans will receive an enormous tax windfall, a windfall that is neither justified nor necessary.

The U.S. Government will incur a deficit this year of almost $230 billion. In our struggle to deal with this deficit over the past few years, Congress has been raising excise taxes, selling government assets, and slashing health and welfare programs. At the same time we are about to enact a tax reform bill that will give the 390,000 wealthiest Americans an average tax cut of $50,000. That simply does not make sense, and I defy anyone to stand up and tell us why it makes sense.

The reason for this excessive tax cut is the 28 percent top rate. That rate is simply too low for those with the highest incomes.

Let me make it clear that I favor lower tax rates.

As a long time proponent of tax reform who worked hard to get a bill through the Senate Finance Committee, I strongly support a reduction in tax rates which I believe will establish a fairer tax system and benefit the economy.

But too much of anything is not good. And a 28-percent top tax rate is simply too much of a rate cut for those in the very highest brackets. There is nothing magic about this tax rate. it will not serve to stem the tide of special interests looking for tax relief. And it will not serve to restore the confidence of the American people in the tax system.

I am particularly disappointed in the decision of the conferees to retain the myth that the top rate in tax reform is 28 percent for all Americans. That is not true. We know that not to be the case. Middle-income taxpayers will have a 28-percent rate. But those with incomes between $72,000 and $192,000 will have a 33-percent tax rate because of the phaseouts of the lower bracket and personal exemptions. Above $192,000 the rate drops back to 28 percent. Thus for the first time in American history, tax rates will decline as income rises.

I cannot understand what interest is served by adopting a tax rate structure where marginal rates decline as income rises. Certainly the less than one-half of 1 percent of the population who will benefit from this rate decline

are not asking for special protection. We did not have before our committee representatives of the one-half of 1 percent of the wealthiest Americans who asked for this. No one suggests that a 28 percent top rate for millionaires and a 33-top rate for someone who makes $150,000 is the fair thing to do. I have not heard any argument advanced that this will promote economic growth or achieve some other laudable objective. There has never been an explanation for it.

Instead, it will simply serve to undermine our efforts to restore confidence in the federal system of taxation.

AFTER TAX INCOME

Although much attention has been focused on the percentage cut in income taxes this bill would give each income class, a better measure of the progressivity of tax reform is what effect it will have on after-tax income. How will tax reform affect the take home pay of each taxpayer after Federal taxes have been deducted?

This is probably the single-most realistic and effective measure of this or any other tax legislation.

Tax reform can result in the highest income groups paying a greater share of the tax burden when measured from the percentage change in tax liability. Yet, the legislation would still be regressive if such a tax reduction results in the wealthy receiving a larger increase in after-tax income. The concentration in after-tax income would actually increase even as the wealthest Americans pay a greater share of the income tax burden.

And that is precisely what this bill does. The figures I just cited from the Joint Tax Committee show that the highest income group without passive losses will receive a far larger increase in after-tax income than any other income group of Americans regardless of their incomes.

Looking at all taxpayers—those with and those without losses from tax shelter activities—the tables prepared by the Joint Tax Committee show that the highest income group continues to receive an increase in after-tax income similar to that received by all other income groups.

The largest increase in after-tax income goes to the highest income earners. It is they who will reap the greatest benefit from tax reform. I realize this is a difficult concept to understand but it is the most accurate measure of who benefits the most from this legislation with its top tax rate of 28 percent.

Let me give an example of this using a taxpayer with $10,000 of income who now pays $100 of tax and a taxpayer with $1 million of income who now pays $200,000 of tax.

A 20-percent tax cut for the former will yield $20 of tax savings and increase his after-tax income by less than two-tenths of 1 percent. In contrast, providing only one-half the tax cut to the wealthier taxpayer will cut his taxes by $20,000 and increase his after-tax income by more than 2 percent.

In this example, what appears to be a progressive tax cut that gives the $10,000 taxpayer twice as much a percentage tax reduction as the $1 million taxpayer is actually a regressive tax cut that gives the wealthier taxpayer more than 10 times the increase in after-tax income than the lower income taxpayers.

Although, the magnitude of the numbers is different, much the same effect is occurring with this tax reform bill. The greatest benefit is going to the wealthiest individuals who have not engaged in extensive tax sheltering in the past.

Mr. President, as I said earlier, I am pleased this bill removes over 6 million lower-income Americans from the tax rolls. But we should not overestimate the value of this change, which essentially puts these taxpayers back to where they were in 1977.

The 66 percent average tax reduction going to the under $10,000 income group is worth on average only about $45. At the same time, the average 2.3 percent reduction in taxes going to the above $200,000 taxpayer is worth on average almost $3,000. That is all taxpayers above $200,000.

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Finally, I would like to point out that regardless of the figures I have just cited, a tax system which establishes an essentially flat rate bracket system is manifestly not progressive.

Regardless of the valuable changes we are making in this bill to limit tax avoidance by individuals and corporations—changes which lead me to conclude that I should vote for it despite my strong reservations as just described—a tax system that requires individuals with $18,000 of taxable income to pay the same marginal tax rate as another individual who is earning a million dollars is neither fair nor progressive.

CONCLUSION

In spite of the serious reservations I have expressed with regard to the progressivity of this legislation, I intend to vote for it because it includes much that is good.

In my judgment, this will be our only opportunity to enact tax reform. We will not be given another chance to restrict the hundreds of special tax breaks included in this bill in return for lower marginal tax rates. If we defeat the bill today, after these many months of difficult work, tax reform will be dead. We will not soon return to the process.

However, we will have an opportunity next year to turn to the fundamental question of what is a proper rate structure in our tax system. For the last several years, Congress has responded to the serious fiscal problem of large budget deficits by increasing excise, payroll, and use taxes, none of which are related to ability to pay. These regressive levies will be considered again in future Congresses, as will a broad-based consumption tax.

If Congress decides to increase revenues as a means of addressing the deficit problem, I intend to make sure it has an opportunity to consider a progressive revision in the income tax structure that is established in this bill.

Mr. President, I conclude by commending all those who played an important part in this bill: The distinguished chairman of the committee, Senator PACKWOOD; the ranking minority member, Senator LONG; Senator MOYNIHAN, and Senator BRADLEY.

I ask unanimous consent to have tables prepared by the Joint Committee on Taxation printed in the RECORD.

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

TABLE 1.—*Distributional effects of the conference agreement, 1988*

Income class (thousands of 1986 dollars).	Percentage change in income tax liability
0 to $10	−65.1
$10 to $20	−22.3
$20 to $30	−9.8
$30 to $40	−7.7
$40 to $50	−9.1
$50 to $75	−1.8
$75 to $100	−1.2
$100 to $200	−2.2
$200 plus	−2.4
Total	−6.1

Joint Committee on Taxation, Sept. 26, 1986.

TABLE 2.—PERCENTAGE OF INCOME TAX LIABILITY FOR PRESENT LAW AND THE CONFERENCE AGREEMENT, BY INCOME CLASS, 1988

Income class (thousands of 1986 dollars)	Percentage of income tax liability	
	Present law	Conference agreement
Less than $10	0.6	0.2
$10 to $20	6.4	5.3
$20 to $30	11.8	11.3
$30 to $40	12.0	11.8
$40 to $50	10.9	10.6
$50 to $75	16.2	16.9
$75 to $100	6.7	7.1
$100 to $200	11.9	12.4
$200 and above	23.4	24.3
Total	100.0	100.0

Joint Committee on Taxation, Sept. 26, 1986.

TABLE 3.—*Percentage change in Federal income and Social Security tax liability, 1988*

Income class (thousands of 1986 dollars).	Percentage change in combined taxes
0 to $10	−16.2
$10 to $20	−11.9
$20 to $30	−5.9
$30 to $40	−4.8
$40 to $50	−5.9
$50 to $75	−1.3
$75 to $100	−1.0
$100 to $200	−1.9

$200 plus	−2.4
Total	−4.4

Joint Committee on Taxation, Sept. 26, 1986.

TABLE 4.—*Percentage change in after-tax income, 1988*

Income class (thousands of 1986 dollars).	Percentage change in after-tax income
0 to $10	1.0
$10 to $20	1.5
$20 to $30	1.0
$30 to $40	.9
$40 to $50	1.3
$50 to $75	.3
$75 to $100	.2
$100 to $200	.6
$200 plus	.8
Total	.9

Joint Committee on Taxation, Sept. 26, 1986.

TABLE 5.—DISTRIBUTIONAL EFFECTS OF THE CONFERENCE AGREEMENT, 1988

Income class (thousands of 1986 dollars)	Percentage change in income tax liability for taxpayers	
	With passive losses	Without passive losses
0 to $10	1,004.4	−66.5
$10 to $20	−12.4	−22.5
$20 to $30	4.7	−10.4
$30 to $40	8.1	−8.9
$40 to $50	4.2	−10.2
$50 to $75	12.8	−4.1
$75 to $100	16.3	−6.4
$100 to $200	18.6	−10.1
$200 plus	13.3	−14.0
Total	13.5	−10.8

Joint Committee on Taxation; Sept. 26, 1986.

TABLE 6.—DISTRIBUTIONAL EFFECTS OF THE CONFERENCE AGREEMENT, 1988

Income class (thousands of 1986 dollars)	Percentage change in after-tax income for taxpayers	
	With passive losses	Without passive losses
0 to $10	0.7	1.0
$10 to $20	.4	1.5
$20 to $30	−.3	1.1
$30 to $40	−.6	1.1
$40 to $50	−.4	1.5
$50 to $75	−1.6	.7
$75 to $100	−2.4	1.5
$100 to $200	−3.4	3.1
$200 plus	−3.3	5.4
Total	−2.2	1.5

Joint Committee on Taxation, Sept. 25, 1986.

Mr. LONG. Mr. President, I rise to support the conference report. It was the privilege of this Senator to hear the statement of the Senator from Missouri [Mr. DANFORTH], whom I admire very much. I enjoyed what he had to say, and I agreed with some of it. Much of the Senator's argument had to do with economic growth.

I would point out that this was never envisioned as a bill to stimulate economic growth. The President tells us that the bill will stimulate economic growth. The present Secretary of the Treasury and the former Secretary of the Treasury, Mr. Baker and Mr. Donald Regan—both of whom were outstanding businessmen, leaders of American business and industry and outstanding servants of Government—assure us that this bill will stimulate growth rather than reach those ends feared by the Senator from Missouri.

Mr. President, if that should be a disappointment, if we find that the investment tax credit does stimulate economic growth far more than the sponsors of this bill seem to feel it does, then I would think that in due course it would be restored.

The Senator from Louisiana has voted to pass the investment tax credit three times. He has voted to repeal the investment tax credit three times. On two of those occasions, the same President who asked me to vote to repeal it, asked me to vote to restore it. So I am thoroughly familiar with the arguments on both sides.

I am satisfied that it did stimulate economic growth when we passed it, and I am satisfied that it slowed growth down when we repealed it.

When we repealed the credit, we did it because we thought it was overheating the economy. It may be that Congress will want to do that again. I would not be surprised.

This is a great, moving country. It does not stay the same; it does not stand still. Nothing in this bill is going to prove to be perfect, but the bill will be a very long stride forward that will be approved by the overwhelming majority of the American people.

Mr. President, the conference report represents a dramatic improvement in the Federal income tax system. It deserves the support of the Senate.

The conference preserved almost all of the dramatic rate cuts in the Senate bill.

The top corporate rate will be cut from 46 percent to 34 percent, and the top individual rate will be cut from 50 percent to 28 percent.

As in the Senate bill, over 80 percent of taxpayers will pay no higher than a 15-percent rate.

The conference report also preserves the tough Senate measures attacking tax shelters and requiring minimum taxes on individuals and corporations. I am concerned that some of these new measures may have to be amended in the future to reduce some overly harsh impacts in particular cases.

However, I strongly support the general idea that everyone who makes money should pay some tax. We have to assure the honest, middle-class worker that he is not being a sucker for paying taxes on his wages, and that he is not paying a great deal more in taxes than those who are far better off than he. This bill does that.

The tax shelter and minimum tax rules in the bill are designed to deliver that kind of assurance. For that reason, I believe that they will strengthen the tax system.

The tax conference itself was a difficult one. We were confronted with circumstances that could have dragged the conference out until January.

As a result, the conference made very little apparent progress for weeks and weeks.

I must say that I was not surprised by these developments.

From early on, even before the Senate passed its bill, I sensed that special procedures would be required to resolve the tax reform conference. The issues were too important and too numerous.

Most conferees were willing to give on significant things in order to get something in return. However, no one wanted to give on 1 important thing without knowing what they were getting back on 10 or 20 other important things.

In fact, the whole situation put me in mind of an earlier conference between the two committees.

At the time, I was serving as chairman on our side, and Congressman Al Ullman was the chairman from the House side.

Like this conference, there were many difficult issues to resolve. As a result, the Senate conferees decided early on that they should not agree to anything until the two sides had agreed on everything.

That conference seemed to go very badly at first.

As we went through the document comparing the two bills, Mr. Ullman would occasionally suggest that the Senate recede to the House on a particular matter. We would have a show of hands on our sides, and on each issue, every Senate conferee would vote to retain the Senate position.

On that occasion, Senator Abraham Ribicoff of Connecticut suggested that the two chairman work together to develop a comprehensive package that each could recommend to their respective caucuses.

That procedure was followed, and an early agreement resulted. Both sides felt that they had gotten a good bill, even though each side had given up some things.

When we reached a similar difficult stage in the tax bill conference, it was my turn to suggest that Chairman PACKWOOD and Chairman ROSTENKOWSKI work together the same way. That suggestion was followed, and it led to a comprehensive agreement.

The agreement reached was a fair one. Each chairman vigorously advocated the views of his conferees, his committee, and of the House and Senate respectively. I would like to thank the Senator from Oregon [Mr. PACKWOOD] for all of his hard work in these negotiations, and congratulate him on the results of his efforts.

Mr. President, I am not totally happy with every detail of the tax reform bill. However, I think the same could be said of every conferee who

signed the conference report, including the Senator from Oregon [Mr. PACKWOOD]. All sacrificed something to the greater good.

The chairman of our committee, the Senator from Oregon, paid his share of the dues. The State of Oregon makes its share of the sacrifice along with the State of Louisiana and other States, to achieve a tax reform bill that the country will approve.

The bill is certainly not perfection. However, it is a long stride toward some things that will be good for the country in the long run.

Taxpayers will pay on a more uniform basis.

Rates will be the lowest that I have seen since coming to the U.S. Senate. On that point, the bill accomplishes something I have supported for a long time.

When I came here, the top rate was 90 percent. I wanted to vote to reduce it. We had the Korean war on our hands, and the Senate voted to increase the rates from 90 percent to 92 percent. This Senator felt that rather than have so many different tax advantages, such as qualified stock options and things of that sort, we should try to cut the rates. At that time, not many people thought that was the thing to do.

Over a period of time, as I have continued to advocate that, others have joined forces with me. I was pleased to have played a part in reducing the top rate from 92 to 90, and then to 70 and 50. Now I am exceedingly happy to join in reducing the top rate to 28 percent.

Mr. President, I want to say a word about the discussion with respect to the rate being more than 28 percent in some cases.

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Mr. President, you might look at this tax bill as a flat tax insofar as the very high income payers are concerned. After all, that is what the rich wanted. If you are a rich person and thinking only about yourself, and you are not worried too much about the little fellow in the middle brackets and the little fellow at the bottom, what you like to have most of all is a flat tax, where everyone would be taxed at the same rate, and not the rich man would not pay tax at a higher rate than the poor man. On that basis the rich would make out best. They would like to have a flat tax. I can certainly understand that.

Mr. President, to a very large degree we give the rich their flat tax in this bill. They get a flat tax of 28 percent.

How do we arrive at that and still do justice to others? Charts were made to see how you could reduce the rates and at the same time have a fair adjustment so that the rich as a class were not getting a larger tax cut than the middle-income people. In order to do that, it was finally concluded that you would have to ask the wealthy to give back their $2,000 personal exemption, and to give back the benefit of the 15 percent rate up to the point that they came to the 28 percent rate, in order to prevent this group of taxpayers from having a much bigger tax cut than the middle income people, who were certainly more deserving of a tax cut, we thought.

So that is what the bill has done.

We ask those who have passed a certain point to give up the benefit of the 15-percent rate, and so we phased it out, which means that at that point they are paying a higher rate.

Then, at a subsequent point, we ask them to give back the benefit of the personal exemption, so it works out at the highest point to a 28-percent flat tax for those wealthy individuals who are doing very well indeed.

I heard the Senator from Missouri talk about fairness. He said that it is not fair that the man who is making $1 million a year would appear to be paying at a lesser rate than the person making, let us say, $150,000 a year.

Mr. President, it is all according to how one looks at it. From the point of view of the Senator from Louisiana, you cannot very well justify a $2,000 personal exemption for one who is making $1 million a year and paying a flat tax of 28 percent. What does he need with a $2,000 personal exemption? So we ask him to give it back. A a result, it does not appear that this million-dollar-a-year person is getting a much bigger tax cut in percentage terms than some little fellow working for $30,000 a year, or working for even $75,000 or $80,000 a year.

Mr. President, also we asked that high income individuals give back the benefit of the 15-percent rate in which they first found themselves.

Now, the fellow who is making $150,000 is giving part of it back. The fellow who is making $1 million has given all of his back, and having given it back, we do not ask him to give it back a second time.

But those who have given back the benefit of the lower rate have in effect paid a flat tax of 28 percent, and that is what they are asking for, a flat tax. For those who were not doing a great deal of sheltering and who were paying what Congress intended in the first instance, they are going to get a very substantial tax cut. Obviously, someone who has done enough sheltering and maneuvering, paying little or no taxes, is going to pay a very substantial tax increase because everyone in the country, including every Senator, so far as this Senator knows, feels that when those very wealthy people make a lot of money they ought to pay us a reasonable amount of taxes, and we think 28 percent would be a reasonable amount.

The temptation to invest in tax shelters will be greatly reduced by this bill.

Investment decisions will be guided more by the economics of the investment rather than by the Tax Code.

For those reasons, I will vote in favor of the conference report. While the American taxpayer may be somewhat confused by the changes at first, I believe that the bill will prove to be popular with the public.

In the short run, the bill will be popular because most individuals will have less taxes withheld from their paycheck.

In the long run, the bill be popular because it is fair and because low rates are the right way to go in our income tax system.

Mr. President, I urge our colleagues to vote in favor of low tax rates and a fairer income tax system by supporting the conference report.

Mr. President, in conclusion, let me say, even though I have already made reference to it, that all of us are indebted to our chairman Mr. PACKWOOD, the Senator from Oregon, for the diligent, tireless, indefatigable work he did to bring this bill to this point in the Senate. He and I were not all that excited about his concept in the beginning, but as his enthusiasm grew, it was contagious and it infected all of us. He provided outstanding and inspiring leadership to us to bring us this remarkable change for bettering the Tax Code.

All of us, I know all of us on the conference, should be grateful to him, and I think all Senators should be grateful for the diligent work he made.

He was elsewhere and did not hear me when I said previously that the Senator paid his dues to bring this about.

Several tax advantages that were repealed were things for which the Senator worked for many years in years gone by. He repealed a considerable amount of his own handiwork. He repealed many of his own achievements from prior years in order to make this bill a reality.

I know, as one who has worked on things like that the one very much dislikes to see repealed something he always believed in, has thought was a good idea, and has personally every right to claim credit for being a part of the Tax Code.

The Senator did that, and he also included some provisions in the bill that are not going to be popular in his own State. He paid his dues, just as I think all of us should be willing to do, to make a sacrifice in one respect or the other to help make all of this reality.

On the whole the taxpayers will gain a lot. The country will gain. Some will be called upon to sacrifice somewhat more than others.

The chairman of our committee, the very able Senator from Oregon, has earned a place in history with the achievement he has made on this bill. I salute him and admire him for what he has done here. I think we all do.

In addition to that, Mr. President, I congratulate the Senator from New Jersey on the very fine job he did. He was advocating the concept that is embodied in this bill many, many years ago. He authored it and sponsored it and fought for it and worked for it, and I was proud to nominate him as one of the conferees on the bill.

I think it created some problems in some respects because it did not necessarily accord with seniority. But it is my view, Mr. President—and I hope the Senate will pursue that pattern in the future—that when one has been the prime mover of an idea, a concept, a bill for many years and has moved it to the point that others join forces and see merit and pass it, the Senator who does that is entitled to be one of those who work out the differences between the two Houses in conference. The Senator was a very valuable member of the conference and he will speak for himself, but I hope he approves of the bill that we brought here because he has done such a great amount to make this possible.

The Senator from New Jersey [Mr. BRADLEY] has made a great mark already in this Congress and he will do more. He will do a great deal more as time goes by for the country.

I am pleased to see my friend from New York here. He has fought the good fight and he has made a great contribution to the final settlement. I just wish he had been a little more successful in his efforts with regard to the deduction of the sales tax, but again the Senator has to pay some dues, like the Senator from Louisiana had to pay some dues, in order to make this bill a reality.

I thank the Senator.

□ 1910

(Mr. HUMPHREY assumed the chair.)

Mr. LEVIN addressed the Chair.

Mr. PACKWOOD addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, if the Senator from Oregon, the floor manager, was seeking recognition, I would be happy to yield to him.

Mr. PACKWOOD. Mr. President, just for a few seconds, I would like to thank the Senator from Louisiana for his very generous remarks. But I think every one of us who ever served on the Finance Committee realizes that this bill would not have been possible without the groundwork he has laid year after year. And if I am in the Senate as long as he has been in the Senate—which is 38 years—there will never be another "Mr. Chairman" to equal him. I thank him very much for his kind remarks, but most of all for his leadership.

Mr. LONG. Mr. President, I thank the Senator. I know I do not deserve all of that, but that makes me appreciate it all the more.

Mr. LEVIN. Mr. President, I ask unanimous consent that I may yield to my friend from New York for a speech without losing my right to the floor.

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

Mr. MOYNIHAN. I thank my friend from Michigan.

Mr. President, this is a triumphant moment for the Committee on Finance, which brings to the floor at this point the most important revision of the Tax Code in half a century.

It is also a poignant moment, because we have just heard what will, of necessity, be the last speech which RUSSELL LONG will give on a tax measure in this body after 38 years of extraordinary service, a career that has but few equals in time or in achievement. So much indeed that I want to have him hear me say that to have heard the last speech on a tax matter of RUSSELL LONG is to have been part of the history of this body. It was characteristic of him to be generous to others in a way that he has always been.

It was he precisely who, in the critical moments of the tax conference, made the suggestion that the two chairmen negotiate on behalf of their respective caucuses, which brought—at the very last moment, in a sequence in which the bill had all but failed a half dozen times—this extraordinary—we think—result.

As I remarked, Mr. President, there has been an extensive discussion of the principal features of the bill. I would like to confine myself to only a few, but doing so with some detail, in recognition of their importance.

The first and perhaps most important elemental fact is that we have taken some 6 to 7 million Americans out of poverty by the simple expedient of ceasing to tax them into it. It is almost a matter of incredulity that now, nearly a quarter of century after an American President, Lyndon B. Johnson, inspired the country and got the Congress to declare a war on poverty in this Nation, we find that we so neglected the Tax Code that we ended up taxing people into the condition.

This bill stops that, and not a moment too soon, with a potent set of provisions that will ensure that it does not happen again. By the simple process of indexing for inflation the basic determinants of when tax liability is first incurred—the personal and dependent exemptions and the standard deduction—we ensure for the future that taxes, at least, will not cause poverty. This is a fundamental change, long overdue and now done.

There is another matter, Mr. President, which needs to be stated with great specificity. The Congress did not accept the administration's proposal, as it first appeared in Treasury I and then was repeated in Treasury II, to repeal the deductibility of State and local income and property taxes.

As the Senator from Louisiana observed, this was not the case with respect to sales taxes. And yet over 80 percent of the value of the deduction for State and local taxes has been preserved, and we have avoided what would have been a horrendous blow to the principles of federalism.

It was disappointing in May of last year, after the administration had released its revised tax reform proposal, to have the President address the Nation and speak of the deductibility of State and local taxes as a subsidy to certain States, a subsidy to any State. I quote the President when he said most Americans are "being forced to subsidize the high tax policies of a handful of States."

Mr. President, this notion of subsidy was so clearly at odds with the most elemental principles of federalism, that it is something of an achievement at the level of concept and of appreciation of what was at issue that we did not do this.

The history of this matter is a long one and it goes back to the very first hours of the American Constitution, in the Federalist Papers making the case for adopting the Constitution.

Hamilton wrote therein that any effort to impose Federal taxes on resources taxed by the States would be an attempt on the part of the National Government to abridge the States' taxing power, and would be "a violent assumption of power unwarranted by any article or clause of the Constitution."

Hamilton, urging the people of New York to vote to ratify the Constitution, said it was inconceivable that the Federal Government could ever do what last year was proposed that we do, and seemed that we might.

With respect to higher education, Mr. President, the present legislation, while not the calamity that the administration's proposals would have been, nevertheless does not succeed in retaining the immunities and the necessary privileges of the great institutions of higher education in our country that we would have hoped and, indeed which the Senate, urgently sought.

There is a measure in the bill which repeals, for purposes of the minimum tax, the right to take a charitable deduction for the appreciated value of gifts to nonprofit institutions of all kinds. To keep the status quo was a hard case to make in principle, but in

practice an extraordinarily important one.

The capital which is raised by our great hospitals and universities and research institutions comes in such large amount from the gifts by successful persons at the end of their careers of property that has appreciated significantly over time.

To have denied this source of funds to our research institutions, to our hospitals, to our universities seems to me—and indeed most of the Senate—to have been a mistake. But in the end we had, in the interest of any legislation, to concede to the House on this point.

We also commenced the taxation of that portion of scholarships and fellowships which are used for the living expenses of the students and young scholars who receive them—again, a matter which imposes only an additional cost on our universities at very little return to the Treasury. And some costs unanticipated, I think, at the time. I was discussing the matter with the president of Columbia University, Michael Sovern, a few weeks ago when it was clear that we could not bring the House to our view on this matter. And he noted that something had not occurred to many, that the decision to treat some scholarship money as income would add $1 million to Columbia University's required payments of Social Security taxes.

So also with a number of such provisions. We did, however, preserve the charitable deduction for those who are itemizers. This will continue to benefit educational institutions and other nonproft enterprises. Such institutions are a unique feature in our society—special in their independence, neither public nor private, but serving public purposes through private organizations.

We have also preserved the tax-exempt financing privileges of universities in the main and as a matter of principle, although we do subject them to a limit of $150 million in financing per institution.

Something that has no immediate consequence but could have large long-run consequences is the decision made by the drafters at the insistence of the House to reclassify the tax-exempt bonds of private colleges and universities as private activity bonds. I want to say that throughout this matter no one has been more clear on seeing the importance of this issue than the chairman, Mr. PACKWOOD. We have taken from our universities, our colleges, the private colleges as against the public ones, the status of exempt persons under the Tax Code for purposes of tax-exempt bonds.

The States of the Union are exempt persons. The subdivisions of State governments are exempt persons. And up until now for purposes of tax-exempt financing, the great chartered universities and colleges that make up the singular structure of higher education in America have always been exempt persons. We are the only Nation in the world where something like half the greater research institutions of the country are run as private foundations, private chartered corporations, and have been treated for all extents and practical purposes as having immunities of public institutions as in the case of a government.

They are now to be treated—their debt, their bonds, their borrowing—is to be listed under the category of private activities. I cannot help but think that we will want to see this changed. We do make special provision in the bill that any future changes with respect to bonds classified as private activity bonds will not be taken to affect the 501(c)(3) bonds of universities and other nonprofit institutions unless affirmatively and specifically so stated. Even so, to take away this status, this circumstance that is associated with the immunities that we come to think of as essential to the life of the great university, to take it away from them in the Tax Code is a grave mistake. It was never debated. It was never agreed to. The Senate firmly resisted it. In the end, we did not prevail. We will come to the matter again next year, and I am sure we will have the same support that we had this year.

It is a simple thing. It might not seem an important thing, and yet in the end it has to do with the whole status in our society of these institutions.

Could I speak, Mr. President, briefly but with some detail, with respect to the treatment of passive losses in this legislation. Surely one of the most important changes the legislation makes among many today is the introduction into the Tax Code of the distinction between positive income and passive losses. In a summary of the legislation which appeared in the Wall Street Journal immediately following the tax conferees reaching an agreement, the able reporters of the Journal wrote:

> In many ways the heart of the new tax bill is a tough provision that would prevent taxpayers from using paper losses generated by tax shelters to reduce tax liabilities. Investments in real estate shelters, jojoba bean tax shelters, cattle feeding tax shelters and a wide arrangement of array of other arrangements have boomed in the past few years. The tax bill makes it a certainty that the bust is on its way.

The change is fundamental, and its importance to the long-term health of the Tax Code is hard to overstate. It is the greatest assault on tax shelters ever tried. It is the key to the bill's ability to lower the top rates of taxation dramatically without producing an conscionable windfall for the wealthy. The real rates of tax paid by these individuals will actually increase in many cases, and their total share of the income tax burden increases.

The tax shelter provisions turn on the distribution between positive income and passive losses. Positive income, Mr. President, is what it sounds like, what most of us understand is income, which is salary or professional fees or compensation for personal services, as well as interest. dividends, and gains from investments for those who have them. Passive losses are something altogether different. They are losses from business activities in which an individual puts up some money, but does not participate in or manage in any material way. They are designed, these arrangements, to produce nominal losses. These are always or almost always paper losses, mere accounting entries resulting from Tax Code provisions that, as an incentive, allow a business enterprise to recognize its losses before it must account for all of its income.

When a business activity is packaged up and sold in pieces—typically limited partnership shares—to a group of investors, you have a tax shelter. Passive losses are the lifeblood of tax sheltering in this country because every shelter sooner or later turns upon the ability of an outside nonparticipating investor to use the tax losses generated by the sheltering activity to reduce his positive income, and thereby the tax on that positive income.

The legislation we pass today introduces a fundamental and disarmingly simple provision into the Tax Code. Passive losses cannot be used to reduce positive income. It thereby drives a stake into the heart of tax sheltering in this country, which was beginning to jeopardize the legitimacy of our tax system. The Senator from Maine spoke earlier of the studies and surveys by the Advisory Committee on Intergovernmental Relations. These studies show that in recent years, Americans increasingly feel that among the taxes in our system, it's the income tax which is least just—precisely the tax designed to be the most just based on ability to pay.

It was a great social movement in our country to bring about a graduated income tax. The Constitution did not provide for it. It provides for a per capita tax in effect. It was generally thought necessary to amend the Constitution to impose a graduated income tax and a generation of Americans put their efforts into amending the Constitution so that we might bring about the principle of a graduated tax: those who earn more should pay a higher proportion of their income in tax.

Over the last half-century, we have seen the principle, or at least its realization, slowly, slowly erode until our present state of a affairs where more and more persons of very large income are paying little or no taxes.

□ 1930

This came to be celebrated. Just a year ago in February 1985, the magazine Money had on its cover a special report, "The Best Ways to Cut Your Taxes." Here on the cover is a happy threesome, two gentlemen in dinner jackets and an elegantly gowned young lady, all drinking champagne and smiling. We are told that "These three people have made fortunes but paid no taxes last year—here's how you can slash yours."

You no longer need an expensive lawyer or accountant. For $2.50, Money magazine can teach you. What a happy life it was, flowers, champagne, all manner of activities.

Speaking of a gentleman with an income of $175,000, who describes himself as a "tax-shelter junkie," the magazine writer, "Depreciation gives him a paper loss to offset income from other sources." His income in 1984 was $175,000; his taxes—zero.

I can now report that Money magazine, with this legislation a virtual certainty, has revisited the happy threesome in its October 1986 issue, just out. The new story reads, "With Tax Reform, The Party's Nearly Over For the No-Tax Trio."

There are our friends, previously in dinner jackets and evening dress, in shirtsleeves, the balloons are on the ground, the confetti has sort of given out. And it says, "The days of wine and roses and heady write-offs are gone in real estate."

Alas, they have to go back to work and earn their money in the old way, which is simply to try to do things from which they get income, and to pay taxes on it.

I feel sorry about the boxcars, jojoba beans, and real estate, but the party is over.

And well it ought to be.

In this morning's New York Daily News, Lars-Erik Nelson, always an interesting and intelligent commentator, says in an article called "Sharing The Tax Burden:"

> The tax reform is not perfect. It may raise your taxes. Far worse, it may raise mine. But no longer will you or I, just the two of us, pay more in taxes each year than AT&T, Texaco, Gulf, GE, du Pont, W.R. Grace and my dentist put together.

It really does come down to that, Mr. President.

Roscoe Egger, the Commissioner of the Internal Revenue Service until just recently, saw the bulging of this phenomenon in the 1980's. We saw a near doubling in the number of tax shelters under IRS audit from 1979 to 1983 from 183,000 to one-third of a million. In an interview in Time magazine in March 1984, Commissioner Egger was asked what was the one thing he would like to change in the tax system. He said, "I would go back and look at the whole question of the ability to offset losses from one type of business activity against income that is wholly unrelated."

In 1965, individuals reported almost nine times as much income from partnerships as they did losses. By 1982, the losses reported by partnerships—the favored investment for generating passive losses—were greater than the gains reported by partnerships, and 20 times their level of 1965.

Between 1980 and 1983 alone, total investment tax shelters had increased by more than 100 percent.

This had become not just a burden on the efficiency of the Tax Code, but a threat to its very legitimacy. Clearly, it worked to the greatest disadvantage of the economy. Investment driven by tax advantage is not optimal investment. We have seen our productivity figures drop 4 percent a year in the 1960's, to 3 percent in the 1970's, to 2 percent in the 1980's, and this drop was accompanied step by step by the increase in investments that are designed not to produce a profitable return but to produce a tax loss.

In the end it was undermining the legitimacy of the system.

I might make note that as we approach the 200th anniversary of the Constitution, it would be well, perhaps, to recall that it was over the question of the legitimacy of the tax system in the American colonies that the American revolution first took shape.

A very distinguished scholar of this subject, Aaron Wildavsky, a Brooklyn boy who now teaches at Berkeley and who just became president of the American Science Association, has just published a history of taxation in the Western world.

In the last days of the conference proceedings during a pause, I phoned him, perhaps the most knowledgeable person in the larger political and historical aspects of taxation. I said to him, "Aaron, are we doing the right thing?"

He said, 'You are doing the right thing."

Then he had a wonderful phrase. He said, "When things that are perfectly legal are regarded as morally tainted, you've got to stop."

I remember running into our distinguished chairman BOB PACKWOOD, of Oregon, as he was heading across the Capitol to another meeting with Mr. ROSTENKOWSKI just after the Senate has been sworn as a court of impeachment in the case of Judge Claiborne. I stopped him and I said, "BOB, let me tell you what Aaron Wildavsky just said. He said 'When things that are perfectly legal are regarded as morally tainted, you've got to stop.' "

Senator PACKWOOD said, "That is all I have been about since the beginning."

That is what he did. He did it with extraordinary assistance from the distinguished Senator from New Jersey [Mr. BRADLEY] who has brought us the concept of a few number of sharply reduced rates, paid for in large measure by bringing into the taxable income base several items that have previously been excluded. This is base broadening, as it has been phrased, a base broadening which was greatly enhanced by the decision to preclude the use of passive losses to reduce the income base.

But in the end, it was the determination of our chairman to make it happen that did it. He went into the depths, Mr. President, No man had ever been more thoroughly defeated than was Senator PACKWOOD in the course of April of this year. And defeated, indeed, by his own committee, by the dynamics which had brought the Tax Code to the condition it was in, and a point where others would have chosen to think that that which had seemed impossible had in fact proved to be impossible. He said, "We will try once again."

Earlier on the floor, I heard him make the simple statement that "With no guts, there is no glory."

□ 1940

Mr. President, there is some glory here and it derives from the guts of one BOB PACKWOOD of Oregon. I, a Member of the opposite party, wish to stand here and so state. What he did could not have been done without Senator LONG and Senator BRADLEY, without his extraordinary chief of staff, Bill Diefenderfer, and his chief tax counsel, John Colvin. On our side, the minority chief of staff, Bill Wilkins, was an exemplar of public service at every stage, providing insightful, direct and accurate analysis always.

For my part, I had the incomparable assistance of Joe Gale, a young attorney with a great future, a man of the most extraordinary integrity and persistence. He would listen when I would say, "Stop, Joe, don't try anymore, we have lost," and say, "I will try just one more time, Senator." Not invariably did he succeed, but his successes continue to astound me. He has in him some of the stuff of BOB PACKWOOD. I cannot at this moment say more about any young man.

Mr. President, I have taken perhaps more time than I ought to have taken, but this moment will not come again in my lifetime and it might never have come at all without the leadership about which I have spoken and for which I would like to add a personal note: It is one thing to be in the presence of great political courage, but to see it done with grace as well is an experience that is to be treasured beyond anything I have known in a decade in the U.S. Senate.

Mr. President, my distinguished friend from Michigan [Mr. LEVIN] very generously yielded me the floor in

order that I might speak. I now, with an expression of appreciation to him, yield back the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, first, let me say that although a number of us disagree whether this tax bill is a plus for the taxpayers of the country or for the fairness of the tax system let me say the chairman of the Finance Committee [Mr. PACKWOOD], the ranking member of the Finance Committee [Mr. BRADLEY], Senator MOYNIHAN, and others who put so much time on the bill deserve the commendation of everybody in this Chamber.

Whatever side we end up on, I could not agree more with Senator MOYNIHAN in his praise of Senator PACKWOOD for his leadership on this bill. We all agree on that. We all have a positive feeling for Senator PACKWOOD, Senator LONG, and others who labored so long and mightily on this bill for their herculean effort and for other reasons as well.

Some might ask why, after the House of Representatives passed this conference report on the tax reform bill by a substantial margin, should the Senate spend any time considering it? Have not all the issues been explored? Have not all the decisions been made? "Why won't the opponents of this bill just acknowledge defeat and go away?"

Mr. President, if this tax reform bill is as monumentally important as its sponsors claim—and I believe it is—then we in this Senate owe an obligation to the country to consider it, to explore it—yes, to question it.

If this conference report is agreed to, there will be much celebration and many congratulations among those who helped forge it. There is no question of that. The very real question that remains is whether the American people will join in that sense of achievement. My meetings with constituents in Michigan, the mail into my office, the sentiments I hear expressed nationwide tell me no. My own mind and my own analysis tell me no.

For when you get beyond this city, when you get beyond the hundreds of groups which are supporting this bill, but groups which would have been castigated as special interests if they were opposing it, when you get out into the heartland of American, there is not the high pressured enthusiasm for this bill we feel here, inside the Beltway, in the Nation's Capital.

What there is out there is a yearning for fairness in taxation. There is a desire to end abuse. No doubt about that. But to translate or to transform that into support for this particular bill is in error. What the American people want out of tax reform is not what they get out of this bill.

They want a law to give middle-income Americans a break. They are getting a law forcing 1 out of every 5 middle-income taxpayers to pay more in taxes, and a law which sets in motion a whole range of hidden costs for the rest.

They want a law to help reduce the deficit. They are getting a law making deficit reduction harder and more unfair.

They want a law to encourage economic growth. They are getting a law which encourages consumption instead of savings and which threatens to push the economy over the edge and pull a lot of us over along with it.

They want a law to make the tax system fair. They would get a law creating a whole host of new inequities.

Notwithstanding what the people want, the push is on in Washington to pass this tax reform conference report. It is said that this has to be the case because everyone supports reforming the Tax Code. Well, I support reforming the Tax Code, too. I support an effective minimum tax on profitable corporations and on wealthy individuals to make sure that they do not shelter all their income. I agree with the aide to Chairman ROSTENKOWSKI of the Ways and Means Committee who described that drive as "the fire in the belly behind this issue."

I commend the committee for making sure that people who sheltered all their income finally will pay some taxes. It is long overdue. I have been fighting that battle, as the chairman knows, for years, trying to get an effective minimum tax in the country to make sure that profitable corporations and wealthy individuals, who should pay some taxes, finally pay some taxes. This bill finally does it. That is one of the pluses in this bill. But it does a lot more. It is the "lot more" that is wrong with this bill. It is those other things that it does beyond getting to those folks, finally, who have ducked paying taxes, who have used the loopholes in the Tax Code to avoid paying their fair share. It does far, far more than that.

I would like to start out describing my reasons for opposing this bill by first looking at perhaps the most common myth about this bill—the myth that this bill is unambiguously good news for the average taxpayer. The day after the conference committee reported agreement, one of the television economics reporters said simply:

> If you make under $50,000, you get a tax cut; if you make over $75,000, you get a tax increase.

One of the chief proponents of the conference report has added:

> What the government is saying to middle-income Americans with this bill is: If you work hard, if you earn more money, you'll keep more of the money you earn.

That is the myth. The reality is a lot more clouded. It is essential to keep in mind that lower tax rates do not always mean lower tax bills. Surely, according to the best information available from the Joint Committee on Taxation, most average Americans would get a small tax cut under this legislation. But millions of average Americans would get a tax increase under this bill. In 1988, when fully phased in, this bill would increase taxes on 10 million taxpayers with incomes between $20,000 and $50,000. So much for the myth that this bill is good news for all middle-income people.

Some may respond by saying that although some average Americans would get tax increases under this bill, most of the people who would get tax increases are wealthy individuals who abuse tax shelters. That is another myth. Based on the best information available from the Joint Committee, of the 20 million taxpayers who would get tax increases in 1988, 77 percent are making $50,000 or less. That 20 million includes not only the 10 million I mentioned a moment ago who make between $20,000 and $50,000, but also, incredibly enough includes 5.8 million Americans who are making less than $20,000.

So we should not be fooled by the argument that the wealthy people are coming here complaining about these tax increases that this bill will foist on them; 16 of the 20 million people who will get tax increases in this bill are making less than $50,000. For each rich person that we are finally socking with a tax increase, the person who is wealthy and sheltering their income, we are hitting four wrong people who are making less than $50,000. That is not a very good batting average. Four wrong ones for every right one.

□ 2050

Most of the people who will get tax increases under this bill come from the ranks of middle- and low-income taxpayers.

These are not the taxpayers who are investing in vacant office buildings to shelter their income. These are taxpayers who have to work hard just to afford shelter for themselves and their families. They do not engage in exotic tax schemes, but rather are among the 31 million taxpayers with incomes under $50,000 who deduct State sales taxes, or the 26 million with incomes under $50,000 who deduct consumer interest. They are also among the 21 million taxpayers making under $50,000 who take the deduction for two-earner couples, which is designed to at least partially compensate for the fact that married couples with both spouses working would otherwise pay more in taxes than would two single individuals making the same cumulative income—what is known as the marriage penalty tax.

Simply put, most of the taxpayers who would be asked to pay more in taxes under this bill are not among the privileged and the powerful but, rather, are among the average and the struggling.

One particular group that appears likely to have more than its share of people getting tax increases under this bill are two-wage earner couples. There is a tendency among proponents of this bill to say flatly that it is profamily because of the increase in the size of the dependency exemption for children. What this characterization ignores is that the bill is skewed to a particular definition of "family." It is not a valid generalization if both spouses work, as do over 50 percent of married couples. There are many two-earner couples for whom the increase in the dependency exemption and the lower tax rates would not compensate for the loss of the two-earner deduction and for deductions such as the ones for consumer interest and sales taxes. In many of these families, both spouses work because that is what is necessary to make ends meet. How are these families going to feel when, if this bill passes, they find out they will get a tax increase because their definition of "family" does not match that of the people who supported the bill?

The second aspect of this tax bill that I would like to explore is its impact on deficit reduction. Simply put, it is a myth that tax reform cannot help us reduce the deficit in a meaningful way. The bill is called revenue neutral, which means that we will not use the revenues generated by loophole closing, and the revenues, generated by a minimum tax on profitable corporations and wealthy individuals who are sheltering all their income—revenue, that is, from tax reform—to reduce the deficit. That approach in this bill is neither prudent nor may I say, is it popular. It means more than forgoing an opportunity for deficit reduction. It would make deficit reduction more difficult to achieve in the future, and more unfair and harsher whenever it is achieved.

Many speeches have been given in this Chamber on the dangers of huge Federal budget deficits continuing year after year. The problem is well known. Suffice it to say now that the deficits present a clear and present danger to our economic health. They contribute to the trade deficit, the effects of which are seen most strikingly in our agricultural and manufacturing sectors. The huge budget deficits are also an economic time bomb, because so much of our budget deficits are financed out of foreign borrowing. If the political or economic winds changed, we could find ourselves with a continuing huge budget deficit but without the foreign inflow of cash being used to sustain it. The result would be higher interest rates, as the demand for deficit financing stayed the same while the available supply of borrowable funds shrank. Finally, the continuing huge budget deficits and the interest payments on them use up funds which could be more produtively used to protect and improve our quality of life.

With the huge budget deficits at the core of the economic problems facing us, it is more than ironic that the tax reform bill which the conference committee has agreed to does nothing to help with that situation. Knowing this—that so vast an effort as tax reform has as its affirmative goal to do nothing to improve our deficit problem over the next few years—makes the words of the chairman of the Budget Committee, Senator DOMENICI, during the debate on the Senate bill ring in my ears: "What a pity. What a pity."

We must, and we can, do otherwise.

But to make the case that tax reform should be used to raise revenues for meaningful and lasting deficit reduction, we must deal with the impression conveyed by some proponents of this legislation that we must have a revenue-neutral tax reform bill because otherwise we will be raising revenues. In fact, this bill already raises tens of billions of dollars in revenues from some individuals and corporations. For many of them, it will result in a net tax increase. So, again, this bill does include revenue increases for tens of millions of individuals and corporations. The fact that it also includes tax cuts for others, and balances out to no net gain in revenue, should not mask the fact that it includes tax increases for tens of millions of individuals and corporations. The argument that there must be a revenue-neutral tax reform bill because we are against "tax increases" can only be made by someone who has not read the bill. In a very real sense, the issue in tax reform is not whether to make changes in the tax code which would increase revenues. The issue is what to do with the tens of billions of dollars in revenues that tax reform will raise from some. Do we cut taxes for others or do we cut the deficit?

If tax reform is going to be part of our battle against the deficit, we must deal with the contention that, by definition, tax reform must be revenue neutral. Reality—and history—are to the contrary. In 1982, the House and the Senate passed and the President signed the Tax Equity and Fiscal Responsibility Act. It was a tax reform bill and it was not revenue neutral.

Insisting upon a revenue-neutral tax reform bill ignores the reality that if we are going to deal with the budget deficit in a meaningful and lasting way, then there will have to be a combination package of further spending cuts and increased revenues. We need increased revenues to reduce the deficit if we are to avoid reducing it by spending cuts alone involving unacceptably large reductions in domestic and defense programs, or by the kind of asset sales which are in this year's reconciliation bill and which result in only temporary and often illusory deficit reduction.

The only way to increase revenues without imposing new tax burdens on middle- and low-income people is through a version of tax reform which has as its cornerstone an effective minimum tax on profitable corporations and wealthy individuals who have been sheltering all of their income and paying nothing in taxes. The new revenues from those sources, affecting not more than 5 percent of the American taxpayers, can then be used to reduce the deficit. Put another way, a tax reform bill should have as its goal raising revenues to reduce the deficit in a way that eliminates the need for imposing new tax burdens on average Americans. Unfortunately, the reality of the tax reform bill reported out by the conference committee is that it not only would impose increased taxes on more than 10 million middle-income Americans, and 6 million lower-middle-income Americans, it also would set the stage for imposing new taxes on them, and on the rest of our people as well. Why? Because if all the revenue from tax loophole closing is going to be soaked up by the uneven tax cuts proposed by the bill, then in looking for additional revenue for deficit reduction, we will be forced to turn to regressive ways to generate revenue: perhaps a national sales tax or increased excise taxes, or possibly increased user fees. Although generating new revenue through excise taxes and the like might make deficit reduction possible, it would impose taxes on many of the very people who are supposed to benefit from this tax reform bill and who are among the least able to shoulder additional revenue burdens and additional tax burdens.

Furthermore, if we were to have the goal of using tax reform for meaningful and lasting deficit reduction, then we have to recognize that this conference report not only does not meet that standard, it may also turn out to be a giant step in the wrong direction. The conference report is represented as being revenue neutral over 5 years. The reality is that from 1988 through 1991, this bill would add to the deficit by $11 billion. This is because the language adopted by the Senate in the Domenici-Gramm amendment was dropped in conference. That amendment basically said that the $11 billion revenue windfall in 1987 could not be used for reducing the deficit in 1987, but, rather, should be counted against the bill's shortfall of $11 billion from 1988 to 1991. Senator PACKWOOD, himself, in speaking in favor of the Do-

menici-Gramm amendment during the debate on the Senate bill, said:

> We do not want to attempt some phony deficit reduction with phony figures. The fact that this bill raises some money in the early years, drops in the middle years, and comes back in the end years may encourage Congress to use it in an attempt to meet our deficit projections of last year and in essence say that we shall worry about 1988 in 1988—let's just take the money now and worry about the devil next year. * * * I very much support this amendment * * * this bill should not be used as an artificial vehicle to attempt to get us over a hurdle next year.

Unfortunately, by dropping the Domenici-Gramm amendment in conference, it is exactly this kind of artificial deficit reduction for which we are setting ourselves up.

Now, it has been said that the reconciliation bill which the Senate passed does not rely on the $11 billion windfall for fiscal year 1987. What is unnerving, however, are the rumors already surfacing that if, by chance, we end up missing the Gramm-Rudman targets when all the numbers are in, then there is still nothing to really worry about because we still have the $11 billion that we can dip into. However, if we fall prey to that temptation made possible as a result of the dropping of the Domenici-Gramm amendment in conference, then there would be deficit reduction for year 1 and a deficit increase in years 2 through 5. It would be using a windfall in a way that would create a shortfall. The goal of using tax reform revenues to reduce the deficit is to help clean up, in a lasting way, the budgetary mess we are in. Using the first year windfall against the deficit reduction targets in Gramm-Rudman would dig us into a deeper hole later on. The dropping of the Domenici-Gramm amendment leaves open that possibility.

Finally, if tax reform is to be part of a meaningful solution to our deficit problem, then we must deal with the contention that this bill must be revenue neutral because the people want it that way. In reality there is strong evidence to the contrary. Early this year, a nationwide poll indicated that by a 3-to-1 margin the public supported using revenues from loophole closing and a minimum tax for deficit reduction instead of for tax cuts. The public knows that common sense lies in making the Tax Code fairer and reducing the deficit in one stroke.

Mr. President, our economy is living on borrowed time just as much as our deficit is being financed out of borrowed money. Everyone knows that action taken sooner will be less painful than action taken later. Tax reform should be used as vehicle for meaningful and lasting deficit reduction. The conference report foregoes that opportunity and, even worse, would make deficit reduction more difficult. The Senate should not add its stamp of approval.

The third aspect of this tax reform bill which I would like to discuss revolves around the issue of fairness.

Shortly after the conference concluded, one of the bill's supporters said, "I go away not completely happy, but I believe the results are good. Most of all we sought improved fairness." Mr. President, if that was the goal, then there are too many instances in which the conference report falls far short of the mark. All of the claims that this bill has achieved new fairness cannot wash away the stains of its new inequities. Let me give a few examples.

First, are the repeated instances of retroactivity in this bill, where changes in the tax law are applied to actions which people have already taken in reliance on the current law. This was also a problem with the Senate version of the bill, and many, many, Senators made speeches on how it should be remedied—at least in part—in conference. Unfortunately, after the conference was finished, the problem of retroactivity remained.

The investment tax credit is still repealed, retroactive to January 1986. The deductions of the losses on certain investments which were made years ago are still eliminated. The deduction of the interest on education and car loans which have already been taken out is still ended. This tax reform bill, which its sponsors hope will form a new bond of trust between the public and the Government is, thus, instead, rooted in this instance in a breach of faith. It may claim to seek fairness, but for millions of taxpayers it will be seen as an arbitrary changing of the rules in the middle of the game.

The retroactivity of certain provisions of this bill has given rise to another unfairness. Tens of millions of Americans will be affected by these retroactive changes. But hundreds of corporations and projects will not, because they had access to the conference committee which enabled them to obtain a so-called transition rule so that their activity could continue to be taxed under the old law. Let me make clear that as a matter of substance I am willing to acknowledge that many of these transition rules are justified in that they prevent the rules from being changed in the middle of the game for certain specific businesses and projects.

The problem is that for every one of the 650 from whom there is a special rule, there could be thousands of similarly situated for whom there is only the cold glare of retroactivity. According to the matter response which I just received from the Finance Committee, "It is impossible to quantify the number of businesses or individuals who do not have transition rules but are in situations similar to those businesses or individuals covered by rules in the conference report. However, it is fair to say that we tried to provide equal treatment wherever possible for meritorious cases, within our budget constraints, based on the submissions we received from Members of the Senate and House of Representatives." But I ask, what about those who could not come to Washington and make their case? What about those who could not hire the lobbyists to present their appeal? Where is the fairness for them?

Mr. President, this bill dispenses favors to individuals the way royalty might do, instead of legislating for everybody meeting identifiable standards, as a representative democracy must do.

It is the highly selective process behind the remedy and not the remedy itself which is unfair and which makes a mockery of the simple characterization of this bill as a battle between the special interests and the general interest. The President has said that the special interests were involved in a last-ditch effort to defeat this bill. But if he thumbed through the bill he would find that, to paraphrase Commodore Perry, "he has met the special interests, and they are in the bill."

How much more special interest can you get than the transition rule on page 80, one of the hundreds and hundreds of these kinds of rules? This one states that the changes in the depreciation rules shall not apply to:

> A 356-room hotel, banquet, and conference (facility including 525,000 square feet of office space) the approximate cost of which is $158,000,000 with respect to which a letter of intent was executed on June 1, 1984 and with respect to which an inducement resolution and bond resolution was adopted on August 20, 1985.

□ 2010

How much more special interest can you get than that?

One more word about the special interest rhetoric. There are hundreds and hundreds of national associations and groups that have endorsed this tax bill. I believe this list has been made part of the RECORD, hundreds of special interests that I know by anybody's definition of special interest that endorse this tax bill. I can count the special interests who opposed this tax bill on one hand, at least the ones that I know about on one hand.

So I think we ought to drop the special interest-general interest rhetoric. If we want to count the special interests who support and oppose this bill, you have to weigh pages and pages and pages of transition rules and identifiable national associations who support this bill against the very few special interests that I know of who oppose this bill.

In addition to retroactivity and in addition to the special privileges that I

have mentioned that a few obtained in this bill, this bill is unfair because it gives huge tax cuts to some very wealthy individuals and tax increases to others of very modest means.

How is it fair to be giving a $30,000 tax cut to a taxpayer who happens to be the President of the United States who makes $400,000, including outside income, at the same time we are increasing taxes on an elderly couple with high medical expenses whose income is $15,000 a year?

How does it improve the confidence that the people have in the fairness of their Government if that Government passes a tax bill which increases taxes on about 6 million taxpayers making less than $20,000 a year at the same time that it is giving tax cuts averaging $50,000 a year to more than half of the taxpayers who are the wealthiest among us, those making over $200,000? It is not fair and it does not make good sense and I must add that this $50,000 figure that I have just given is based upon the best available evidence and the best available information which we have just received from the Joint Committee on Taxation, and I ask unanimous consent, Mr. President, that that chart and that letter from the Joint Committee on Taxation be printed in the RECORD.

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

JOINT COMMITTEE ON TAXATION,
Washington, DC, September 25, 1986.

Hon. CARL LEVIN,
U.S. Senate,
Washington, DC.

DEAR SENATOR LEVIN: This is in response to your letter of August 19, 1986, asking for statistical information relating to the individual income tax provisions of H.R. 3838 as reported by the House and Senate Conference Committee.

Table 1 shows the results of our computer analysis concerning the number of taxpayers by income class and the average tax liability under the Conference Agreement for those with tax increases and those with tax decreases relative to present law for tax year 1988. We have communicated to you in our previous correspondence our concerns about the statistical significance of figures derived in this type of analysis.

Table 2 shows the number of returns by income class projected to claim various deductions under present law. Also supplied are the average size of these deductions by income class. Information on non-itemizing charitable deductions and the political contribution credit are not available.

Table 3 provides detailed data of the number of taxpayers by income class who will no longer be able to deduct their medical expenses by comparing the effect of the Conference Agreement to the projection of present law.

If you have any questions or require additional information, please do not hesitate to contact me.

Sincerely,

DAVID H. BROCKWAY.

TABLE 1.—TAXPAYERS WITH INCREASES AND DECREASES IN TAX LIABILITY UNDER H.R. 3838[1] 1988

Income class (thousands of dollars)	Number of Taxpayers (thousands)[2]	Percent of total	Number with tax increase (thousands)	Percent of total	Average increase	Number with tax decease (thousands)	Percent of total	Average decrease
0–$10	44,443	33.8	1,692	1.3	$214	12,315	9.4	–$170
$10–$20	29,965	22.8	4,199	3.2	$235	22,463	17.1	–310
$20–$30	21,924	16.7	4,677	3.6	$346	16,547	12.6	–390
$30–$40	14,261	10.8	3,519	2.7	$554	10,537	8.0	–554
$40–$50	8,530	6.5	1,697	1.3	$926	6,797	5.2	–841
$50–$75	7,906	6.0	2,947	2.2	1,378	4,927	3.7	–1,066
$75–$100	1,936	1.5	722	0.5	$3,120	1,186	0.9	–2,187
$100–$200	1,783	1.4	655	0.5	$8,312	1,126	0.9	–5,803
$200 plus	706	0.5	311	0.2	$55.700	393	0.3	–50,122
Total	131,454	100.0	20,419	15.5	1,742	76,291	58.0	–801

[1] See text for substantial shortcomings of these data.
[2] Filers and Nonfilers. Includes tax returns with no change in liability.
Source: Joint Committee on Taxation, Sept. 24, 1986.

TABLE 2.—RETURNS AND AVERAGE DEDUCTIONS UNDER PRESENT LAW FOR SEVERAL MAJOR DEDUCTIONS REPEALED BY THE TAX REFORM BILL 1988

[Amounts in millions]

Income class	Nonmortgage and noninvestment interest expense		Two-earner deduction		Sales tax deduction	
	Returns (thousands)	Average amount	Returns (thousands)	Average amount	Returns (thousands)	Average amount
$0 to $10,000	519	$1,617	356	$301	729	$184
$10,000 to $20,000	4,207	1,121	3,006	358	4,992	238
$20,000 to $30,000	8,092	1,185	6,490	611	8,914	302
$30,000 to $40,000	8,471	1,421	7,246	877	9,370	360
$40,000 to $50,000	6,166	1,501	5,256	1,134	6,592	443
$50,000 to $75,000	6,447	2,059	4,431	1,376	7,090	527
$75,000 to $100,000	1,535	2,625	1,039	1,676	1,805	740
$100,000 to $200,000	1,287	3,472	845	2,095	1,662	842
$200,000 +	526	11,789	326	2,417	664	1,312
Total	37,252	1,729	28,994	961	41,918	422

Note.—Averages take account only of those returns claiming deductions.
Source: Joint Committee on Taxation, September 24, 1986.

TABLE 3.—DISTRIBUTION OF RETURNS AND AVERAGE MEDICAL DEDUCTIONS FOR ITEMIZERS UNDER THE TAX REFORM BILL AND UNDER PRESENT LAW 1988

Income class (Thousands of dollars)	Present law medical deduction subject to 5 percent floor		Tax reform bill medical deduction subject to 7.5 percent floor		Decrease in returns taking medical deductions returns
	Returns	Average amount	Returns	Average amount	
$0 to $10	624	$2,082	410	$2,424	214
10 to 20	3,219	2,558	1,422	3,946	1,797
20 to 30	2,970	2,011	1,598	2,827	2,372
30 to 40	3,515	1,830	1,212	2,738	2,303
40 to 50	1,758	1,885	646	2,707	1,112
50 to 75	1,315	2,034	402	2,983	913
75 to 100	310	3,497	121	5,174	189
100 to 200	214	6,463	69	12,552	145

TABLE 3.—DISTRIBUTION OF RETURNS AND AVERAGE MEDICAL DEDUCTIONS FOR ITEMIZERS UNDER THE TAX REFORM BILL AND UNDER PRESENT LAW 1988—Continued

Income class (Thousands of dollars)	Present law medical deduction subject to 5 percent floor		Tax reform bill medical deduction subject to 7.5 percent floor		Decrease in returns taking medical deductions returns
	Returns	Average amount	Returns	Average amount	
200+	53	17,943	19	32,632	34
Total	14,978	2,227	5,898	3,308	9,080

Source: Joint Committee on Taxation, September 24, 1986.

Mr. LEVIN. Mr. President, how is it fair to the 10 million middle-income taxpayers, those earning between $20,000 and $50,000, to get tax increases? How is it fair to those 10 million middle-income taxpayers with over half of the wealthiest among us, those earning over $200,000 get an average tax cut of $50,000?

The only answer that I have heard to the argument that we should not be raising taxes on 10 million middle-income Americans, those between $20,000 and $50,000 is that more middle-income Americans will get a tax cut. That is not much answer for the 10 million. Those are not numbers; those are people. Those are struggling middle-income Americans, 10 million of them, and indeed there are 6 million lower-middle-income Americans who also get a tax increase whose struggle is just as great. And it is no answer to say, "Well, there are more of you who are getting a tax cut." It is no answer to say that when we have half of the wealthiest among us getting an average tax cut of $50,000.

Third, Mr. President, this bill makes an unfair and illogical distinction between those taxpayers with significant equity in their home and those taxpayers who have little or no equity in their homes or who are renters.

This bill would allow homeowners seeking a way around the repeal of the consumer interest deduction to sign a second, third, or fourth mortgage on the equity of their home. Those with enough equity in their home could use that money to pay for consumer items and deduct the interest on the second mortgage. But renters and those with little or no equity could not deduct that interest even if they were trying to meet major expenses such as medical bills and tuition costs. So, under this bill you could have a taxpayer making $30,000 a year with a home in which he or she has built up a lot of equity and a taxpayer with the same income with a new home or no equity or who rents. The first taxpayer can, in effect, deduct some consumer interest; the second cannot. So much for achieving the goal of fairness by taxing equal incomes equally.

Mr. President, I shall ask unanimous consent to have printed in the RECORD a newspaper ad which is already appearing, typical of a lot of other newspaper ads that reads, "Tax reform and how it might affect you. What should I do if my credit card and loan interest isn't tax deductible?" And the sponsor of this ad says, "Not to worry. You can open a home equity line of credit."

Mr. President. the only people who will be able to open up that line of credit will be people who have built up equity in their homes. The people with low equity or renters cannot. I again ask unanimous consent that this be printed in the RECORD.

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

[Tax Reform and How It Might Affect You]

"WHAT SHOULD I DO IF MY CREDIT CARD AND LOAN INTEREST ISN'T TAX DEDUCTIBLE?"

NOT TO WORRY!

[You Can Open A Home Equity Line of Credit]

Mr. LEVIN. I thank the Chair.

Let me close the comments that I have on the fairness aspects of this bill by describing the following situation which could occur after the passage of this bill. There is a middle income couple sitting around their kitchen table filling out their taxes. They both work hard and sort of resent having to pay as much in taxes as they do. But they hear that this new tax law has provided tax relief for middle-income America. They figure out their taxes. Just out of curiosity, they take their old tax forms out and figure their taxes out under the old law. Much to their surprise, they find they got a tax increase of a few hundred dollars. They are disgusted. They turn on the TV in order to forget their troubles for a while. The news is on. They see an interview with a business executive who is asked how he feels about the fact that his company's taxes this year are a few million dollars less than they would otherwise be because he was covered by 1 of the 650 transition rules in the tax bill. They shut off the TV in anger. They call their Senator's office for a explanation.

What is our answer? "Don't feel bad. More people got tax cuts than got tax increases" is the best we are going to be able to do I am afraid if this tax bill passes.

I would briefly like to focus on the hidden costs of this tax bill. As I have said, based on the best information available to us, 20 percent of all middle-income Americans get a tax increase in this bill.

And the rest of us—as individuals and as a society—will pay more because of this bill.

In computing the net tax reform impact we must subtract more than the cost to individuals of eliminating specific tax breaks; we must also subtract any cost increases which will be passed on to us as a direct result of the tax plan. And there are a lot of those cost increases.

First, we should remember that the individual tax cuts are financed largely by business tax increases—roughly $124 billion worth. Now, it was just a few years ago that the President confessed that he was tempted to try to eliminate business taxes altogether because, as he explained, businesses don't pay taxes, people do. The President overstated the case, but it is clear that businesses do not automatically swallow the increased costs by increased taxes; they try to pass those costs through to consumers in the form of higher prices. Of course, not all the costs can be passed through. Competitive pressures, among other factors, prevent that. But a substantial percentage can be. And that percentage should be subtracted from any individual after-tax savings created by this tax bill.

That subtraction, however, will not be equally distributed throughout the economy. For those lower- and middle-income Americans who get tax cuts in the $200 to $400 range, the increased consumer costs will take a larger bite out of their newfound wealth than they will for the richest among us—those making over $200,000—more than half of whom will get a tax cut averaging $50,000.

Second, if someone wants to send their children to college, their costs may increase because of this bill. Tuition costs may go up as a result of the way this bill treats certain charitable contributions. Gifts of appreciated property—which help many colleges and universities keep tuition down—will not be treated in the new Tax Code the way they are now. As a result, colleges expect a decrease in those contributions of appreciated property. Nonitemizers—and remember, this new so-called simplified tax code is supposed to increase the number of nonitemizers from perhaps 70 to 80 percent—are also expected to decrease their level of giving since

their contributions are no longer deductible. The net result will be higher tuition as higher education scrambles to cover its costs.

Third, consider the position of the renter. We have all heard about how the bill hits the real estate industry, and to the degree that is true it also gets to renters. Construction of rental units is expected to decline, and many analysts expect rents to increase. And that increase will have to be subtracted from the tax cut some get in this bill.

□ 2020

Finally, State, and local taxes may increase. To begin with, if State income taxes are linked to the Federal tax base—as most are—this bill has the effect of increasing the amount of money States collect unless State income tax rates are reduced to avoid a windfall. Beyond that, a revenue neutral tax bill does nothing to reduce the Federal deficit.

Since we are legally obligated by Gramm-Rudman to reduce the deficit, we may end up slashing programs—including programs which provide assistance to State and local governments. Those governments will either reduce their service levels or try to raise more revenue. Either way, individual taxpayers will suffer—and ultimately they will pay.

In those and a number of other ways, this bill has hidden costs for us as individuals. But it also affects us as a society. Let me give you an example.

We have spent a lot of time bemoaning the trade deficit that we face. Well, one of the reasons we face it is because other countries give direct subsidies to their industries.

In the face of a growing trade deficit, it does not make sense to take away the limited support we do give to our companies through the Tax Code. Why cut back on the investment tax credit when we so desperately need new investment? Why reduce the research and development credit when we are starting to lag behind our competitors in innovative technology?

I fear that we are placing American industry at a competitive disadvantage. Of course, economists differ on the likely impact of this bill. But most admit that we are taking a risk with economic growth and jobs. I found the testimony of the chief economist of the National Association of Manufacturers before the Joint Economic Committee particularly disturbing. He stated:

> In sum, the evidence is overwhelming that accelerated depreciation and the ITC (investment tax credit) exerted a large and statistically significant impact on capital formation. The conclusion, also corroborated in extensive empirical testing using state-of-the-art econometric procedures, is that the loss of these provisions would sharply raise the cost of capital.

Although the precise effects of the trade deficit are difficult to measure, common sense leads to the conclusion that the overall effects would be adverse. An increase in the cost of capital would prevent or hamper new investment in new technologies that could provide American corporations with comparative advantages in world trade.

He went on to state that:

> It is doubtful whether the efficiency gains (resulting from tax reform) could be sufficient to counterbalance efficiency losses due to declining capital spending.

Murray Weidenbaum, former Chairman of President Reagan's Council of Economic Advisers has written:

> Although we can debate the precise economic effects of these changes, the direction is clear: less investment, lower economic growth, fewer jobs.

Lawrence Chimerine, chairman and chief economist of Chase Econometics, testified before the Joint Economic Committee, as follows:

> Some argue that the incentive and efficiency effects of tax reform will lead to significantly higher long-term growth. In my judgment, currently available evidence does not support this conclusion. In fact, the increase in the cost of capital which will occur creates a significant downside risk.

Consider a final brief illustration of the social costs involved in the bill. I have already mentioned the expected reduction in charitable giving in connection with college costs. But obviously the same problem impacts on other nonprofit charitable institutions ranging from hospitals to art museums.

The expectation is that the charitable contributions which all of them depend on will decline. As one observer indicated:

> I don't think people give because of tax breaks, [but] I think they give more because of tax breaks.

If those tax breaks are reduced and the giving declines, then those institutions will either cut back on their operations or increase their fees. When that happens, society suffers—we become less healthy, less culturally enriched, less able to care for each other and less capable of taking care of our heritage as human beings. That is not a cost I can quantify in economic terms, but it is a social cost we should not be asked to pay.

Those are just some of the hidden costs of this bill. Taxpayers—our constituents—will find them in the months and years ahead. And when they do, they are going to ask just why we did it.

Why did we engage in this exercise? The American people are smart. They are skeptical about this bill and they are right. Too many middle-class people get a tax increase. It substitutes too much new unfairness for the old unfairness. It does nothing about deficit reduction.

Mr. President, I, as I believe every Member of this body, again want to commend the chairman and the other members of the committee for the effort that they have put into this tax bill. The fact that I and some others will not be able to vote for it, despite its good aspects—and there obviously are good aspects—in no way diminishes our great fondness and feelings that we have for the people who have carried this banner and who have put together this tax legislation.

I wish I could vote for this legislation. I wish we were not socking it to so many middle-income people. I wish we were doing something on the deficit. I wish we were not creating a whole new category of unfairness. I wish we did not have the retroactivity. I wish that charities would not be suffering. I wish that retirees on fixed income and high medical bills would not be getting tax increases. There are a lot of wishes that I have.

Principally, I wished, and I still wish, that somehow we could take the long-overdue revenue from loophole closing, the minimum tax, revenue which this bill is finally achieving for the government, and apply it to deficit reduction. That is our No. 1 goal. That is what 69 percent of the American people say we should do with that revenue. We ought to listen to the American people. They are a lot smarter than a lot of us give them credit for.

I thank the Chair and I yield the floor.

Mr. EVANS addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. EVANS. Thank you, Mr. President.

Mr. President, at the outset, let me say that I do intend to vote for this bill. I do intend to vote for it, although I have many reservations. On balance, I have concluded that it is important to take the first faltering, perhaps stumbling, step toward true tax reform.

To some degree, I feel a little like a person about to make his first parachute jump, but I am a little unsure whether I learned to pack the chute correctly. It is a risky venture. And so will tax reform be a risky venture.

The conference report is significantly different from the bill the Senate passed. I was an enthusiastic supporter then. I believed, as 97 out of 100 of our colleagues believed, that we had come to a point where we had an enthusiastic body ready to buy off on a true tax reform.

Unfortunately, the Senate bill, as all bills do, had to go to conference. And that conference with the House gradually, perceptively, day by day in the conference, eroded away the enthusiasm, the genius, the clarity of the Senate bill, and left us with a much more muddied picture today.

The most attractive feature of the proposal we have before us is that it drastically reduces marginal rates on

individuals and businesses. The original Senate bill, however, provided horizontal equity between taxpayers. There was a reduced number of loopholes and even a reduced value of loopholes for those which still remained. Also there was a semblance of balance between service industries and those which are capital intensive.

And so we sent the bill to conference, Mr. President, knowing that there were some problems but expecting them to be largely resolved in the meeting with the other body. Instead, there are more problems, not fewer. The package we got back looks remarkably similar. There are the attractive wrappings of the same low rate, but the contents are decidedly different.

□ 2030

The conferees, Mr. President, engaged in bracketeering—knowing that they had to keep close to those original rates, the low rates on individuals and on businesses, but the package which undergrids those low rates is decidedly different than the Senate bill which we sent them.

I think there are two principal problems with the conference committee report. It is more discriminatory by far than the Senate bill. And there is increased economic risks over the Senate bill. Discriminatory in many ways, and my colleagues particularly and most eloquently, Senator DANFORTH, has expressed in detail many of those discriminatory features. Let me only discuss a few.

We sent to the conference, Mr. President, a proposal that would allow citizens who itemize their tax deductions to take 60 percent of their deductions on State and local sales taxes. They can take 100 percent on State income taxes, and 100 percent on State and local property taxes. And the other body proposed that all sales taxes could be deductible, 100 percent of deductiblily. I always thought that conferences when they had a single item on which the two bodies disagreed attempted to reach some kind of compromise.

I do not know, Mr. President, how anybody in a conference could have remotely suggested that a compromise between 60-percent deductibility on the other hand and 100-percent deductibility on the other hand was zero. But zero is what it was. And zero is what we now face. It is gross discrimination from one State to another. And my State and several others will lose for each itemizing taxpayer—something like $100 million in my State of Washington and that simply is unfair.

Some will say that on the other hand there were deficiencies that applies to taxpayers in States who have heavy income taxes, and that probably is true. There is a windfall in those States. With the different treatment of capital gains we now give to State tax systems that have income taxes, most of them at least, will receive a windfall. The end result: Taxpayers in many of those States will have to pay more, certainly more to the degree they have capital gains.

So perhaps in spite of the unfairness of the State sales tax, we may have ended up lucky compared to the taxpayers in those other States who will find that while they gain on the one hand in lowered taxes from the Federal Government, it will be taken back on the other hand at the State level by their State income tax system.

The conference bill gangs up on certain industries, especially those who make heavy capital investments. These are the industries terribly important for the future of our country, and our international competitiveness. There are also industries we depend upon in Washington State.

The loss of the investment tax credit, the loss of corporate capital gains, the lengthening of equipment depreciation schedules, partial repeal of the completed contract method of accounting all strike hard at the forest products industry, the aerospace industry, and the agricultural industry. These are the fundamental businesses of my State. Washington State is also the largest per capita State in foreign trade and has probably done better and been more competitive than virtually any other in foreign trade activities. We will be faced with simply one additional burden in our effort to be competitive internationally. And I fear that the same applies to too many other States and too many other industries.

Mr. President, I also have concerns about the federalism effects. I think Members of this body know that I have long had an interest in an appropriate division of responsibilities and benefits between the various levels of government in our country. Most States in this Nation have a fiscal year which begins on July 1. Since July 1 of this year, nine have cut their State budgets. Eighteen have cut their fiscal year 1986 budgets, after they first enacted that budget. Real spending will be lower in 1987 than in 1986 in 22 States.

The end result of this bill is a further economic showdown that could bring economic difficulties to many of these States who are already hurting, who are already reducing their budgets, and who are already finding it difficult to reach the balance they are required to reach.

Higher education, perhaps more than any other facet of our society, suffers from this tax bill. It is a potential catastrophe for those who represent the very future of our Nation. The most cost-effective investment in our future is higher education. This bill simply bashes universities and colleges. And many of them are already on the financial ropes. Taxation of fellowships and scholarships to the extent they are not used for tuition, the large stock or real estate gifts to colleges and universities which are now subject to a minimum tax, the $150 million cap on the value of tax-exempt bonds held by colleges and universities at any one time—all of these represent serious problems for our higher education system.

I believe that as a result our children and those who seek the value of higher education will pay for it. They will pay for it in higher tuition rates and higher costs for their college education, which could well take back from those families who, on one hand, thought they were getting a tax reduction but who, on the other hand, find that the tax bill requires additional spending for their children to stay in college.

We are entering into an uncertain period. I said at the beginning it is very much like that first parachute jump where you are uncertain as to how well you have packed the chute.

Let me quote from a few of those who have major economic responsibilities in this Nation. Don Regan: "They"—speaking of his friends on Wall Street—"are as confused as I am. They don't know the effect."

There have been no really responsible econometric models to predict the effects of this tax bill. We are taking a great leap of faith in hoping that most analysts are probably wrong.

Jane Seaberry, in an article entitled "More Imports, Less Investment Predicted At End of Tax Trail" said:

> Economists cite two reasons why the tax proposal could make the trade deficit worse. Generally, when consumers spend more, they tend to buy more imported products. Additionally, shifting the tax burden to business would raise the cost of U.S. firms' goods, making them more costly overseas.

Murray Weidenbaum says:

> Impending changes will depress the economy. Although we can debate the precise economic effects of these changes, the direction of the impact is clear—less investment, lower economic growth, fewer new jobs.

Alan Greenspan said that under tax reform the "odds of a recession is a 'close call':"

Continued uncertainty about the tax laws contributes to the potential for economic slowdown. The retroactivity which, in spite of protestations, is still in the tax bill, penalizes good-faith investment—behavior of the past—and ensures a rush to the well next year to again tinker with our tax laws. Continual flux in the tax system is at least as great a problem as overregulation and excessive red tape.

Of course, rounding out my concerns is the fear that the bill will dash hopes to achieve deficit reduction. I do not share the totally negative predictions of some of my colleagues with respect

to the budget and budget deficits of fiscal year 1987. But I think we do face at best a horrendously large problem to meet the goals we have set for ourselves in fiscal 1988. I hope, Mr. President, that this bill, when it passes—as I am certain it will—takes a long, slow trail to the White House, and I hope the President will think long and hard about the date on which he signs this bill.

□ 2040

We should ensure that this tax bill is not signed by the President until after October 1, to hold us to the tough test of the current Tax Code because if it is signed before October 1, it will be too easy then, an open opportunity, to use the calculated $11 billion increase in revenue from the new Tax Code next year to balance our budget this year.

If we do that, we have absolutely destroyed any opportunity to continue on the path toward budget sanity in this Nation.

So if I have one, single message, it would be that we act with deliberate speed; that we take all of the time that is appropriate and necessary to get the bill out of Congress and use a slow boat to send it to the White House. Then I hope the President will take the extra few days necessary to get us past October 1 and help us save us from ourselves.

Mr. President, we are faced with a difficult choice. Are the benefits of the bill, and they are many, worth the risks I have mentioned; of economic decline, and international trade problems and, ultimately, a potential lower standard of living for all Americans?

On balance, Mr. President, I have decided that we must take the risk. We must take the risk because people are quickly losing faith in our current tax system. That, I think, is what led to the efforts for tax reform in the first place—the fact that fewer and fewer were voluntarily complying with our Tax Code.

There is a larger and larger amount of unpaid tax money out there, citizens refusing to pay. The special preferences in our system, targeted tax expenditures and targeted loopholes, have caused us to move in recent years toward a fully customized tax system, almost a separate code for each person, each industry and each interest.

Voluntary compliance, which has been the strongest element of this country's Tax Code, will continue only if faith is restored that the system is not unfair and not uncontrolled.

Mr. President, I guess on balance this system does begin the process of moving toward putting all taxpayers on a more equal footing. And that is necessary if we hope to get our economic house in order.

To control deficits, we must look at both the spending and the revenue side of the equation. We have made a mediocre, but I think a marginally, successful move toward the control of spending and it is appropriate now to make what is probably a marginally successful move toward success on the tax side.

Mr. President, some will dance in the streets when this bill is signed into law and claim a great victory. But, in reality, the great promise and the genius of the Senate bill has faded into a dull, gray compromise.

I believe the expectations of our citizens have been raised too high. There may be a rude awakening in 1987 and in 1988, but still, by a narrow margin, it is worth trying.

Therefore, Mr. President, I shall vote a quiet, unenthusiastic yes.

Mr. BRADLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. BRADLEY. Mr. President, first, let me say to the distinguished chairman of the committee, Senator PACKWOOD, that my remarks will make clear as we proceed that I think this bill is a testament to his leadership and to his courage and to his willingness to think things through and to follow his impulses at very critical moments.

I think he has demonstrated really unparalleled leadership on this issue.

He also has the very rare personal quality that I always say characterizes those among us who are leaders. That is a personal generosity. It is really quite unusual in politics and in life.

Let me first of all compliment him for his leadership on this bill and the monument he will leave if we pass this in the next 24 hours.

Let me also say about the distinguished Senator from Louisiana that he is regarded with awe by many young legislators, including myself, but he is also regarded with a great deal of affection for he manages to move things through in his way while at the same time keeping everyone on board and committed to the institution that we revere, the Senate.

Mr. President, this has been a long journey for me. In the opening debate of this bill, I recalled back in 1967 when I signed my first contract as a professional basketball player. I negotiated the amount of compensation and turned to an attorney who said to me, "Tell me, do you want to take this as salary, as deferred compensation, as fringe benefits, or whatever?"

I said, "I do not know. I just want to be paid well for doing something I love."

He said "It is not that simple."

That was my first contact with the complexity of the Federal Income Tax Code.

Then I remembered in the mid-1970's reading some articles by Stanley Surrey, a professor at Harvard, who had earlier been at the Treasury Department in the early 1960's when President Kennedy proposed dropping the tax rate and broadening the tax base.

I was absolutely shocked that the tax rate could go as low as he and a few other economists said it could go if you were willing to close some loopholes.

Mr. President, I think I saw that same recognition and surprise in the face of members of the Finance Committee when the distinguished Senator from Oregon unveiled his low rate income tax system. All the members in the committee said, "Bob, if you can get the rate down that low, it is worth it."

So, Mr. President, my odyssey was begun back in 1967 with the signing of that contract, and then in the mid-1970's with my readings of economists and tax experts about how low the tax rate could go if we were willing to close loopholes; then, through the current debate with the introduction of the Bradley-Gephardt fair tax back in 1982 that was then followed in the House of Representatives by the introduction of the so-called Kemp-Kasten bill; then Treasury I, with the President's strong commitment to tax reform in very clear evidence; then Treasury II; and now, Mr. President, this tax reform measure that we are on the brink of passing.

□ 2050

There are some basic rationales for what we are about to do. There is an economic rationale, there is a cultural rationale, and there is a political rationale.

The economic rationale is very simple. It is that if you want this country to have long-term stable, noninflationary economic growth, you need two things. The first thing you need to do is look out for the world trading and financial system. The second thing you have to do is have the most efficient allocation of resources domestically that you can possibly obtain.

The question is then posed: Which is the more efficient allocator of resources? Is it members of the Ways and Means Committee and the Finance Committee, or is it the market? I believe it is the market. What tax reform says is let us remove the Tax Code from between investor and ultimate investment so that capital will flow to those areas of our economy that have real value in the marketplace, which, when that investment is made, will not only generate jobs and wealth but enhance our comparative advantage internationally.

Mr. President, that is the economic rationale for tax reform. Succinctly put, it is to invest money to make

money, not to lose it for tax purposes. But there is another rationale that I call the cultural rationale.

I think that any taxpayer in this country could express to you the cultural rationale for tax reform. It is a frustration and an anger with the present Code. I remember a couple of years ago I was on a call-in-show in New Jersey. The caller phoned in and said, "You know, I really like that tax proposal you have made." I say, "Why?"

He said. "I pay an effective tax rate of 38 percent and my next-door neighbor, who makes the same income I do, pays an effective tax rate of 6 percent. Yet he thinks I am stupid because I don't spend all my time trying to figure out how I can lose money in order to pay less taxes."

"But," he said, "I am a chemist. I like doing what I do best in the laboratory. And with this tax reform, I will be able to do that and my neighbor, who makes about the same income I do, will have to pay his fair share."

The rationale culturally for tax reform is that equal income should pay equal tax. Just a few facts convey that meaning. In recent years, the effective tax rate paid by many people who made more than $1 million in this country has been about 17 percent. That is what they actually paid. Many middle-income families pay more than that.

The second fact. I 1969, there were 10,000 tax shelter cases in some stage of audit or litigation. The Commissioner of the Internal Revenue Service told us that in 1985, there were 263,000 tax shelter cases in some stage of audit or litigation and that was with a 1 percent audit policy.

The third fact: In 1967, the value of all loopholes was about $37 billion. This year, the value of all loopholes will be over $400 billion.

Mr. President, I was on a dais in New Jersey not so long ago—actually, 2 years ago. I told this story during the Senate debate on the bill. It bears repeating. I was seated next to a major executive in New Jersey, who said to me during the salad, "You know, Senator, I have a problem with my son."

For a politician, that is what I call a threshold question: Do you followup on it or do you leave it? Well, I was up for reelection so I followed up on it.

He said, "You know, my son is 27 years old and he works for a corporation, but all he can think about is how to avoid paying taxes." I tell him, "Look, go to work, learn your profession, move up in the company, pay your taxes; don't try to avoid it. But all he thinks about is trying to avoid paying taxes."

Then he said, "Senator, you know my concern? I am afraid there is a whole generation of young people out there who will grow up believing they have no responsibility to pay for the functions of Government and I am worried."

Mr. President, he should be worried. We should all be worried because voluntary compliance is what has characterized the income tax system from the beginning and it is eroding. That might be why the seventh largest economy in the world is the underground economy of the United States. That might also be why when, in 1981, a pollster named Dan Yankelovich did a poll and he asked the American people, "Do you think you will get ahead if you abide by the rules?" 81 percent of the people asked said "no."

Mr. President, I think the set of rules that they were referring to in part were the tax rules that produce a result in which equal incomes do not pay equal tax. With this tax reform bill, there will be a restoration of trust in the rules, in the tax rules. So that is the cultural rationale.

But you might have an economic rationale—let the market allocate the resources—and a cultural rational that equal incomes should pay equal tax, but this is Washington and we have to have a political rationale as well.

There is a slogan. The slogan is, in the political rationale, the Democrats argue for tax reform because it allows you to be for growth and equity simultaneously. The Republicans argue that they are for tax reform because this is a realignment issue.

But those are just slogans, Mr. President. If we really want to find the political rationale for tax reform, we have to look at who the taxpayers are, and we have to remember that in 1984, more people paid taxes than voted for President.

There are just a couple of facts we have to remember about who the taxpayers are. The median income in America is $23,450. About half the taxpayers earn more, about half the taxpayers earn less.

Second fact: 85 percent of all taxpayers earn under $40,000 in income.

Mr. President, sometimes around here, we talk as if people making $75- or $80- or $90- or $100,000 were middle income people. Well, I do not deny that people have a tendency to spend up to the level of income they have and therefore, everybody feels pinched. But fully 97 percent of all the taxpayers earn under $75,000. Another way to put it is only 3 percent of all taxpayers earn more than $75,000.

So, Mr. President, let us keep in mind who these taxpayers are as we think about tax reform.

□ 2100

(Mr. TRIBLE assumed the chair.)

Mr. BRADLEY. The key to understanding the political rationale in addition to knowing who the taxpayers are is to be found in the figures that I earlier referred to on the value of loopholes. The loopholes in 1967 were worth $37 billion; the loopholes today are worth over $400 billion. In that period from 1967 to 1984, as a result of economic growth and inflation, the Federal Government had a surplus of revenues, and the Federal Government had to decide what it was going to do with that surplus of revenues. One of the things it did, Mr. President, was spent some more in certain program areas. But by and large what it did most was increase the number and value of loopholes from $37 billion in 1967 to over $400 billion today.

Mr. President, there is one thing that we did not do. The one thing the Congress did not do with those surplus revenues is recycle them to middle income taxpayers in the form of lower tax rates, or recycle them to low income taxpayers in the form of increased exemptions and increased standard deductions. As a result, you found more and more low and middle income taxpayers paying a greater and greater proportion of their family budget in taxes.

So, Mr. President, when Members of the Senate argue against this bill because they have not heard from anybody out there who is clamoring to support it, and they have heard from a number of special groups who are opposed to it, that does not surprise me. When a politician mentions the word "taxes" these days, people do not want to hear it because they figure, "Woops, there it comes, another grab into my pocket for my hard-earned money."

This is one bill that I believe is different for middle and low income taxpayers in particular.

Every speaker who has taken the floor today and talked about tax reform has said, "Well, there are some things I like, some things I don't like," either of which are reasons to vote for or against the bill.

The one thing that everyone said they liked is that this bill takes 6 million low income people off the tax rolls. But then they dismiss it as something that is as sure or unsurprising as the fact that the sun will rise tomorrow morning.

If it is so unexceptional, if it is something that is so taken for granted, Mr. President, why has it not happened before? This is a major accomplishment. For example, take a single parent with three kids making $12,000. What will this tax bill mean to them? It will mean they pay $1,200 less in income tax. It will mean they get an 83-percent tax cut. It will mean they have an increase of 10 percent in after-tax income.

What about a couple with two kids making $15,000? They will have a tax cut of $826, Mr. President. And what does this say when we pass a bill that takes 6 million people off the rolls, that gives this size tax cut to low

income working families? What it underlines and emphasizes are values with which I think everyone in this body would agree—values that say work instead of welfare, dignity instead of despair, that effort pays off, that you should not be penalized if you try to improve the quality of life for your family.

Mr. President, I think it is one of the major accomplishments of this bill that in fact low-income families are going to get such a sizable tax break.

What about the middle class, Mr. President? We have heard a lot of talk about that. Just a few facts and definitions. Let us define middle class as a household with an income of $19,000 to $47,000. Ninety percent almost of all taxpayers in this country fall under that figure. Middle class, $19,000 to $47,000.

Now, what has happened to that group of Americans? Well, in 1978, Mr. President, the middle class, defined as $19,000 to $47,000, represented 52 percent of the American taxpayers. But in 1984, Mr. President, that group of Americans represented only 44 percent of the American taxpayers. So what happened to those Americans who were middle class but now are not?

What happened to over two-thirds of them, or 70 percent of them, was that they dropped down under the middle class level of $19,000; their economic circumstance deteriorated; that in America between 1978 and 1984 a sizable proportion of Americans became poorer. Frankly, I think we have an obligation to reverse that trend. I would argue that this bill does reverse that trend.

What does it do for these middle income taxpayers? First of all, four out of five taxpayers in this country they will pay no more than a 15-percent tax rate. Before bracket creep took those taxpayers up in the higher and higher tax rates, there was a time in the early sixties when four out of five taxpayers paid no more than the bottom tax rate. This bill returns us to the time when four out of five taxpayers will pay no more than the bottom rate, in this case 15 percent.

What else happens to these middle-income taxpayers? They keep their biggest deductions. They keep mortgage interest deductions, property tax deductions. They are allowed a $2,000 IRA. They keep charitable contributions. They are allowed to deduct their child care expenses.

These middle-class persons, who represent the vast majority in this country, not only get a 15-percent tax rate but they also get to keep the deductions that they most use.

What does this bill specifically mean to them in dollars and cents? Well, for 69 million Americans earning under $50,000 in income, in the first year after passage of the bill they will get a tax cut—12 million will have a tax increase, 69 million will have a tax cut. But as I have tried to argue throughout this debate, the value of this reform to the middle-income taxpayer is not what happens in that snapshot. It is not what happens in that 1 year because this is not a 1-year tax cut. This is a reform of the system, and for that middle-income family what it means is if they are making $30,000 and the other spouse takes a job and they earn another $10,000, they are going to pay less of that additional income in taxes because they will still be in a 15-percent bracket. In fact, under the current law, some people who are in a 33-percent bracket will under this bill be in a 15-percent bracket. This means if you earn more you are not going to be bumped into a higher bracket. A family of four will be able to earn over $40,000 before they are bumped into the higher tax bracket. And even then, they will still pay no more than 28 percent.

So, Mr. President, as a result of this bill no longer will people in poverty pay more in tax than some millionaires. As a result of this bill, no longer will some middle-income taxpayers pay a higher tax rate than some multimillion-dollar corporations.

Mr. President, what about simplicity? The argument has been made, "Gee, it does not do much for simplicity." For about 13 to 14 million Americans, it does a lot for simplicity, because those are Americans who are now itemizing their returns, and who, as a result of the increase in the standard deduction and the exemption, will be using a short form and will not have to itemize their returns.

□ 2110

Mr. President, I believe this bill has an economic rationale, it has a cultural rationale, and it has a political rationale. When I go back to New Jersey from time to time, people say to me: "When are you Democrats and Republicans going to get together and do something positive for America instead of this partisan bickering?"

Mr. President, I say that we have done something positive for America. And I would say that what we have done in passing this tax reform bill should give the American people a greater sense of confidence about our ability as an institution to deal with the other complex issues that confront us in the economic area.

No one is arguing that all one need do is tax reform. It is a necessary component, but it is not a complete agenda for economic growth. We have to move on exchange rates. We have to remove the debt timebomb out there that has taken a million jobs from this country in the last 4 years. We have to reduce the deficit. We have to toughen up our trade laws. But because we have demonstrated our capacity and our will to act on something as complicated as tax reform, with the many powerful forces on all sides, it should give the American people confidence that we will be able to deal effectively with these other problems as well.

Mr. President, ultimately what tax reform is about is a debate in this country as old as the Nation. If you go back and read the Federalist Papers, you find that debate raging there. It can be boiled down, in part, to one simple question, and that is: Do you believe a legislator's job is to represent this group and that group, this interest and that interest, or do you believe that he or she should strive to represent the general interest? I believe the latter, and I believe tax reform is the issue, and I believe the Senate and the House, in passing this legislation, will have acted in the general interest.

Mr. President, in addition to the distinguished Senator from Louisiana (Mr. LONG), whom I praised earlier and told of my affection and respect for his ability and his amazing wit and his sensitivity to everyone, and in addition to offering a generous and what I thought a heartfelt compliment to the distinguished chairman of the committee, Senator PACKWOOD, I would like to thank a number of other people.

I thank Livia Bardin, of the Fair Tax Foundation, who has worked tirelessly to ensure that the general interest was as well represented as the special interests.

I thank the staffs of the Finance, Ways and Means, and Joint Tax Committees, who have all put in endless hours to translate tax reform into law.

In particular, I want to thank Dave Brockway and Randy Weiss, who have worked with me since 1981, when I began designing the first fair tax.

I thank Mary Frances Pearson, Bruce Davey, Ben Hartley, and Karen Phillips for their valuable assistance in drafting several provisions in the bill.

I thank Bill Wilkins, Randy Hardock, and Barbara Groves for their expert advice and courteous cooperation.

I thank Joe Minarik for all the rabbits he pulled out of the hat, for his expertise, hard work, and generous commitment to tax reform.

I thank Marsha Aronoff, my chief of staff, who was the captain of strategy and was tireless in her work and commitment. Also, Gina Despres, who helped shape the idea from the beginning, who worked hard and long to further the bill, and who interpreted, argued, reasoned, and fought for the idea relentlessy.

Now it appears that all of us—Senator PACKWOOD and Senator LONG and the staff and me—all who have worked on this, have won. I am proud of what I hope we are about to do, because in approving this conference report, we will be ignoring the screams of the

special interests, we will be ignoring the party labels, and we will be doing what is right for America.

Mr. President, if there is one lesson that I personally take away from this, it is that if you work hard, if you try to think a problem through, if you think about how to communicate it and how it affects people's lives, if you recognize that it takes more than just one person, that it takes many people to succeed, then you are able to overcome even the most entrenched interests and the most difficult obstacles.

I yield the floor.

The PRESIDING OFFICER. The Senator from Hawaii.

□ 2120

Mr. MATSUNAGA. Mr. President, as a member of the conference committee, I rise in support of the conference report on the Tax Reform Act of 1986 (H.R. 3838).

Mr. President, I do not believe that any Member of this body will disagree with the observation that our present Tax Code has turned this great society of ours into would-be tax avoiders and evaders. There was a time in our country's past when American workers would invest their savings in business in order to share in the profits of our great free enterprise system. Today, however, there is a tendency to make investments in tax shelters in order to avoid the payment of Federal taxes. Voluntary compliance, which is the very essence of our Federal income tax system, has decreased markedly over recent years.

One important accomplishment of the tax reform bill which we are considering today will be to increase public confidence in our income tax system. This in turn will serve to increase public confidence in our Federal Government because the income tax return may be the most frequent source of contact between citizens and their Government. It is highly essential that the American public support the income tax, because basically it is a fair way to allocate the burden of payment for Government services. Because we rely so heavily on the income tax to defray the cost of Government, we need to be sure that it works primarily as a self-enforcing system. A self-enforcing system, of course, requires voluntary compliance, and voluntary compliance in turn, requires public confidence.

Mr. President, the pending tax reform bill will increase public confidence because it proposes a fairer, more efficient, and more rational system than our current Tax Code. The pending conference report meets the test of fairness by removing from the tax rolls 6 million low-income taxpayers who are struggling to earn a living wage. The liberalization of the earned income credit will help to assure that low-income citizens are no longer taxed into poverty. The bill also meets the test of fairness because it provides that any corporation which reports a profit must pay a minimum Federal income tax. Individual high income earners must also pay a minimum Federal income tax under the new tax measure. This will end the situation under the present code, where working men and women earning low- and middle-incomes find themselves paying thousands of dollars of taxes, while corporations or individuals earning millions of dollars, pay no taxes at all. Those taxpayers justifiably conclude that something is very wrong with our state of affairs.

Mr. President, the legislation before us meets the test of economic efficiency by restoring the market to its rightful position as the allocator of resources in our economy. This is accomplished through the dramatic lowering of the individual tax rate by eliminating deductions, credits, and other preferences. The 14 individual income tax brackets with its 50-percent maximum rate are replaced by two brackets of 15 and 28 percent. The maximum corporate tax rate is reduced from 46 to 34 percent with lower graduated rates for small business. In my judgment, the reduction in rates, coupled by the expansion of the income tax base, will result in a more economically based system because it will lessen the incentive to invest in tax shelters and increase the incentive to invest in economically viable enterprises.

Mr. President, a number of commentators have expressed concern that the reduction in the top individual rate is far too dramatic in this bill and will diminish the progressive nature of the individual income tax system. I am inclined to agree. Our recent experience has shown us, however, that a higher maximum individual rate of 90, 70, or 50 percent will not guarantee a progressive system, since tax shelters have been allowed to lower dramatically the real effective tax rates. I would far prefer a system of lower rates built upon a broad base rather than a system of high marginal rates built on a base riddled with loopholes.

Mr. President, the conference report meets the test of rationality by rewarding the kind of person that the current system unjustly penalizes. The person who is frugal, who does not borrow to finance current consumption, and who invests his funds to maximize income gets a fair shake in the pending measure.

Under our current tax system, favoritism is shown toward persons who borrow to live beyond their means and invest for tax advantages. The bill before us corrects that situation by limiting the use of tax shelter losses and by phasing out the tax subsidy for consumer debt. Instead, such persons will be encouraged to save by the low marginal tax rates in the bill. In addition, the bill dramatically lowers the marginal rate of tax on increases in income that can result from prudent savings, such as compounding interest on savings accounts and certificates.

Mr. President, in a bill of this magnitude, there will often be provisions which we find to be unpalatable. There is one particular area of the tax reform conference agreement which troubles me. I refer specifically to the retroactive effective date of July 1, 1986, for the repeal of the 3-year basis recovery rule for pension benefits. As a member of the conference committee I opposed the retroactive nature of the provision. I worked with other conferees in an effort to obtain a prospective effective date for this change, and argued that Congress should provide for a reasonable transition period so that those who have relied on the current law are not adversely affected by a sudden, dramatic, and retroactive change in policy. A transition to a new tax system is always difficult, but in this instance we are unfairly penalizing taxpayers who retired after July 1, 1986 with the full expectation that they would be able to recover their full basis within the 3-year period. I am, therefore, very much disappointed that this provision is contained in the reform bill now under consideration.

Mr. President, although this bill is not perfect, I believe it provides for a significant improvement over our current system. In deciding whether or not to support the bill, we should ask ourselves whether or not the conference agreement will result in a fairer, more efficient, and more rational system than our present code. I believe the answer is in the affirmative.

All in all, Mr. President, passage of the tax reform bill as reported by the conference committee will mean that individual and business decisions will once again be made on an economic basis, not to avoid the payment of taxes. I believe this bill will help this free enterprise society of ours to reach its full potential. For that reason alone, Mr. President, I believe the tax measure before us deserves the support of this body. I, therefore, urge my colleagues to approve the conference report.

In closing, Mr. President, I take this opportunity to commend the chairman of the Finance Committee, the distinguished Senator from Oregon [Mr. PACKWOOD] and the distinguished ranking minority member of the Finance Committee, the distinguished Senator from Louisiana [Mr. LONG], who unfortunately is leaving us after this session. We will miss him very much, and thank him for the excellent counsel that he has given us over the years.

Finally, I wish to commend one BILL BRADLEY, who swished the hoop and scored from long distance by providing

much of the basis upon which this bill is structured.

□ 2130

I yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll to ascertain the presence of a quorum.

The legislative clerk proceeded to call the roll.

Mr. RIEGLE. 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 PRESIDING OFFICER. The Senator from Michigan, Mr. RIEGLE.

Mr. RIEGLE. I thank the Chair.

Mr. President, I, too, rise tonight to express my thoughts on this tax reform bill. Let me just say at the outset I want to congratulate the people who have worked on this in large measure over the last year. There is talk by some that this is a tax bill that is being hurried through here that there has not been sufficient deliberation about. But my observation is to the contrary. There have been literally thousands upon thousands of hours of work to go into this, certainly by the Finance Committee here in the Senate, by the Ways and Means Committee in the House, by staff people on both sides, as well as the Members of the Senate and the House.

I think, when all is said and done, that enormous thought has gone in trying to devise a fair and yet comprehensive and sweeping tax reform bill. I think all of those that have been the principals in that work deserve praise and recognition for the effort that they have made and for the result that they have produced.

Having said that, as others have said, I would also say that this tax bill is not perfect. I am not sure that there has ever been a piece of tax legislation that in every respect is perfect. It is the nature of the legislative process that we tend to produce the best we can, but it is essentially always an imperfect product, if you will.

In this bill there are aspects that I do not like and wish were different, but, on balance, I think this bill is much better than the existing Tax Code. I think it is right to say that it is time that we start making our investment decisions in America based on real economics and not on tax-loss economics.

I also think it is time that everyone paid their fair share of the cost of Government. Today those that pay their taxes and do not use tax avoidance methods or tax loopholes, as we talk about them, are ending up not only paying their share of the cost of Government, but they end up, in addition, paying an extra cost for those high income individuals and high income companies that under the present laws are not paying any taxes at all. Or if they are, it is a very nominal amount.

So the share of the tax bill that those high income people and companies should be paying has to get dumped over on everybody else. And that is how, over the years, the tax burden on the individual citizen has risen and is now higher than it should be, because they are being asked to carry not only their fair share but somebody else's share. And that is wrong and that is something that this bill changes.

In fact, that may be the single most important part of this bill, with the fact of the strong minimum tax provisions, that everybody is being asked now to pay their fair share of Government and the vast majority of taxpayers who have been paying too much—their share, plus someone else's share—are going to see their taxes go down. They are going to have more after-tax income available to them from their work to spend and use or invest however they wish, and I think that is a very constructive step.

Now, there is a very strong, positive bottom line to this tax bill. And it is important to touch on some of the positive aspects, because there is great public confusion today about the tax bill. I think a lot of misinformation has been generated that has tended to cause people to think that they are going to be harmed by this tax bill when, in fact, the overwhelming number of taxpayers will be helped by it. The overwhelming number of taxpayers will pay less in taxes in the future than they are paying at the present time.

For individuals, 80 percent of all taxpayers will be taxed at a 15-percent rate, and that is much lower rate than applies for most of those taxpayers today. The personal exemption is being increased substantially. It is going up from $1,080 to $1,900, and then, in two more steps over 2 years, up to $2,000. The standard deduction is also being increased substantially. It is going up from $3,540 to $5,000. A very substantial increase.

At the same time, the critically important deductible items have been maintained and protected and will be there in the new Tax Code. Certainly, mortgage interest has been mentioned, and mortgage interest on a home will continue to be deductible. Income taxes paid to State and local units of government and property taxes paid also will be tax deductible, as they are today. They will be deductible under the new bill.

Fringe benefits will not be taxed. There was a proposal that they would. That has been defeated, so there will be no taxes on fringe benefits.

I led the fight on the Senate floor when we passed the tax bill initially, to preserve the IRA accounts, the individual retirement accounts, as they are in the present law. We have in very substantial measure done that in this bill, although not completely. And I am frank to say I wish we had exactly the provision in the new law that is in the present law.

But, having said that, most of the taxpayers in this country will retain their full front-end tax deduction for IRA's. And for those that do not, I think that we will find that 401(k) programs, which are maintained in the Tax Code, will arise in those firms, companies across the country, that have a large number of employees who presently will not qualify for a continuation of an IRA with the front-end tax deduction. And when those 401(k) plans are formed, that will provide an alternative way for a person to make the same kind of long-term savings, tax free, with the front-end tax deduction that they may be able to now do with respect to the IRA.

So I see a way, even for that relatively small number of people that will not qualify for the front-end tax deduction on IRA's, to have an alternative way to accomplish that in the future. And I intend to be active to see to it that that knowledge is spread widely so that 401(k) programs can be developed and so that avenue is made available to people. So there are a number of very positive aspects of this for individual citizens.

But there is confusion about that. I maintain seven offices around my State of Michigan, and I have issued a public invitation to any citizen of my State to bring in their tax return from last year and let us go through that with them to see how the new tax laws will apply, to see if they will come out with a tax cut or if they would come out with their taxes the same or if they would have an increase.

□ 2140

We have not had a rather substantial number of people come to us and ask us to go through their tax return and provide that answer. We have found that in 95 percent of the cases of the people that have come in random that their taxes will be going down, in most cases going down by substantial amounts. I will just cite one that happened today.

A gentleman called from Lansing, MI. He and his wife had a taxable income of $58,000. He was calling to say that he did not like the tax bill because he felt that they were going to end up paying higher taxes. He estimated that to be about $2,000 more in taxes. He was talking with a person who was the tax expert who works for me on my staff. My person said, "Look, why don't you get your tax return and let's go through it." The fellow said, "Well, fine, I will do that

and I will call you back." So he called back in about 15 minutes. We went through that man's tax return and when we made all the adjustments we found out that his taxes, in fact, were not going up. This was a joint return with two wage earners. His taxes would not be going up. They would actually go down by $1,200. After that had been figured out in terms of these discussions, the final comment of the man from Lansing who called on the phone was, "Tell Senator RIEGLE to vote for the tax bill." That has been the response that we have found in case after case after case.

I am not saying there are not going to be some people who will pay higher taxes because some will. Those who have not been paying any taxes with high incomes are going to start paying, as they should. Because they are going to have to start paying, others who have been paying and paying too much are going to be able to pay less. As I say, that, to me, is the great virtue of the bill.

Over on the corporate side, in terms of business tax changes, the corporate tax rate is going to drop from 46 percent to 34 percent. That is a very substantial change. There are parts of the business tax changes with respect to the loss of the investment tax credit, and the changes in some depreciation rules, and doing away with the capital gains tax rate differential, that are very troubling to me.

I have real reservations and qualms about that. We may find that in the future if there is an impairment in the capital formation, in the capital investment, we are going to have to take the step to make tax changes in that area. I will be prepared to do so if we find that is needed.

I think as an offset to that, however, dropping the corporate tax rate is going to generate more after-tax profit, more return of capital, more money for investment into businesses, for productivity improvement, to create new jobs, new products, and improve processes. I think that offers a very substantial gain in that respect.

I hope, myself, to be able to serve on the Finance Committee in the next session of Congress. There are vacancies that will be occurring, and I hope to fill one of those vacancies. If I am fortunate enough to do that, then I would hope to be at the table when future discusisons are made about any changes that may be required later on down the line.

But we will have to see how it works. There is an enormous amount of change going on in this tax bill. There will be consequences that cannot be fully foreseen, some unintended consequences. But where there are problems that arise, whether it is with respect to the amount of rental housing in the country or other things that have been raised, we will have to move to fix those problems.

I want to say one other thing with respect to the State of Michigan. Over the last year after President Reagan proposed this effort to change the tax laws to have tax reform which I salute him for doing, I think it was right of him to say that, and I congratulate him for staying with it all the way through the process. But I went around the State of Michigan. I conducted 19 public meetings in locations across the State, and had over 4,000 people come out and sit with me in meetings that would last 2, 3, 4, 5 hours in some cases, in large group sessions as we talked through what the people of my State said they wanted in the way of tax reform.

In every single major item that I heard them talk about, and I asked for votes by show of hands in those 19 meetings across the State of Michigan, every single item that was raised in those meetings by the majority of people there saying that they felt it was important, has been incorporated in this tax reform bill.

The mortgage interest deduction has been retained, charitable deductions for itemizers have been retained, the property and State income tax and local tax deductions have also been maintained.

People said no taxation on fringe benefits. We have kept that out. They said no taxation on the inside buildup of insurance policies. We have kept that out.

So we accomplished the things that people said they really wanted. They also said they wanted a stiff minimum tax on people with high incomes who were not paying anything, and high income corporations that were not paying anything. They said they wanted them to pay a fair share in the future. That has been accomplished. That is the way we are able to lower tax rates for everybody else.

So I can say tonight to my colleagues here, and if I were able in turn to speak to those in my State who had attended all of those tax forums around the State of Michigan, this bill meets the critical items that in each of those meetings citizens from my State said they felt were most important. I am pleased to be able to report that now.

I want to say one other thing with respect to the IRA's. Then I will in short order conclude here.

I think the individual retirement accounts have been vitally important to our country in two respects: One, it has encouraged people to establish a supplementary savings program, and to put money aside for their own retirement years, and increasing numbers of people have taken advantage of that intelligent option to do exactly that. I think that has been one very substantial benefit to the country. The other is it has created an enlarging pool of savings and capital investment money that is invested for the long term that in turn can be recycled and invested in the economy for economic growth.

So it is very important that we maintain the individual retirement accounts. The front-end deduction on IRA's is retained for most taxpayers.

So I think we have largely succeeded in this area. As I said earlier, the 401(k) provides an alternative route for those that would no longer qualify either because of income level or because of the fact that a spouse would otherwise be in a retirement program. So I think we have had a substantial victory there.

Let me say again, a 15-percent tax rate will apply to 80 percent of all the taxpayers in this country. In my view, in my own State of Michigan, and I think stretching across the country, the overwhelming majority of taxpayers are going to be receiving a tax cut and a tax cut of some significant amount.

As we have gone through those individual tax calculations based on people's tax returns for last year, that is exactly what we have found.

So I am convinced after spending a very substantial part of the last year working on this problem directly with my constituents and as well here in the Senate that we are going to see an overwhelming number of people receiving a tax cut.

So I am going to vote for this tax bill because I think on balance, despite some defects it has, that it is substantially better than the existing law. I think it is time to overhaul our tax system to make it fairer. I think this is the best that we can hope to do at this time.

I want to particularly praise Senator PACKWOOD and Senator LONG for their leadership on this in the Senate. Certainly the Senator from Louisiana, who is going to be retiring, is a tax expert of reknown and someone who will be greatly missed when he leaves us.

I also want to particularly acknowledge the work of Senator BRADLEY, and Chairman ROSTENKOWSKI in the House. I think this tax reform bill is one that we should vote for. I think we can do so with some sense of pride and accomplishment. I would hope my colleague would join in voting for this bill.

I yield the floor.

Mr. BRADLEY. Mr. President, some Senators have said that the major private universities in this country are opposed to tax reform because they lost several tax benefits.

To counter those arguments I quote from a letter written by William G. Bowen, president of Princeton University, Princeton, NJ. He writes:

Is tax reform, and more particularly the present conference bill, worth supporting in spite of the provisions of concern to colleges and universities? My personal answer is emphatically Yes, and if I were a member of Congress, faced with an up or down vote on the package, I would vote for it with enthusiasm. In my view, it is major step forward.

Mr. President, I ask unanimous consent that his entire letter be printed in the RECORD.

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

[From the Chronicle of Higher Education, Sept. 17, 1986]

HIGHER EDUCATION AND INCOME-TAX REFORM: UNIVERSITY OFFICIALS REBUT RECENT EDITORIALS

(Following is a letter that William G. Bowen, president of Princeton University, sent to the New York Times in response to an editorial on the effects of tax reform on higher education. The Times editorial was reprinted in last week's issue of The Chronicle.)

Your August 24 editorial "No More Hiding Behind Taxes" responds to higher education's concerns about the tax bill with two propositions: (1) these concerns are a small price to pay for overall reform; and (2) some of the proposed changes are desirable because they would increase "efficiency" and shift greater responsibility for determining educational priorities to the federal government.

The first proposition is reminiscent of the position of the Secretary of Education, who argues that since colleges and universities have shared in the general prosperity of recent years, they ought to be willing to accept these damaging new provisions as a necessary trade-off for continuing national prosperity. But there is nothing about prosperity, or about tax reform, that mandates adoption of these particular provisions. None of them was in the bill that passed the Senate. Each of them, we are told, was opposed by a significant fraction of House conferees. None of them will have more than negligible impact on federal revenues—although each could have a sizable impact on the future of higher education in this country.

Let me focus on two of these provisions—not in an effort to undercut support for a tax bill which I favor strongly, but to describe certain consequences that, in time, need to be addressed.

One provision would subject certain donors of assets that have appreciated in value (usually stocks) to a 21-per-cent tax on their gifts. Appreciated assets account for some 40 per cent of all gifts to higher education, and a much higher percentage of the very large gifts that are essential to any major fund-raising campaign. Current law already limits the percentage of income that can be deducted for appreciated gifts, so no one can escape taxation ("zero-out") through such gifts. We should also recognize that those who choose to give less generously because of this new provision are most likely simply to hold on to their assets, thereby depriving the government of any tax revenues from them while also precluding their use to support charitable purposes.

A second provision would exclude, by means of a dollar limit, nearly 20 of the nation's leading private institutions from further tax-exempt borrowing for facilities, even though the bill retains access to this important form of financing for all other private—and all public—colleges and universities. (I should note that my own institution is one that is still eligible, though it too, in time, could run afoul of this provision.) Tax-exempt funds typically are used for the kind of expenditures for which private gifts and federal grants simply are not available or are not adequate, including the very expensive renovation and rehabilitation that are essential to bring research facilities up to modern scientific and safety standards.

Each of these provisions either reduces revenues or adds to costs at a time when direct federal support has failed to keep pace with educational needs. And this happens in a bill that already will reduce charitable contributions by increasing the number of non-itemizers; by removing the charitable deduction for non-itemizers; and by lowering rates and thereby reducing the tax incentive to give. While the initial decision to make a gift may be made in the heart (as is almost always the case, I believe), decisions about what, when, and how much to give generally are made in the head, with tax implications often determining the ultimate size of the gift. Unlike other sectors of society, charities suffer a double whammy; they lose under the provisions expressly addressed to them and they lose as a result of lower rates. (There is general agreement that any increases in giving attributable to greater disposable income will be more than offset by the losses from lower rates.)

But what about the Time's appeal to "efficiency" and responsibility? Ironically, one of the most attractive features of the present tax deduction for gifts of appreciated assets is its demonstrated efficiency in encouraging the conversion of private resources to public purposes; in other words, in this particular case the gain to charities far exceeds the loss to the Treasury.

The Times's final argument is that the federal government should be allocating resources directly, rather than using the tax code to encourage private donations. This is the argument that deserves the most critical scrutiny, and not just because of the obvious contradiction with a budgetary climate in Washington which plainly presses for less direct support rather than for more. What is proposed is really a new set of relationships in our country. With only a few exceptions, it is not the federal government that historically has taken direct responsibility for our colleges and universities. Our great institutions of teaching and research have been created and nurtured by private donations and by the states, and increasingly state institutions are looking to private donors for the dollars that can spell the difference between adequacy and excellence.

The federal government has encouraged private and local initiatives for two primary reasons: first, because the existence of multiple patrons—private and public—takes pressure off the federal budget; second, because the existence of multiple patrons also contributes to the independence, diversity, and creativity characteristic of our unique system of higher education.

To return to the language of your editorial, it is just not true that direct government expenditures are necessarily "more efficient" in any relevant sense than mechanisms for stimulating indirect support by the private sector. The sad plight of the British universities today is dramatic evidence of what can follow from greater national dependence on central government grants. Moreover, the possibilities of both infringements of academic freedom and logrolling of the most inefficient kind are clearly greater in this country than in Britain.

Thus, what the Times sees as a benefit, others see as a great risk: that under the cover of tax reform, major changes in national educational philosophy as well as financing may occur without explicit discussion and with insufficient consideration of the potential consequences.

Is tax reform, and more particularly the present conference bill, worth supporting in spite of the provisions of concern to colleges and universities? My personal answer is emphatically Yes, and if I were a member of Congress, faced with an up or down vote on the package, I would vote for it with enthusiams. In my view, it is a major step forward. It promises greater fairness and (in most respects) more efficiency over the long run. It is an outstanding achievement. But that does not mean that it is wise in all respects, and those of us who most admire the overall result have a continuing obligation, I believe, to speak candidly about the bill's shortcomings and to find ways to correct them.

WILLIAM G. BOWEN,
President, Princeton University.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. Mr. President, I ask unanimous consent that I may proceed as if in morning business.

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

ORDER OF PROCEDURE

Mr. DOLE. Mr. President, let me indicate first, I hope those who want to speak will certainly feel free to come on over, come on in, wherever you may be because the distinguished chairman said he would be here as long as Members wished to speak tonight. It is our hope that all of those who would like to speak this evening, maybe with one or two exceptions, will do so and we can have a vote on this bill no later than 2 p.m. tomorrow.

PRESIDENTIAL VETO OF SOUTH AFRICA BILL

Mr. DOLE. Mr. President, as I believe most of us by now have heard, the President has decided to veto the South Africa sanctions bill. His veto message has probably already arrived at the House or will shortly, and I expect the Senate will be taking it up next week.

I have spoken to the President on this issue in recent days. I know how strongly he feels about it. I know how strongly he opposes apartheid. And I know how sincerely he wants to work with the Congress to see apartheid come to an end.

But, I also know that this President is not going to do something which he fundamentally believes to be wrong, even if that might be the politically expedient thing to do. And he believes

that some elements of the bill he had before him are wrong; so wrong that he could not sign the bill.

I voted for the bill, even though I knew it was far from a perfect piece of legislation. Almost all of us did. And perhaps for me, and for others, it might have made things a bit easier politically if the President had just swallowed hard and signed it. But he could not do that in good conscience.

From my discussions with the President and his senior advisers and from what I know about his veto message, I know that he does not intend the veto as a challenge to the Congress. Rather, he intends it to be, and sincerely hopes it will be seen as, an invitation to work together with the Congress to advance the causes all of us share.

□ 2150

It has not been easy for me to decide on my own course. To me, the absolute top priority has been to send a strong message to South Africa and to the world that the United States is fed up with apartheid and demands its immediate end. The Senate bill did send that message.

But I have always believed—and said so many times on the Senate floor and elsewhere—that an even stronger message could be sent if the President and Congress could speak together—and let me say again, strongly and together—on this issue.

The President's veto message and my discussions with him make clear that he is not only willing but anxious to join with the Congress in sending a strong message. A message in the form of a strong set of actions—targeted against apartheid; sparing, to the extent possible, the black victims of that system; and taking into account our other vital national interests in southern Africa.

It seems to me the President has indicated his willingness to go the extra mile, so that we can act together—just as we feel together—on the need to end apartheid.

I will vote to sustain the President's veto. I encourage all of my colleagues to join with me.

Because I want to end apartheid. And because I am convinced that the best way to that end is for all Americans to join in a single, clear call to Pretoria—apartheid must go, now.

TAX REFORM ACT OF 1986—CONFERENCE REPORT

The Senate continued with the consideration of the conference report.

Mr. DURENBERGER addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. DURENBERGER. Mr. President, it has been a little more than 3 months since the Members of this body voted nearly unanimously to approve the tax reform bill reported from the Senate Finance Committee, of which I am a member. I recall having reservations about some of the provisions of the Senate bill.

And I spoke to those concerns here on the floor and some of them were ameliorated by our amendment process. So, in the end, I voted for the bill because I believed that the whole of the bill was greater than the sum of those parts.

In conference with the House of Representatives, a good, but not perfect bill met a bill which was so short of good tax policy that it could not pass the House on its merits. It passed by a slim margin only because President Reagan promised a Senate Fix. Well, he got it.

But some of what he—and we—did not like in the House bill, comes back to us in this conference report.

Because, Mr. President, that is the nature of legislative compromise. Despite what some might characterize as the degradation from blending the two bills, this conference report was approved by the House 292-136. That is a most significant endorsement of the contribution this Senate made to improving the quality of tax reform.

In reaching a decision on casting my vote today, I have tried to balance that which today I know about this bill against the unknowns and uncertainties that this measure holds for our economic future, many of which have been alluded to. On balance, I am convinced that the compromise achieved between the House and Senate bills will, in the long term, provide a better foundation for economic growth in America and inject a greater sense of fairness and equity in our Nation's tax laws.

There are many features of the conference compromise that I unhesitatingly applaud.

Forty-four million people—one in four adult Americans—will not pay a single dime in Federal income taxes. This measure removes more than 6 million of the working poor from the tax rolls.

One hundred and forty million of our citizens—80 percent of America's citizens—will pay no more than 15 cents of every dollar earned in Federal income taxes.

Most of the remaining 20 percent of Americans will pay no more than 28 percent of their annual income to support a Federal Government whose annual budget is nearly $1 trillion. It is a remarkable achievement that Federal income tax reform since 1981 has reduced the top marginal rate of Federal taxation from 70 percent to 28 percent.

This measure reduces the number of income tax brackets from 14 to 2. Coupled with the indexing provisions we implemented in 1985, we have substantially reduced the insidious bracket creep that has continuously pushed middle-income taxpayers into higher and higher tax brackets. For the vast majority of Americans, most of their income will now be taxed at the 15-percent rate and only a small portion of their income will be subject to the 28-percent rate.

I find, Mr. President, that the biggest surprise of this tax bill to my constituents is the fact that when you reach the level at which your next earned dollar qualifies for the 28 percent, all of your dollars are not taxed at that 28 percent. We have been so used to being pushed from one bracket to the other on the totality of our income that a lot of us out there cannot believe that all of our income does not go to the 28-percent bracket the minute the first dollar reaches that level.

The fact is most people will be in the 15-percent bracket for practically all of their income.

More than two-thirds of all Americans will soon find that when it comes time to fill out their tax returns, they will only have to file a simple one-page 1040A or 1040EZ return. The higher standard deduction included in this measure will free another 13 million Americans from the annual chore of having to sort through shoe boxes full of receipts to justify their itemized deductions.

Young Americans struggling to raise a family will find a significant benefit in the new $2,000 personal and dependent exemption. The size of the personal exemption just has not kept up with inflation over the past 30 years. The new $2,000 exemption is sure to ease the financial burden that families face today and is long overdue.

This bill represents a giant step in what I would call industrial equity. It will end the current egregious disparities between effective tax rates paid by different industries. There is just no reason that utilities pay an effective U.S. tax rate of less than 11 percent while the pharmaceutical industry pays nearly 33 percent. The effective tax rate of the chemical industry is less than 4 percent. By contrast, the trucking industry pays more than a 38-percent rate. These disparities will significantly narrow as a result of this legislation.

Economic equity is an important element that has been retained in this compromise. Many of the concepts embodied in the Economic Equity Act which I have authored each year since 1981 have been incorporated in this measure. Although the bill does not address all of the inequities that women still endure, it is a milestone in the annual battles we are winning in the war to eliminate legislated eco-

nomic discrimination against women in America.

The retirement plan coverage rules have been significantly broadened and the retirement plan vesting rules have been cut in half. As a result of these changes, more younger workers and working women will have greater economic security in their retirement years. And by preserving the child care tax credit, we have recognized the vital economic contribution that women make to our society.

The conference compromise retains many of the tax changes I fought for in the Senate Finance Committee to preserve the tradition of the family farm. Financially troubled farmers will be able to renegotiate their bank loans without having to pay taxes on the loan write down. For those troubled farmers who lost their land through foreclosure, we have extended tax-exempt bond financing, so they can buy a new farm and some equipment and start their lives over again.

Farmers and other self-employed people will also be able to share in some of the tax-free fringe benefits that up until now have only been available to corporate employees. For the first time, self-employed workers will be able to take a tax deduction for a portion of their health insurance costs. Although this provision was scaled back in the House-Senate conference, it still represents an important first step in equalizing the availability of tax-free fringe benefits.

By drastically cutting tax rates, closing loopholes and limiting the ability to deduct paper losses, this measure closes the door on the tax shelter merchants who have distorted economic decisionmaking, especially in agriculture and real estate. Small Minnesota farmers trying to eke out a living will no longer have to compete with big city doctors, dentists, and lawyers whose only interest in farming is to generate tax losses.

At the same time, the compromise ensures that hard-working Americans will no longer read stories in the press about how companies earning billions of dollars pay no taxes, and how millionaires wind up paying less in taxes than a middle-class family earning $25,000. Thanks to the alternative minimum tax provisions in the compromise, every profitable corporation and every wealthy American will have to pay their fair share of taxes.

Yet, Mr. President, the benefits achieved in this bill do not come without a price. In the process of lowering tax rates for individuals and corporations, the conferees have boosted total taxes paid by the business community by more than $120 billion.

Much of this increase will be borne by our Nation's manufacturing sector which has been especially hard hit in recent years by tough competition from abroad. And ultimately, these higher taxes may be passed through to consumers in the form of higher prices and may hasten the decline of some of our oldest industries.

That is in its heartland and it is a part of the industrial sector that employs a lot of our constituents.

We tried, in anticipation of this kind of tax reform, to help State and local governments rebuild their infrastructure and their job security programs. We tried to help them provide public services by improving the utilization and the definition of tax-exempt bond financing. The Senate did what the Assistant Secretary of the Treasury for Tax Policy indicated was one of the best jobs of public policy in this bill when it passed the tax-exempt bond provisions. When they reached the House conference, they were literally gutted. These restrictions are especially difficult to justify at this time when the Federal Government has both abandoned its general revenue sharing program while imposing more and more mandated responsibilities onto the States.

This bill unfairly interferes with the policy choices each State makes in determining how to finance the basic needs of their citizens. Is it fair to say to a resident of Washington that although you pay sales and property taxes, you can only deduct your property taxes; whereas your neighbor in Oregon can deduct both his income and property taxes?

The answer is clearly "no." By repealing the deduction for sales taxes, I hope we are not establishing a precedent that will put the deductibility of income and property taxes at risk in future years.

Home rental costs in many parts of the Nation may have to rise to take into account the new rules for depreciation and the new loss limitation rules.

I am deeply concerned, as others in this body are, that the changes wrought by this bill will make it extremely difficult to find investors willing to risk their money in new housing projects, especially for low- and moderate-income families. Moreover, the retroactive application of the passive loss rules raises the possibility that some low-income housing projects will just be abandoned.

Yet the issue of how housing costs will be affected by this bill reflects the anachronism that the Internal Revenue Code has evolved into in recent years. Is a Tax Code which allows wealthy Americans to invest in housing tax shelters the only mechanism we have available to ensure that the poorest members of our society are properly housed?

If our natioal housing policy relies on the ability of wealthy investors to pay no taxes, then there is something wrong with both the Tax Code and our national policy priorities.

Our Nation's important philanthropic and educational organizations may have a harder time raising money because the new minimum tax will take a great deal of the tax benefit out of charitable contributions.

If our great institutions of higher learning find that donations decline, they will have but two choices—raising tuition costs or reducing the costs of an institutional system which has given Americans more educational buildings and educational ancillaries than any other nation. At a time when tuition and board at some private universities exceeds $15,000 a year, it may well be that we are in for some surprising changes in the field of higher education in America because of the changes in this bill.

My problem with the elimination of the nonitemizer charitable contribution and subjecting gifts of appreciated property to the alternative minimum tax is not with the predicted adversity to public service delivery. I do not believe that will happen. My concern is that we break faith with a uniquely American tradition of public service financing. That is the bad news.

The good news may well be that the reduction in marginal rates from 70 to 28 percent will reduce the prevalence of tax-motivated contributions and increase the "value" the contributor places on his or her "investment" in specific charitable purposes. My hope is that, in much the same way tax-motivated investment in business tax shelters is being ended by this bill, so we may find the end of contributed investments in public services for tax or name-promotion purposes replaced by investments which demand distinctions in health, education, science, or religion from the benefiting institutions. My hope is that in much that way, because of the way this bill has been changed, we may see opportunity rather than adversity in the delivery of public services.

One of the most popular tax deductions ever adopted was the universal individual retirement account, IRA, deduction. It was popular because the American taxpayer was being forced to live with excessively high-marginal tax rates, automatic inflation-driven tax bracket creep, and a tax system that rewarded consumption and penalized saving.

It was popular because it gave Americans their first real opportunity for Tax Code endorsed savings since they were driven to believe that only their homes would ever qualify as a savings account.

I voted for the universal IRA in 1981 because I believe that young Americans should have a broad and flexible array of retirement options available to them, especially because of the long-term problems that will inevita-

bly confront the Social Security System.

Today I will vote for this bill which changes the universal IRA into a retirement plan alternative. The bill allows deductible IRA's to those individuals not covered by a retirement plan, and for some middle class families. I would certainly prefer that we retain the current universal IRA rules. I am gambling on much lower marginal rates, low inflation, and a predictably healthier economy to provide us with the incentives to save.

But, as I suggested earlier, I believe we should not dwell on any single politically popular provision, but should weigh the entire package as a whole. And in that spirit, I must vote for his compromise.

It has taken the entire 2 years of the 99th Congress to produce this tax reform compromise. And this will certainly not be the last tax reform bill that I expect to vote on during my tenure in the U.S. Senate.

In fact, I believe that the changes made in the tax-exempt bond provisions in the conference agreement cannot, and will not, in any way, be justified. That is why I plan on introducing legislation next year that will remedy the changes made by the conference report and the Senate version of tax exempt bond financing.

The fundamental principle of the tax-exempt bond proposal I will offer next year is that public purposes should be defined according to who receives the benefit rather than who provides the service. Therefore, it is imperative that we preserve bonds which stimulate local spending for projects which are important to both the Nation and the States, but which could not be financed without some type of public-private partnership.

These include pollution control facilities, urban development programs, sewage, and waste treatment, and hazardous waste treatment.

And I expect that many of my colleagues on the Finance Committee will not be reluctant to make further changes in the tax code next year if we find that this bill has unintendedly damaged the economy.

But for today, it is worth dwelling on how far we have come in the tax reform process in this Congress. Top individual rates of 28 and 34 percent for corporations are truly revolutionary concepts. In no other major industrialized nation are income tax rates so low! If we can sustain the rate structure incorporated in this bill, I think the future shape of the American economy will become more dynamic, flexible and competitive.

By cutting rates so drastically, we have markedly diminished the role that taxes play in investment decisions. And, implicitly, we have reduced the role of Washington in shaping the future course of the economy and shifted that responsibility to our Nation's citizens and business.

But the Tax Reform Act of 1986 is not the beginning of the end of the tax reform process. Instead, it is the end of the beginning of tax reform.

Over the past 5 years, our focus has been exclusively on lowering marginal rates. And we have succeeded beyond our wildest dreams.

There are many further steps we can take to improve our income tax system to bring about greater inter-taxpayer equity. We must overcome our reluctance to look at the hidden tax subsidies of employee fringe benefits.

Where is the equity, the fairness, and the justification for allowing million dollar executives of large corporations to receive tax free health benefits while a Minnesota farmer, who can barely survive, has to pay for health insurance out of his hard-earned after-tax income. And it's more than likely that the individual who does not have access to overly generous company provided health benefits will bear the brunt of the increased floor on deductible health costs that was included in this bill.

Now that we are headed for a two-bracket income tax, it will become more obvious to the small businessmen and the self-employed person that they are subsidizing too much of the excessive consumption of health and welfare benefits by the highest income Americans and the employees of the Fortune 500 companies.

Until we place a limit on the tax-free natue of employer-provided health insurance premiums in amounts necessary to adequately insure all persons against medical emergencies, and allow all citizens to get a tax deduction for their health insurance, it will be difficult to claim true fairness in the taxation of income.

In the next 5 years, we are going to face an inevitable confrontation between our desire to keep tax rates low and our need to eliminate our budget deficit and begin to reduce our national debt. Although this compromise bill makes the tax laws fairer for today's taxpayers, it does nothing to eliminate the pyramid of debt we are accumulating at unheard of levels for future generations.

Mr. President, next week we will again face the annual September ritual of raising the ceiling on this Nation's debt. The debt ceiling will rise to an extraordinary $2.3 trillion dollars. And if we don't do something about the deficit, we will face a $3 trillion deficit by the time Ronald Reagan leaves office.

Interest on the debt next year will consume nearly $1 in every $5 dollars the Government spends. We are in such a continuing cycle of debt that we have to borrow money to cover the deficit to just pay interest on the debt. Our fiscal irresponsibility reminds me of the Banana Republic spending patterns that we have witnessed in this hemisphere throughout this century.

We are soon going to have to again look at broadening the tax base to address the deficit. But I think the lesson of tax reform in 1986 is that the political will to further broaden the base of taxable income will take a political miracle. That's why I believe that it is inevitable that we will have to look to another form of taxation—namely a consumption tax or a value-added tax to offset the budget deficit.

Before we can tell our constituents that we in Washington made the tax system fairer, we will have to take a long and hard look at the most onerous, regressive, discriminatory, and unfair tax that the Federal Government levies—the payroll tax.

Workers and business now must contribute more than $6,000 per worker per year to fund a Social Security system that will provide little, if any, retirement security for today's generation of young workers.

Under the current laws, payroll taxes are going in only one direction—up; while the chances that young workers today will see any Social Security benefits are going, down, down, down.

The payroll taxes we levy on employees and employers are designed to afford income security to all Americans. Through payroll taxes we seek to provide retirement security through Social Security; health insurance for the elderly through Medicare; and unemployment compensation for workers in transition. At the State level, we add further tax burdens to pay for unemployment and workers compensation and for disability insurance.

I believe a needed next phase of the tax reform movement must be a total overhaul of the payroll tax. I hope that we will integrate the payroll taxes for these social insurance programs and substitute for our dependence on payroll taxes a tax on consumption.

A consumption tax will not only replace the payroll tax but can also be used to diminish the burden of income taxes and ultimately end the taxation of savings. And a consumption tax may well be necessary to find a way out of the deficit crisis that endangers our future economic independence and security.

Mr. President, I would have hoped that the measure that emerged from the House-Senate conference shared more of the features of the Senate bill than the House bill. But I know that the chairman of the Finance Committee did his best in the long and hard negotiations with his House counterpart. The measure before us today is a major step forward in improving the fairness of the income tax system. But it is only a step.

I hope that in the next few years we are able to take similar bold steps in the process of adapting our tax laws to the changing needs and demands of our citizens. If we have gone too far in some areas of this bill, there is ample opportunity to fine tune and adjust our tax policy. We have come too far along the path of tax reform to reject this remakable reform initiative.

Mrs. KASSEBAUM. Mr. President, to supporters the tax reform legislation represents fairness, growth and simplicity. To opponents the legislation is antigrowth, antijobs, and antisavings. In reality, it falls somewhere in the middle.

Unlike diamonds, political ideals are more appealing before they have been cut and polished. Tax reform is no exception. The final, comprehensive tax reform plan represents the culmination of a long and intense bipartisan effort to implement the lofty proposal President Reagan introduced over a year ago as his No. 1 domestic priority. The goal of the President's initial proposal was that the Tax Code should no longer be used to manipulate our economy and distort our investment decisions. This principle has remained intact in the final bill.

The bill has taken a direct and comprehensive approach to addressing the tax reform problem. It attempts to lower the individual and corporate rates to such an extent that many of the current deductions, exemptions and credits can be eliminated without causing a major disruption in our economy or dramatically increasing the tax liability of the taxpaying majority.

Despite its wide acclaim, the bill will not make the Tax Code simpler nor will it mean a substantial tax cut for most families. When all is said and done, most taxpayers will find that the numbers on their tax return have merely been rearranged with the amount owed being roughly the same. Those expecting a big cut will be surprised by the extent that they have relied on various credits, deductions and exemption. Those who have criticized a particular change will find that the lower rates substantially alleviate the detrimental effects.

I have several concerns about the comprehensive bill and the way it has been drafted. I do not think that changes should be made on a retroactive basis, that transition rules should be given to exempt privileged taxpayers with political access, or that $120 billion can be shifted from individuals to corporations without affecting consumer prices, employment, or growth. Further, I do not think we should pretend that a time of $200 billion deficits we will not be forced to raise taxes in the near future.

Despite my misgivings about the bill I do recognize that it represents real reform. It will end the proliferation of abusive tax shelters, it will take a substantial number of low-income workers off the tax rolls, it will encourage domestic corporations to manufacture their goods in the United States, it will insure that corporate taxes are distributed in a uniform manner, and perhaps most important of all, it will have that investment decisions are made on the basis of sound economic principles.

Although I am tempted to say that this bill should be sent back to the conference committee to correct its various flaws, that option is not realistically available. Moreover, it is evident that if this bill is defeated, reform of the present code will not be attainable in even the distant future. We cannot afford to turn our back on tax reform. Our current Tax Code is riddled with inherent inequities. It makes no sense to have a corporate tax that requires some corporations to pay an effective tax rate of 46 percent and allows others to escape liability altogether. Likewise, it makes no sense to have a progressive individual income tax that allows wealthy members of our society to use deductions and credits to such an extent that their effective rate is lower than that of the average working man or woman.

Common sense dictates that for our economy to remain productive and efficient on a global scale, our investment decisions must be made on the basis of economic return rather than tax avoidance. Our current Tax Code frequently encourages unprofitable business ventures at the expense of profitable ones. The net effect is a misallocation of resources that places additional and artificial demands on our capital, goods and services. The tax reform bill corrects this problem. In the short term, our economy will undergo a reshuffling of capital assets. In the long run, capital goods and services will be allocated to their most efficient use. Profit rather than loss will be the primary investment motivation.

Mr. EAGLETON. Mr President, at the outset let me say that my colleague, Senator DANFORTH spoke earlier this afternoon in opposition to this tax bill. His speech was masterful and I predict, will be considered the definitive critique of this ill-timed bill.

Certainly no bill is all good or all bad. The bill before us has many redeeming qualities that have survived the legislative process. In fact, at different points in the process, I have enthusiastically supported this bill.

There is much that is commendable about the tax reform bill. Six million low-income individuals will be removed from the tax rolls. At the other end of the spectrum, the minimum tax provision will put an end to the spectacle of wealthy individuals and corporations paying no taxes. This bill eliminates scores of tax loopholes and shelters which have distorted investment patterns, especially in real estate. Finally, by broadening the tax base, the bill makes room for substantial rate cuts which, it is felt, will propel consumer spending and lift the sagging economy.

On the "macro" economics of the bill, we know that there is much that is troubling about the bill. The bill would raise the cost of capital by an estimated 10 to 15 percent at a time when capital spending is already declining. Industry-by-industry analyses show that for most, the bill is a mixed bag. But for heavy manufacturing which is most in need of new investment to meet foreign competition, the repeal of the investment tax credit and the lowering of depreciation will hit particularly hard.

Elimination of the tax credit for bad debt reserves could strain many already shaky financial institutions and certainly will accelerate foreclosures on troubled energy, real estate, and farm loans. The ailing farm sector is also a net loser in the bill. By repealing income averaging, the investment tax credit, and liberal depreciation rules, the bill is very tough on struggling family farmers.

The renewal of downtown St. Louis and other older cities will be seriously hindered. Limitations on historic rehabilitation credits, coupled with repeals of tax benefits for other real estate investments, could be devastating.

On the revenue side, the bill's $11 billion "windfall" in 1987 turns into a $17 billion revenue shortfall in 1988 and a $15 billion deficit in 1989. As damaging as that would be for our deficit situation, most economists believe the bill's revenue estimates are substantially overstated, some say by as much as $50 billion over the 5-year life. It has been noted by members of the Finance Committee that the Joint Tax Committee had in many instances used "untrustworthy information." All indications are, however, that this bill is an overall revenue loser.

Finally, tax rate cuts in the bill may turn out to be a Trojan Horse. General ageement among economists is that Chairman ROSTENKOWSKI is right and there will be a new tax bill in 1987 with, perhaps, even across-the-board rate increases.

Having weighed both the good and the bad in the bill, it is critical, I think, to take into account our starting point and the timing of this sweeping tax change. Edward Yardeni, vice president and chief economist of Prudential-Bache said:

> I am in the minority amongst economists, but I believe we are already in a recession. Part of the reason for that is Tax Reform which has been on the horizon since May.
>
> Tax Reform is a great idea at exactly the wrong time. Tax reform is like leveling the playing field without telling the players to get off.

We know the economy's in trouble. GNP in this quarter slowed to 0.6 per-

cent. Our trade deficit is well on the way to a record $170 plus billion. The budget deficit also will set a record of $230 billion. U.S. productivity continues to decline. Capital spending is shrinking. Our savings rate is one of the lowest in the industrial world.

Timing can be everything and I am persuaded that this is not the time to legislate this major tax bill. As I hear the concerns expressed by noted economists, I grow increasingly worried.

Alan Greenspan, former White House Economic Adviser:

Additional tax reform negatives clearly raise the risks to economic growth * * *. The time for tax reform is probably now or never, but we should understand that we are moving into unexplored, and probably risky territory.

Edward Yardeni of Prudential-Bache:

The last thing we need is to rewrite the tax code from top to bottom.

Murray L. Weidenbaum, President Reagan's first chairman of the Counsel of Economic Advisers and now of Washington University:

It is evident that the impending changes in the Internal Revenue Code will depress the economy. Although we can debate the precise economic effects of these changes, the direction of impact is clear: less investment, lower economic growth, fewer new jobs.

Martin Mauro, senior economist for Merrill Lynch:

The tax bill raises revenue by about $11 billion next year. That's exactly the wrong thing to do for an economy in the shape that it's in.

Robert Brinner of Data Resources Inc.

Tax reform will depress economic growth next year and into the long term: lower investment will lead to lower capital stock and therefore to lower worker productivity. Greater efficiency in the use of capital can offset part, but not most, of this loss.

Laurence Summers of Harvard University:

The major defect of the conference committee bill is that it raises the tax burden on new investment * * *. The adverse effects of reduced investment on economic growth are likely to dwarf any gains for neutrality.

Jerry Jasinowski of the National Association of Manufacturers:

* * * the burden of taxes will be shifted primarily onto capital intensive manufacturing firms that are heavily exposed to international competition.

Jasinowski goes on to say tax reform will:

* * * raise the user cost of capital by large magnitudes.

* * * lower productivity growth thereby raising unit labor costs

* * * reduce profitability and cash flow

* * * encourage off-sourcing of production to foreign countries.

Of course, there is absolutely no doubt this bill is going to pass and pass by a wide margin. Nothing that is said on this floor, no warnings by economists, no skepticism on the part of the taxpaying public is going to change that.

There are some here who will vote for the bill because they genuinely believe it is the right thing to do and the right time to do it. I disagree, but I respect their view. There are a great many more who will vote for this bill despite serious reservations about its impact on the economy. I disagree, but I understand their position.

I don't know many officeholders who want to be charged in a campaign that they opposed a tax cut. After all, this is an election year and this is an election year tax bill.

Besides, there is the easy notion around here that if we make a mistake today and the dire predictions of some economists turn out to be right, we can always come back next year with a new tax bill and repair the damage.

I'll make this prediction. Just as certain as it is that this tax bill will pass, this body will be back here next year with a new tax bill. And it won't be just technical corrections. I think it will be another major revision of the tax laws to restore incentives for investment and to raise revenues both to pay for those incentives and to apply against our worsening deficit situation.

My concern is that the damage done to the economy will not be that easily undone. The measure we are considering is the fourth major tax bill we have acted on since 1980. Someday, we are going to have to get it right. We can't keep turning the tax faucet on and off without seriously shaking the confidence of the investment community and the public at large. I think we are seeing some of that already in the widespread skepticism and suspicion that people have about this bill.

The measure before us has many good features, but I think its timing in relation to our weak economic situation is a gross miscalculation.

I agree, as I quoted before, with economist Yardeni of Prudential-Bache:

Tax reform is a great idea at exactly the wrong time. Tax reform is like leveling the playing field without telling the players to get off.

Mr. President, I will vote against this bill.

□ 2230

I yield the floor.

The PRESIDING OFFICER. The Senator from Kentucky.

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

Mr. President, it is difficult to follow my colleagues who are so eloquent in their statements as it relates to the tax reform bill.

Like many of my colleagues I have mixed feelings about the tax reform conference report before us today. It is comprehensive legislation, and represents major reform. The original goals of tax reform were fairness and simplification. Removing 6 million working poor from the tax rolls and broadening the tax base approaches the goal of fairness. Once fully implemented, this reform will also simplify the tax filing process for the majority of the taxpayers who will no longer need to itemize deductions. There are some unknowns in this bill. We cannot be sure of its specific impact until fully implemented. But on balance, the positive aspects of this bill outweigh the unknowns. Like any other legislation, once we know the full ramifications of this bill, we will be able to fine-tune it and make it better.

I will vote for this bill because I believe that the majority of taxpayers in Kentucky will see their taxes reduced under it. I will vote for this bill because it is the first break in a long while for the working men and women of this Nation. This bill will remove more than 200,000 Kentucky families from the Federal tax rolls. These are Kentuckians who are proud to be working to support themselves and their families. The tax reform bill recognizes the efforts of the working poor and gives them a well-deserved break.

This measure has come a long way since the Treasury Department first released its tax reform proposal. The conference report before us is a better bill than either the House or the Senate bill. It is a good faith effort to bring sanity and common sense to our tax laws. People in my State have grown tired of paying their taxes every April 15, while the wealthiest individuals and large corporations pay nothing, and even get refunds. This bill ensures that there are no more free rides—that the low- and middle-income taxpayer in this Nation no longer has to carry those who pay little or no taxes.

This bill encourages consumption based on economic considerations instead of tax savings. Although it eliminates many favored deductions and credits, the significantly lowered rates are designed to more than offset the loss of those deductions. While I have always supported the charitable contribution for nonitemizers, the loss of this deduction will hopefully be balanced by the increased take-home pay provided by the tax cuts. Additionally, while I would have preferred to retain the full deduction for contributions to an individual retirement account for all taxpayers, I believe that the majority of Kentuckians will continue to be able to contribute to an IRA. Most importantly, all taxpayers will continue to be able to receive tax-free interest on their IRA until withdrawal.

This is not a perfect bill—no legislation ever is. I am concerned about the long-term effects this bill will have on the real estate industry. I would have

preferred that the provisions eliminating the 3-year recovery rule for Government workers not be retroactive to July 1 of this year. I am concerned that the retroactive elimination of the investment tax credit not discourage development of our capital-intensive industries not disadvantage our position in world markets. The Congress will be watching these and other changes closely, and if necessary, adjustments can be made in the years ahead. Overall, the positive effects of this bill outweigh these concerns.

I will vote for this compromise despite the fact that it denied Kentucky the same courtesy extended to other States with newly announced auto manufacturing facilities. In conference—behind closed doors—Kentucky's Toyota plant was singled out to be dropped from the special tax treatment given to other auto manufacturers. This was unfair to Kentucky, and it was wrong.

Down in Kentucky we have a saying that a mule will live a lifetime to kick you, and I will have this particular item in my craw for a long, long time.

The Senate conferees took a position that I thought was fair: No automobile manufacturing companies would receive a transition rule. Nevertheless, the House made the judgment that all of the auto manufacturing plants would receive the transition rule save Kentucky.

So it was behind closed doors, Mr. President. We have found a new way to eliminate sunshine in our committees. It is a system where legislation is being written by staff. We go behind closed doors. We are able to stay out of the sunshine.

Only Kentucky was refused special transition treatment for its auto manufacturing plant. But I will support the bill, because on balance, the majority of Kentuckians come out ahead.

I am especially pleased that this bill contains a special provision which I sought for cities and counties in Kentucky which are hard hit by the rapid phaseout of general revenue sharing. This provision allows local governments in my State to continue to take advantage of the low-cost option of meeting their financing needs through bond pools. Without the ability to participate in these pools, cities and counties across Kentucky would be unable to fund capital projects and federally mandated sewer and water improvements. With this special transition rule, these local governments have an affordable alternative to offset the loss of Federal funds.

If we took a poll today, our Nation's economists would probably be evenly divided as far as whether this bill will be good or bad for our economy. However, I see this as a good-faith effort by Congress to follow the mandate of the American people to return fairness to the Tax Code. It says to those who work hard, and try to improve their situation, you will be able to keep a larger portion of your efforts. It says to those who abuse our tax laws to avoid paying their fair share of taxes, no more free rides. It says to those corporations who based decisions to expand and grow on economic considerations and not tax avoidance schemes, you may keep a larger portion of your earnings to put back into capital expansion and improvements. It says to those wealthy individuals and corporations who pay no taxes, you must contribute your fair share. This bill broadens the tax base; removes the working poor from the tax rolls; closes abusive loopholes; and ensures that all taxpayers pay a fairer share of taxes.

The tax reform debate has been a productive exercise. It has forced us to question the maze of giveaways and loopholes which have been added to the Tax Code over the years. This debate has focused our attention on the growing inequities in our current tax law and brought to light both the effective and ineffective incentives built into the current law. It has been a long process, and one that many taxpayers in Kentucky and across this Nation have participated in. The debate has produced many answers and still further questions. By passing this legislation we will not be closing the book on tax reform. Instead, we will be taking the first step toward producing a Tax Code that is fair to all and simple to use. I hope, as we adjust this Tax Code in years to come, that we will not lose sight of the goals which carried this legislation to passage.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. Mr. President, the Tax Reform Act presented for approval of the Senate tomorrow poses a difficult choice.

There is no question that our existing tax system is imperfect—and, indeed, badly flawed. In my view, however, it is equally clear that the tax reform proposal before us also is flawed and there is reason for real concern about its impact on our economy.

I know that I will vote for approval of the tax reform bill, but I will do so without enthusiasm and with reservations and misgivings.

There is much in this tax bill that is good. However, there are other provisions of the tax reform bill that are cause for concern, and there are provisions that I believe are simply unjust and unfair.

First and foremost, I am concerned that when taxpayers sit down to file their tax returns in April of 1988, for the 1987 calendar year, there will be millions of middle-income families who will be shocked and angered to find that their Federal taxes have increased, not decreased. Middle-income America is not generously treated in this tax reform bill. They have been led to believe they can expect at least a modest reduction in their tax payments, but a significant percentage of them will find that the lower tax rates do not offset the loss of deductions and credits. They will be angry, and justly so.

I am also concerned at the impact this new tax system may have on our economic growth during the next several critical years. Many economists who support the principles of tax reform nevertheless predict it will be a drag on economic growth in its early years. And this will come at a critical time when our economy is hesitating after a sustained period of growth, a time when our economy may need a stimulus instead of restraint.

I believe the increase in the capital-gains tax and the reduction in the investment credit will have a negative effect on creating new investment capital resources and on the development of industrial enterprises.

In addition, I believe it is a mistake to undertake a wholesale revision of our tax laws without providing any increased revenues to help meet our Nation's highest economic priority—reducing the huge Federal budget deficits.

And, while this tax reform bill eliminates some inequities, it creates new ones. Let me mention just a few that have been pointed out to me by taxpayers in Rhode Island:

Is it fair—as this bill provides—to permit interest deductions on a second home, while denying interest deductions on a worker's first car?

Is it fair—as this bill provides—to tax a portion of a needy student's scholarship or fellowship meant to pay for his food and room?

Is it far—as this bill provides—to eliminate deductions for State and local sales taxes, while permitting deductions for income and property taxes?

Is it fair—as this bill provides—to deny individuals without health insurance any deductions for health care costs unless they exceed 7.5 percent of income, while workers with employer-paid health insurance receive that benefit tax free?

□ 2240

There are other inequities. There are provisions that are retroactive, unfairly penalizing taxpayers who have acted in full compliance with existing law and are given no adequate chance to adjust to the abrupt changes in this bill.

Federal workers at retirement age will lose their longstanding 3-year rule on taxing of their pensions, effective not now or next year, but effective ret-

roactively to last July. That is unfair. And it is of particular concern to many of my retired constituents in my State.

Individuals who invested in real estate syndications, in full compliance with the law, will face a rapid phaseout of their loss deductions over the next 3 years, very likely turning paper losses into very real losses.

I am concerned also at the impact that this tax revision will have on the nonprofit institutions—universities, colleges, museums, cultural and performing arts organizations—who may face severe losses in contributions and donations as the result of loss of deductions for persons who do not otherwise itemize, and the provision subjecting appreciated gifts to the minimum tax.

Weighed against these flaws, inequities, and uncertainties, however, must be the very real improvements the bill will make in our tax system. On the positive side, the bill will:

Provide overdue tax justice to millions of low-income persons and families who have been paying far more than their share of the tax burden.

Provide a fairer distribution of the tax burden by shifting part of the burden from individuals to corporations.

Assure, through a minimum tax, that profitable corporations and well-off individuals cannot totally escape the responsibility of sharing in the costs of Government.

By reducing marginal tax rates, drastically reduce the influence of taxes on the spending, saving, and investing decisions of business and individuals.

Reduce distortions in our economy caused by tax credits and artificial depreciation allowances that favored some industries over others.

These are broad and very major improvements in our tax system. Indeed they constitute the most far-reaching reform of our tax system in decades. And it is not likely that we shall have an opportunity again soon to make such sweeping changes.

However, we must recognize that imposing such broad changes on our tax system—even though most of the changes are for the good—poses serious uncertainties about how individuals, corporations, investors, contributors, retired persons, consumers, and others will respond, and what the cumulative impact of those responses will be on our economy. There are no certain answers to those questions.

With enactment of this tax reform bill, we will be embarking on uncharted seas. There are known inequities and unknowable risks. On balance, I have concluded that the potential gains from this tax reform bill outweigh the disadvantages and risks, and I will, vote in favor of its adoption.

I yield the floor.

Mr. WALLOP addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. WALLOP. Mr. President, as I view all of this, I cannot help viewing it with the overpowering sense of lost opportunity. I think my chairman would agree with me that I was at least one of the compelling forces of tax reform in the committee; that from time to time when things looked worst, I was standing there, ready to push and argue and try to achieve radical tax reform. And by radical tax reform, I mean not something that would jar the American public. But radical enough to attract the American public, to attract the business community, to attract the individual taxpaying community. I believed they could be attracted with the concept of fairness, the concept of simplicity, the concept of economic opportunity that once delivered not through the Tax Code, but through the economics of America. Good economic opportunity ought to attract instant economic support without tax incentives.

We have in our tax bill, over the course of time, developed a very efficient way for momentarily delivering economic stimulus or economic resistance to certain ways of capital flow. We did it knowing that the Tax Code was the quickest way to the economy, certainly more efficient than appropriations. Because through the tax system you can influence certain economic decisions without delivery of a large bureaucratic structure, as well.

The only problem that we had was that portions of the Tax Code developed a constituency of their own, and the constituencies became dependencies and the dependencies became irresistible forces for the status quo.

So tax reform, in order to be radical, had to overcome the resistance of established constituencies.

And we almost did it. We damn near did it. We had it on the tips of our fingers and we let it flow out.

You may recall that the first and rather exciting time was when the chairman delivered a concept that had a top rate of 25 percent. And guess why we left it? We left it because of politics. We really did not leave it because of tax policy. But it was an exciting time because that was the threshold moment when we could have attracted the real broad support of American people for a Tax Code that was: One, simple; two, fair; and, three, efficient.

And the sad part of where we have come is that we lost simplicity. And when we lost simplicity, we lost fairness. Because I will guarantee anybody who views what we have done, that while we added complexity in the name of fairness, we have created inherent unfairness because the least powerful of Americans cannot cope with complexity as can the powerful.

In the conference committee, I cannot tell you how many times I was disappointed as we met not in public but in private—and that was necessary; it is not a criticism—when we would have Members on both sides, the chairman of the Senate committee and the chairman of the House Ways and Means Committee say, "You are right to object to this as a matter of tax policy, but as a matter of politics we can't do it."

□ 2234

And by golly, day by day, and hour by hour, and minute by minute, we lost reform on the threshold of politics, on the threshold of practicality, and on the threshold of symbols over substance. The statistics got lost in the smoke and the methodology got lost in the mirrors. That is not to say in this bill there are not good parts. I would be the first to admit it.

I rejoice as do most Americans the fact that 6 million people will come off the bottom. Those at or near the poverty level will no longer pay taxes. That is good. We will eliminate some of the most abusive tax shelters, at the same time eliminating some of the most creative tax policies. But the sad part is that, in my opinion—and I feel sad because I worked very hard to achieve real tax reform—and the bad outweighs the good. It is abysmally antifamily. When it left the Senate, it was more profamily. As it returned to the Senate, it is antifamily.

The IRA limitations discriminate against the two-worker family. If a spouse is working and a participant in a pension, neither spouse's investment retirement account is deductible; if a husband is working or if a wife is working and the other spouse wishes to earn a little income, by managing rental properties which happen to be "passive" under the conference bill, he or she becomes an impediment to his or her spouse's after-tax earning capacity.

It seems wrong to me that a spouse who decides to go to work eliminates the other spouse's opportunity to deduct IRA investments. It seems wrong to me that abandoned or separated spouses are badly discriminated against in the rate structure. It seems wrong to me that married people filing separately, and they must from time to time—and it is not a matter of choice but a matter of reality—are penalized drastically over couples who are able to file together.

It seems wrong to me that we say this bill promises to stimulate economic growth. It would have when it left here. But we took away on one side savings incentives virtually across the board. And on the other side we took away risk incentives. So now there is no incentive to save. And there is no incentive to risk your capital and the

tax incentive designed to encourage risk taking. What becomes of that? Without it proponents of the legislation say that you will chase economic opportunity. But what economic opportunity will you chase?

You will chase the safest of investments. This acts as a stimulus to consumption. Some say that "new consumption will do good things for our economy." Others looking at it will say "to consume what?—Japanese stereos?—and who will produce that which we consume?" So you can look at the bill and you find that we have provided this big consumption stimulus to the individual taxpayer by increasing dramatically the productive sector's cost of capital.

When we argued this bill in the Senate, we said that we had increased the cost of capital by $90 billion over 5 years. That was deemed not too much. Now we say we have increased it by only $126 billion, an additional $36 billion. But the problem is that the assumptions that we use for $90 billion shift, when the bill left the Senate, are not the same assumptions that we use to arrive at the conference bill's figure of $126 billion. So using today's economic assumptions the original Senate bill only increased the cost of America's capital by $60 billion, or under the economic assumptions on which we based the Senate bill. The conference bill shifts $150 billion to $160 billion to the productive sector. But in point of fact, we are using two different sets of figures to sell this to the Senate and to sell it to America.

The problem, however one defines it, still is that the only cost of capital that has not been increased is that of those who compete with us in the international marketplace. The only cost of capital that has not been increased is that of the Japanese, that of the Europeans, that of the Koreans, that of the people of Hong Kong, the people of Singapore, and others who compete in our market. We have damaged our ability to conduct American business overseas.

But when the bill left the Senate we had done some good things for agriculture, we had done some good things for small business, we had held to a minimum the tax increase on the sick and dying oil and gas industry, and we had held to a minimum the tax increase on the heavy capital industries of mining and mineral production.

Now as it comes back we find an attack on agriculture, not a support of them. You will see, and I promise this, a level of outrage that will surpass what we have had with the funny automobile recordkeeping requirements. My ranchers are now going to have to have an accountant with them all day, every day, and each of every season to account for preproductive and prepaid expenses.

□ 2300

And in the name of simplicity and reform, we have provided them with this new joy.

How are they going to keep these records minutely on feed, fertilizer, seed, and water costs? Why should I go back home to Wyoming and say, "This is a benefit to you," and if I did, how could I say it with a straight face?

We repealed their investment tax credit. They knew it was coming and they accepted that. But when the bill left the Senate, it had a depreciation treatment that was better; it was a good trade in the name of tax reform. We had done something that worked. We had taken away what people called an abuse.

I did not like the repeal of the investment credit. I liked the investment tax credit. I felt it was an effective and efficient way to encourage investment and production. When the bill left the Senate, we had replaced it with something that was completely acceptable. Now, it comes back with depreciation that is worse than current law and the investment tax credit is gone.

For farmers, when it left here, it had income averaging and now it has that gone.

Capital gains, which is the major portion of breeding herds and other forms of agriculture, it is gone.

So what do I tell them that they have here? I cannot tell them that it is simpler, because it is a damn sight more difficult. I cannot tell them that it is more efficient, because it is a damn sight less efficient. I cannot tell them they have been reformed. I can only tell them they have been done.

The next sector of my economy is oil and gas. We fought, and the chairman was generous and the majority leader was generous and the Senate was generous, and we fought and we fought and we limited the tax on the oil and gas industry to $10 billion over the next 5 years.

We come back and find that worse. What is more, we find their future prospect even more drastically limited when it comes to this crazy concept than when we voted on it. What is called "earnings and profits," undefined in the House-passed bill and undefined to the conferees, was embraced. And after 3 years' time, we will find capitalization of exploration costs in the oil and gas industry. That is really and truly a very heavy burden to bear.

How can I tell them that they have been reformed? We persuaded them to understand the $10 billion tax increase of the Senate bill. How can I persuade them to understand an extra perhaps $16 billion on top of that in an industry that is sick and dying.

How can I explain this conference bill to the next segment of Wyoming economy, that of mineral production, coal, gravel, bentonite, trona?

When it left here, we had traded the new capital costs by virtue of the loss of the investment tax credit for a very good and a very efficient accelerated depreciation system and a retention of percentage depletion.

Now both depreciation and depletion are worse than current law and the industry has lost the investmant tax credit. Like all other commodities, minerals are in trouble—deep, serious, and abiding trouble around the world, but ours more so than the others because the miners are paid more, our capital costs are higher, we have severance taxes, we have environmental requirements, all of those things which are things that I have supported. But now on top of it we have told them not to invest in new equipment because they cannot get a sufficient return on it to make it worth modernizing.

Then I have to look at the next segment of the Wyoming economy. That is travel and tourism. How can I tell them that I have helped them or that this bill will? A major segment of Wyoming's travel and tourism is conventions. So the travel and entertainment portions of the bill come down right square in the middle of their backs. This bill makes those expenses 80 percent deductible, not 100 percent. I was able to swallow that when the bill left the Senate. But the scales have changed as the bill returns to the Senate.

I look at the next segment of the Wyoming economy, small business, Wyoming, per capita, is the largest small business State in America. I see them with added complexity, in accounting and compliance rules and with a loss of capital incentives and capital gains, and I see them with a corporate rate reduction that helps large corporations more than it helps small businesses. I see them with a loss of the general utilities doctrine that permits family entrepreneurs to get out without double taxation, two levels of tax on the same profit.

I see them with a reduction of the ITC carryover and the reduction of general business credit limits.

How can I go to my small businessman and say that this is simpler, this is fairer, this is more efficient? The answer is that I cannot.

So we travel over the rest of the economy of my State and find there is not much left.

I rejoice, and I would have to rejoice, in the fact that there are a number of the people in the State of Wyoming who are at or near the poverty level and they will benefit, and I rejoice for them.

The problem that I have is that I would add to their numbers should I vote for this bill.

The problem that I have is that this bill will put more Wyoming people down in the poverty category.

Of what benefit is it to people to have a 15-percent rate if they do not have an income against which to apply it? If I hit small business, if I hit agriculture, if I hit oil and gas, and if I hit minerals and mining production, timber production and tourism, I do not have a hell of a lot left in Wyoming to rejoice over.

So, Mr. President, I guess I have a problem because we set out to sell tax reform to the American people, not thinking it was good enough to restore fairness and create simplicity and do those things. We decided the only way we could get America's approval of tax reform was to give them tax relief. But in point of fact, that was a premise that was not necessary. The original Bradley-Gephardt and the original Kemp-Kasten did not make this transfer from the corporate sector to the individual sector. We did not have to do it. But we got lost in that thesis and we got lost primarily in a thing called revenue neutrality.

I remember when we got going before this thing ever was under consideration in the Senate, the Treasury Department discovered that they had $11 billion that somehow or another, in the process of estimating, they were going to be short, $11 billion over 5 years in a $300 trillion economy being like trying to find a specific glass of water in the middle of the Mississippi at flood stage. You cannot do it.

But we kept binding ourselves and the worse thing is when we got into the conference—and this brings me to the principal point I want to make—every time we got somewhere with a reasonable compromise, the Joint Tax Committee, which was operating on its own agenda and not as professionals, came in with a new revenue estimate. Overnight they would come in with a new estimate.

□ 2310

And we had no way to confront it. We had only to pay for it; causing agreements to break down. So, we started again this ridiculous process of picking up nickles and dimes and running them about. And what did we do? We created a bill against which a significant number of points of order would lie under the rules of the Senate because of new matters which were not decided by the conferees. I am not going to raise them, except I am going to describe them. Because they are not the problems that I have with the bill and it seems irrelevant to raise a point of order over something that is not a problem that you have with the bill. But that existence proves my point. When the conferees, in their rush to get home—and I was one—I was not there on the last day of the conference—I was entertaining the Japanese Ambassador in the State of Wyoming, trying to get that wretched country to buy a product that we have, that we can produce and supply to their country cheaper than they can in greater quantities of inventory and in greater quantities of quality.

I thought it might be important to try to supply that extra 600 jobs. So I was not there, I willingly admit that. But the conference bought off on concepts that they did not and could not understand—it is not a criticism of them. Then they licensed the committee staff to proceed and to produce things that were never even discussed amongst the two committees of the House and Senate.

For example, on page 818, we did something about Federal tax liens. What we did was fix two cases that the Treasury Department had lost. And it bothers the Treasury Department to lose, so in the dark of night, when no conferees are around, in slips the reversal of these cases. These cases were two protaxpayer court decisions in which the nineth circuit held that cancellation of land sales contracts will extinguish Federal tax liens even if there is no notice to the Federal Government.

These cases are explicitly overturned in the bill without any discussion in the committee or having been mentioned in either bill. Well, the American taxpayer is entitled to have those who make the laws that he is going to be subject to have been elected and not hired. And here we are.

There is a beauty in here on alimony. It completely changes the tax consequences of American divorce law. Never mentioned in the conference committee, never mentioned in our musings on the bill, in the Senate, during our retreat up in West Virginia, or anytime during the course of the consideration of the bill, or anything on the floor of the Senate, or at any moment in the conference. Never mentioned. And along it comes and modifies the statutory distinction between property settlements and alimony payments and is so arrogant as to say, "This new provision will generally apply." It just admits that we never even considered it.

Customs user fees, also a neat little deal about moving expenses. Neither issue was ever considered, not in either bill, neither were a question that any of us was presented with in the conference, but moving expenses are changed from a deduction from adjusted gross income rather than a deduction for adjusted gross income. Basically what it says you lose your moving expenses unless you itemize.

There are a bunch of major changes that were made without knowledge or consent of the conferees.

A reduction in the standard deduction of $30. We were not asked about that. Nobody voted on that.

Taxation of income of gifts from grandparents, taxed at the parent's rate. We were not asked about that. Nobody ever mentioned it. These, and other changes are totally outside the scope of the conference: That which is conceptualized by those that signed the conference report before it was reduced to writing.

For my part, for whatever reasons, and I do not know, I was not even asked to sign the conference report. I do not know whether that was because I made the requirement or stipulation that before I did, I would like to see the report. When I asked to see it, I was told there was not enough time, that it had to go to the printers. I do not know why I was not asked, but the fact is that this conferee was not asked. I guess I am a little disappointed in that because I frankly was flattered by, and energetically applied myself to the fact that I was a conferee and they had stepped over the traditional seniority to put me on the conference. I was flattered by that and I worked hard and I wanted a tax conference that provided real reform and I did not see it.

I think the point that I am trying to make is that the system stinks. The system is in trouble when this body of elected people turns over its responsibility to staff, however competent, and says "You write it. We will sign off on it without ever seeing it." And has it arrive in the House and gets a vote without anybody being able to claim that they know what is in it.

Now it is presenting itself to us, a couple of thousand pages, on the same basis.

The system stinks when conferees will not take the time to try to find out at least what is in it that is new, at least what belongs, the part of it that was never talked about or discussed amongst the conferees. It would not have made any difference had I been there on the last day. These things were not talked about, they were not raised, they were not presented, they were never asked of anybody. They were just put in, in a desperate search for fine-tuning $1 billion or $2 billion in this ultra-trillion-dollar period of time. It is impossible.

So, I guess I say again tonight that I am sorry, I am disappointed. We had an opportunity and we lost. We let it go on politics. We became more interested in the symbol of tax reform. The President's people, the majority party in the House, and the majority party in the Senate has been more interested in the symbol of the tax reform than its substance. We want the campaign ribbon and we do not really care that we have not achieved the goal. The President, when he asked us to do this, gave us three legs on which this stool was to stand: Fairness; we gave it away when we had it in our hands. Simplicity; we gave it away when we had it in our hands.

□ 2320

Economic stimulus. Take the chairman's argument that some say it will create that stimulus. My own belief is that it will not. But with two of the three legs gone, who the hell cares what the third leg does. You cannot sit on it anyway; it will fall over.

And that is where I leave it tonight, really disappointed, really viewing it as though we had an opportunity in our hands that we let go on the altar of politics and symbolism. And this opportunity is not going to return, not while I am here and sure as heck I am not going to be one of the ones who stands up and says, "Let us do tax reform again," I promise you that. I have seen that we do not have the courage or the willingness. I have heard it said in the conference committee that "It may be good policy, but it is not good politics." I have seen us fritter away an opportunity of a lifetime on the altar of convenience and the purchase of campaign ribbons.

Mr. President, I yield the floor.

Mr. BROYHILL addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. BROYHILL. Mr. President, I have listened attentively to the various remarks and speeches that have been made tonight, especially to the Senator from Wyoming and others. I think back to the reason we are here tonight and why we are discussing this bill.

We are here because the American people were speaking on behalf of tax reform. They were speaking out on behalf of tax reform because the tax system had become too complicated and too burdensome. They were expressing to those of us who are supposed to be representing their views that the tax system had become unfair.

I have listened with interest to my colleagues as they have discussed the history of this bill. The Senator from Wyoming expressed his involvement in this legislation. I also listened with great interest to the chairman of the committee as he gave us the history behind this bill, not only in the Senate committee but also in the House-Senate conference. But the fact is we are here because the conference has agreed to the most comprehensive tax reform package since World War II.

Now, this bill is not perfect. I do not think its sponsors have said it is perfect, and it may even fall short of the goal of simplification. It does represent a very significant improvement over the present Tax Code, for that is what our goal was. I am sure that every Senator, if he had his druthers, as we say down home, would probably write a bill that is different than this one. Perhaps it would be a bill that the rest of the Senate could not support. In my judgment, the document before us will restore fairness to our tax system and will significantly lower personal tax rates as well as business tax rates. I am convinced that it will stimulate greater economic growth. As I pointed out, this bill, in my judgment, is in response to the American people, who have asked us to put tax reform, the rewriting of the Tax Code, high on our legislative agenda. This is what we have done.

I look at some of the advances that have been made. The current Tax Code has 14 individual tax brackets. In this bill we have only two brackets with a maximum top rate of 28 percent. Under this bill, 80 percent of the American taxpayers will fall within the lowest tax rate.

An item in this bill which I consider significant is that an estimated 6 million Americans who live at or below the poverty level will no longer have to pay taxes.

Another factor in this bill is the maintenance of the traditional deductions that are important to middle-income families. These include mortgage interest, State and local taxes other than sales taxes. Also the personal exemption will be increased to $2,000 by 1989. I think this is a significant improvement in the Tax Code. Since 1948, the personal tax exemption, which was set at that time at $600, has not kept pace with the rate of inflation, it has, in effect, been devalued. The increase in the personal exemption to $2,000, in my opinion, is a significant profamily provision.

I also feel that many small businesses will benefit from this legislation. The top tax rate on business is reduced from 46 percent to 34 percent. This is a significant reduction.

This legislation also lowers the tax burden on small businesses. What this means is that if a person has an idea, forms a business, works hard, and produces a profit, he is going to be able to keep more of that profit. He can, therefore, do whatever he wants with it—reinvest it or keep it, spend it or dispose of it in any way he chooses.

I am aware of the concerns expressed by the previous speaker. I certainly understand and share the concerns that other Senators have expressed in respect to certain portions of this legislation. This legislation eliminates the investment tax credit. The investment tax credit proposal was made a number of years ago when I was serving in the House. I supported it. I would also point out that this bill preserves accelerated depreciation and cost recovery.

I also wish to make an observation about investment tax credits. If memory serves me right, not only the original Treasury bill and the President's proposal but the Bradley-Gephardt plan and the Kemp-Kasten plan called for the elimination of the investment tax credit.

I also think we should take a look at why people make investment decisions. Investment tax credits may be a significant factor, but I really think one of the things entrepreneurs' consider when they are about to invest or reinvest is the soundness of the investment itself. In other words, they look at the market demand for that particular product or service. The decision to invest is a response, it seems to me, to the marketplace—what will be the inflation factor in future years? What will happen to interest rates? These factors are very much in the forefront of investment decisionmaking.

So it seems to me this tax reform will encourage these investment decisions to be made in response to the marketplace and not necessarily based on what taxes a person might pay.

This bill has been under consideration for some time. It is not perfect. As I have stated in my judgment it does put us much closer to our target, that of a fairer tax system, a simpler tax system, one that is equitable for all Americans. The President has called for tax reform. I know that the people of North Carolina have called for tax reform. I know the American people have been calling for it. This is a chance for us to act, and I urge my colleagues to join me in supporting the Tax Reform Act of 1986.

I yield the floor.

□ 2330

Mr. PACKWOOD. 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.

□ 2400

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

RECESS UNTIL 12:11 A.M.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that there be a 5-minute recess.

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

Thereupon, at 12:06 a.m., the Senate recessed until 12:11 a.m., whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. TRIBLE].

Mr. DODD. Mr. President, in 1981 the Congress at the direction of President Reagan embarked on a series of economic policies which I believed then and continue to believe threaten the well-being of our Nation and severely limit the options available to future generations. Because I feel that the pending tax reform legislation represents a continuation of these misguided policies and because this legislation is not in the best interests of the citizens of my State and, in my opinion, is an affront to my constitu-

ents, I will cast my vote against adoption of the conference report.

I find little comfort in the fact that I was one of a small handful of those in this Chamber 6 years ago who refused to climb on board the bandwagon of fiscal irresponsibility. By drastically cutting taxes and not overall spending, we laid the foundation for the problems which we as a nation confront today—a doubling of the national debt in 5 years, a shift from a positive trade account to the position as the worlds largest debtor Nation over the same period and a current level of economic growth teetering on the brink of recession. While the political fervor of the so-called Reagan recovery afforded a brief delay in the full impact of these policies, in reality, that recovery began to stagnate 2 years ago and was itself an inevitable result from the depths of the 1981-82 Reagan recession.

Now Mr. President, we find ourselves on precarious economic ground with a vote on a tax reform bill designed to fundamentally alter the economic, social and political framework of this country. The problem with all of this is that no one—not the economists, not the sponsors of this bill, and not the President—can tell us where we're headed. All we hear is that the train is roaring down the track and it's time to get on board or be run over. Yet, the day after the final tax bill was agreed to by the conference, the President's Chief of Staff, a former Secretary of the Treasury and the former head of one of the worlds largest investment banking concerns, was quoted in the Washington Post to the effect that the administration could not assess the economic consequences of the bill. More recently, we have a former chairman of President Reagan's council of economic advisors predicting a full 1 percent drop in GNP next year and a loss of 1 million jobs by 1991 as a result of this bill.

Mr. President, once again simple math will show us that this bill has the real potential to push this Nation into a recession. After 6 years, it's time to stop telling the American people anything and everything they want to hear and start telling the truth. Who are we fooling by adopting lower tax rates today in an election year, when it is obvious that the deficit situation makes it a foregone conclusion that revenues will have to be increased next year.

The most regrettable aspect of all of this is that we are not only about to perpetrate a hoax on the American people, but it was avoidable. We could have tax reform, without either the economic uncertainty or the unfortunate dislocations which I fear will occur in our society as a result of this legislation. The fundamental flaw of the Tax Reform Act of 1986 is that it appears to have been written with blinders on. In reality the Internal Revenue Code is a reflection of American life. As long as there exists a need to collect revenues, our tax laws will guide economic decisions in this country regardless of how low the rates get or how many preferences are eliminated. Coming at a time of budgetary strain and limited options, this bill is less tax reform and more a continuation of the philosophy of Ronald Reagan that with the exception of national defense, Government has no role to play in meeting the needs of the American people.

Mr. President, I believe that we must strive for equity in our tax laws and that it is proper for government to either encourage or discourage certain behavior through the Tax Code. On balance, I do not think the pending tax bill enhances the equity of our tax system. I challenge anyone in or outside of this body to show me a piece of legislation that goes beyond this tax bill in applying substantive changes of law in a retroactive manner. If I were a Federal retiree, I would feel justified in opposing this bill and regardless of ones views with respect to real estate shelters, is it fair to base taxation on anything other than a reliance on the laws and regulations which existed at the time in which transactions were consummated? Is it equitable to provide transition rules which convey tax benefits on particular concerns that will be competing with other businesses that have not been accorded the same status? Should homeowners be allowed to borrow money for their children's education and deduct the interest while renters who are probably more in need cannot? Under the guise of reform and equity, why is it necessary to increase the taxes of almost 16 million taxpayers with annual incomes below $50,000.

When we attempt to assess the total impact of this legislation, I suspect that we will find that while the tax returns of lower and middle income families have been either eliminated or simplified, life will be more costly and complicated. I wonder if 2 years from now we will be boasting about all those of low income we took off the rolls in 1986, when these very same people are paying more for rent in a tighter housing market than they formerly paid in taxes. While we bemoan the escalating costs of higher education, let there be no doubt that this bill raises the costs of capital to our public and private universities. When we subject the interest on municipal bonds to taxation, we drive up the costs associated with the revitalization of this Nation's crumbling infrastructure.

As to the impact of this legislation on my constituents, I must raise a special objection to the elimination of the deductibility of State and local sales taxes. This provision goes beyond the scope of the conference and is an improper intrusion on the part of the Federal Government into the prerogatives of the citizens of my State which generates significant revenues from sales taxes and does not impose a State income tax. This loss of deductibility will be felt by not only itemizers in my State but all of our residents who will continue to expect and demand the same or more by way of Government services against an eroding tax base. I led the effort in the Senate to restore universal deductibility under individual retirement accounts both because I believe in tax incentives for retirement security and because over one-half of the households in my State had availed themselves of this savings options. As with the sales tax issue, I thought we had sent the conference some fairly positive signals on the IRA issue during Senate debate, yet for the middle-income people in a high cost, high per capita earning State such as Connecticut, the dollar cutoffs in the conference bill for maintaining this deduction are unacceptably too low. I also am offended by the provision in the IRA section which would deny the benefits of full deductibility to a working woman soley on the basis that her husband is an active participant in a private retirement plan.

Mr. President, once the flood tide of tax reform has subsided, I believe that we will be back on the floor of this Chamber adopting major alterations to the Tax Reform Act of 1986. I don't know of anyone who seriously believes that the deficit reduction task which will confront the 100th Congress can be addressed without some revenue component. Further, I predict we will be back here in fairly short order bemoaning our lack of competitiveness abroad as a rational for increased incentives for expanded savings and investment. The result I fear, Mr. President, will be a further erosion of our citizens confidence in the Congress and the Tax Code. When the potential, negative implications for our economy are added to this equation, I can reach no conclusion other than that the adoption of this legislation is not in the best interests of the citizens of Connecticut or the Nation.

Mr. SIMON. Mr. President, I rise to speak in opposition to the tax bill conference report now under consideration.

I do that fully recognizing there are some good features in the proposal, and recognizing that a great deal of hard work has been put in by many of my colleagues here in the Senate and in the House. Particularly playing a key role of leadership has been our House colleague Representative DAN ROSTENKOWSKI, who has shown courage and great ability in bringing this measure to this point. Here in the Senate, our colleagues Senator PACK-

WOOD and Senator BILL BRADLEY deserve special commendation, as do Senators RUSSELL LONG and LLOYD BENTSEN.

They labored long and hard. I respect that effort, but now we must face the question, "Is that effort one that we should impose on the Nation?" Despite my great respect for them, I do not believe we should.

DEALING WITH THE DEFICIT

I know of no one in this body who does not readily recognize that the deficit is the No. 1 problem facing our Nation's economy. Yet, we are on the verge of passing a massive overhaul of our tax system without addressing the deficit. We have studiously avoided the basic problem. We are making a serious mistake. And everybody knows it.

It is a mistake to collect an additional $120 billion from industry and not apply 1 penny of it to the deficit. It is foolish to increase the taxes of one-third of middle-class Americans and not spend a penny of it to reduce the deficit. It is wrong to take away the additional personal exemption given to those over 65 and to increase the threshold for deductibility of medical expenses for those same senior citizens without applying 1 penny toward the deficit.

Where is the fiscal integrity to which both political parties have long adhered? Where are those who claim to be pay-as-you-go Democrats or Republicans and have given lip service to their concern over the gigantic deficit we face?

This proposal decreases the deficit by $11 billion this next fiscal year, but after that it increases the deficit somewhere between $17 and $22 billion a year. And that is just a starter.

By eliminating many of the sources for increased revenue in years to come—because it eliminates many exemptions—we will make it much more difficult to achieve the revenue needed to reduce the deficit in future years.

We all know the deficit is our No. 1 problem, and when we pass this proposal, and I understand that we will, we are choosing to ignore our most pressing problem. History will not judge us kindly for that massive error, for our lack of good sense.

Beyond the obvious and comprehensive mistake of ignoring our obligation to deal with the deficit, there are other things wrong with the bill we are about to pass into law.

RETROACTIVITY IS WRONG

We all take great pride in our country. We have all said you could trust the word of Uncle Sam. But can we? Thousands of people made investments trusting that what the law said the law meant. But apparently this bill is an exception to that rule. In the section dealing with real property and the passive loss provision we break faith by applying a law retroactively. This is tantamount to saying that a Government bond is worth $1,000, selling it and then declaring that its worth is really only $700.

The special tax breaks for commercial real estate construction were not wise. But is it right to tell people one day that if you make such an investment we will give you special tax breaks and then a short time later say, "Sorry, we were only fooling. We take this tax break back."

Foolish as it was, when we make a commitment we should stick to it, but take away the exemption for all future investments of that type.

Yes, this change will bring us dollars, but it also brings a lowering of confidence in any future incentives our Government may provide. And that will be costly in the long run.

PROGRESSIVITY REPEALED

For decades the fundamental principle of the American system of taxation held that those who make more pay more, not only in amount but rate. The concept of taxation based on ability to pay was battered by lots of loopholes over the years. Until today we have at least adhered to the philosophical principle of a progressive tax system. Now we are reversing that and the person who makes $300,000 per year is taxed at essentially the same marginal rate as the person who makes $30,000 per year. One of this Nation's top executives told me that if this measure passes he will receive a tax break of about $250,000 a year—but he told me that to give it to him does not make sense when the country has a $200 billion deficit. He is right. It also does not make sense to give it to him when we will be at the same time raising the taxes on millions of middle-income Americans. Is that fair? Since I have been in Congress I have seen the top rate drop from 70 percent to 28 percent. Have we such huge surpluses in our Treasury that we can afford that? And is it fair? I am still old-fashioned enough to believe in balanced budgets and progressive tax structures and this proposal attacks both. Make no mistake about it, far too large a portion of the benefits of this bill pile up at the very top of our income structure. One-half of one percent of the people—the very wealthy—get 16 percent of all the benefits of this bill, as it emerged from the Senate, and while in conference, it apparently was improved slightly. But, the deferential treatment of this Nation's wealthiest citizens is not wise economically and not wise from the viewpoint of achieving a healthy society. The disparity between the wealthy and the poor is growing and anyone who does not recognize that as a portent of problems to come has not read history. The difference between the top 10 percent of our population and the bottom 10 is now roughly 14 to 1, higher than any western industrialized democracy other than France. In West Germany it is 5 to 1. In Japan, less than that. Does anyone seriously believe that a tax bill that increases this disparity in our society is good for us in the long run?

INVESTMENTS AND JOBS

Taken as a whole, this bill constitutes a mighty impetus away from manufacturing toward services and information. Mark Twain commented with great insight when he expressed his doubts about any society which tried to make its living by taking in each other's wash. We must maintain and improve our industrial and manufacturing base. It is important for jobs and indispensable to our national security. Mark Bloomfield, president of the American Council for Capital Formation, in describing this bill said it creates "one of the most anti-investment tax systems in the world." At a time when the world is getting more and more competitive economically and the competition for trade and jobs is getting tougher, why is the United States embarking on a course of taxation which will make American industry less competitive, less modernized, and more starved for capital investment to improve itself?

Let's not delude ourselves. A decline in manufacturing results in increased unemployment. More jobs are lost as we become less competitive in the world market. Richard Rahn, vice president and chief economist of the U.S. Chamber of Commerce, said of this bill "It clearly discriminates against manufacturing." I agree, and I say that as one who has been highly critical of the failure to have a sensible minimum tax for corporations. I want corporations to pay their fair share, but I do not want to discourage the manufacturing base of this country.

Perhaps the most incisive critique comes from Robert Nathan, one of the most respected economists in this country and the world. I cited his opposition when we debated the Senate version of tax reform. His statement in a letter to our colleague, CARL LEVIN, is so direct and to the point, it bears repeating. He said, "The huge shift from individual to corporate income tax incidence occurs at a time when we desperately need much more investment in modern and efficient capital facilities. In my judgment higher rates on corporate profits, along with carefully targeted and strictly monitored incentives, would be more stimulative to private productive investment than lower rates with no incentives."

I will not defend all the investment tax credit breaks which were put into the code in 1981. I voted against that tax bill because it swung too far in one direction. The drastic remedy we have before us today swings equally too far

in the other direction. And it will cost us jobs, lots of them.

The reduction on tax credit for research and development for businesses from 25 percent to 20 percent moves in exactly the wrong direction. We are already slipping compared to Japan and West Germany and some other countries. Does anyone really believe that we can become more competitive in tomorrow's world and preserve American jobs by spending less money on research?

DAMAGE TO FARMERS

It is hardly surprising that the already hard-pressed agricultural sector is rising up in opposition to this proposal that hits farming as it does other manufacturers of concrete goods. Crocodile tears of sadness over the plight of the farmers, while we cut away at their opportunity to earn through greater investment, should fool no one. Farmers are among the people hurt.

DAMAGE TO HIGHER EDUCATION

We are hearing the united voice of higher education. One institution president after another is speaking out against provisions of this bill. Contributions to institutions of higher education, especially private universities but public institutions also, are predicted to plummet. This is no time to add to the burdens of our colleges and universities. We have reduced some services to our academic community, and our student assistance programs have not kept pace with the growth in student fees. The net result is that hundreds of thousands of young people cannot go to college, or feel they cannot. And now, through this tax bill, we compound the problem. We deny university officials the opportunity to make up for inadequate Federal support through increased private contributions. This bill will significantly reduce the donor incentive to give, and probably substantially reduce contributions.

The result of this tax bill will increase the ranks of nonitemizers substantially and reduce that category of donor. The person who wishes to donate property which has appreciated value, such as stocks and bonds, can no longer claim current market value of those gifts as a tax deduction.

Compounding this problem is the reality that this Nation is already doing too little to encourage those of limited income to go to college and particularly—with great long-run damage to the country—we have too few really able Americans going on to graduate school in many fields. This tax bill will make that even worse. Scholarships and fellowships are now to be taxable. Federal grants to low income students, which often cover more than tuition and books, will be taxed for any amount above the tuition and book expenses. Limits on authority for private institutions to issue tax-exempt bonds will certainly impact the bricks and mortar side of higher education. These are among the multi-faceted assaults this bill makes on higher education.

At a time when there are already pressures on colleges and universities to lower standards, to provide less quality in education rather than more quality, this tax measure will add to the pressures to have less quality. Reduce the resources of these institutions and you will find fewer new books in the library, fewer pay raises for faculty. And that course in Japanese that will help trade relations with Japan in the long term, but only attracts six students, will be quietly dropped.

In the name of "tax reform" we are buying lower quality in higher education. It will not be visible. The library will look the same. There will be no headlines because a course in Japanese is not taught. And the faculty member who quietly leaves the campus for another field will be replaced by someone slightly less talented, but the alumni association or board of trustees will have a hard time measuring the loss.

We have heard the voices of the universities. Every Senator's office has undoubtedly heard from the American Council on Education, the National Association of Independent Colleges and Universities, the Association of American Universities, and the American Association of University Professors. The next voices we will hear will be the parents of college students lamenting the rise in tuition and costs associated with getting a college education for their children. And we will hear the voices of the men and women who will be denied an education because they aren't wealthy enough to pay for it. When we make it harder for people to get the education they want because they haven't the personal means to pay for it, when we cause a decline in the quality of higher education, we are only hurting ourselves and the future of this Nation.

I am also concerned about this bill's effect on cultural institutions such as museums, symphony orchestras, theaters, and opera companies. The nonitemizer deduction and the deduction for gifts of appreciated property are important to these organizations that enrich our lives. When I served in the House, I chaired the subcommittee with authorizing jurisdiction over the National Endowment for the Arts, the National Endowment for the Humanities, and the Institute of Museum Services, and I now serve on the Senate authorizing committee. I know firsthand how dependent museums and other arts and humanities organizations are on support from the private sector. This bill may jeopardize the ability of the Endowment's grantees to meet the matching requirements of such grants. Certain kinds of gifts of appreciated property, for instance, may be used to match *Challenge* grants. Cultural institutions which do not receive grants from NEA, NEH, and IMS are even more dependent on private giving and may be hurt even more by the reduction in tax incentives for charitable giving.

ASSAULT ON RENTERS

This bill makes such a pronounced attack on financing the construction of rental housing that there can be only one result. Over the next 5 years there will be a dwindling supply of new rental units available. Rents will go up. And they will go up dramatically. The former chairman of the President's Council of Economic Advisers, Murray Weidenbaum, has written that the passage of this measure will increase rents at least 10 to 15 percent over the next 3 years—far more for most renters than any breaks they will receive in the tax bill.

REDUCTION IN THE RATE OF SAVINGS

The United States has for some years lagged seriously behind our international competitors in our rate of savings. A few years ago we recognized this and some small steps were taken to fashion a remedy. One of the means used was to create an Individual Retirement Account. We gave people a tax break to encourage savings. The IRA's were getting into full stride. They were starting to work and we were saving more. Despite the need for greater savings in order to have the capital to invest in the future of this country, we turn our backs on a large portion of this incentive and dramatically reduce the number of prospective users of the IRA.

Many of the letters I receive are from people who have inadequate pension plans. They had started a systematic savings through IRA's so they could face a more secure retirement. Now we are discouraging their efforts to help themselves.

A BASIC UNFAIRNESS

Much ado has been made about the supposed fairness of the bill before us. But our Federal employee who is near retirement can tell you how fair this bill is. Not only does it reverse the long-standing "three year basis recovery rule" but it makes the effective date retroactive. Not fair by any standard.

I urge the supporters of the bill to try the fairness argument on the senior citizen who can no longer deduct significant medical expenses if they are less than 7.5 percent of income. The threshold for deduction has been increased to that percentage. Add to that the elimination of the second personal exemption—another blow to those senior citizens who are already struggling to get by.

For years we penalized married couples by an anomaly in the Tax Code which levied a heavier tax on a work-

ing married couple than on two single people with the same income. Then we eliminated the so-called "marriage penalty." This bill reverts to the old ways and the "marriage penalty" now returns. Another example of just how "fair" this bill is.

Most of us in this chamber will get a break from this bill. President Reagan gets a break from this bill. The Los Angeles Times reports that according to the Washington office of Touche, Ross & Co., the President will save an estimated $14,700 next year. Once the bill takes full effect, the President stands to gain even more, saving an estimated $30,671 or 25.2 percent of his 1985 tax payment, assuming that his income and expenses remain the same through 1988. By contrast, according to one major news magazine, one-third of those with incomes between $30,000 and $40,000 will receive tax increases and one-sixth of those with income below $10,000 a year will receive tax increases. Senior citizens aren't getting a break when it comes to medical deductions. Federal employees who have been loyal workers for years aren't getting a break when they retroactively lose the benefits of the 3-year recovery rule. Low income students aren't getting a break. Unemployed workers who will now have to pay taxes on their unemployment compensation aren't getting a break. Married, two income, couples aren't getting a break. And one third of middle income Americans will end up paying more. Ask them how fair this bill is.

LOWER RATES VERSUS LOOPHOLES

A few years ago I listened carefully to the arguments of those who wanted to reduce rates from 70 percent to 50 percent. They were convinced that if the rates were reduced more loopholes could be closed and we would have a better Tax Code. I did not agree. I voted against the proposal. But the bill was passed and the rates were cut. The loopholes remained and multiplied. The assumption that the pressure for exemptions in the Tax Code will diminish as the tax rate goes down is not borne out by history. The pressures for these tax exemptions is as great today when the rates are 50 percent as they were when the top rate was 70 percent or when top rate was 90 percent. And those pressures will continue unabated at 28 percent.

Now we are doing a rerun. We have different numbers but the same principles are involved. The same arguments. The same folly. The grand tradeoff in this bill is a lowering of the rates in exchange for closing loopholes. I predict that within 5 years most of the loopholes will return. One group after another has already announced that they will come to Congress next year to make their case for change. We will hear some powerful arguments and they will be believed. The loopholes will return, if not next year then the following year or the one after that. When they do, how will we pay the bills? If we can't balance the budget at the present rates of taxation, how are we going to do it with lower rates?

As a pay-as-you-go Senator, I have no illusions about this bill. We will collect less revenue. We will run up more debt. And we will pass that debt burden on to our children and our grandchildren. That is irresponsible.

What will be the impact of this measure over the long haul, over a 10-year period? Those who support it say it will help, that service jobs will be created where manufacturing jobs fade, that our economy will beocme more efficient. But the reality is they cannot be sure, just as I cannot be absolutely sure they are wrong. But the unanswered question: Why take this huge gamble with our economy?

We know some modest changes will help. Why not make those instead of playing high stakes poker with the future of this nation's economy by passing a measure that is not carefully planned and considered?

As this measure has moved ahead, the stock market has dropped.

When we were first tackling the deficit with the Gramm-Rudman-Hollings bill the stock market increased dramatically.

Is there no connection between these realities? Can we learn something from the stock market?

We can, but apparently we will not.

As I look at our sluggish economy I marvel at the number of my colleagues who are willing to gamble on slowing it down further. The net effect of this bill will be to reduce economic activity and growth at a time when we should be doing the opposite.

Mr. President, the rush to what I believe is a rash judgment will not be be slowed by anything I say here. but when we see, as I believe we will, the product of our folly I want the record to show that I did not vote for it. There is, there must be, a better way than the path we are about to choose.

Mr. ABDNOR. Mr. President, I wish to compliment the distinguished chairman of the Finance Committee, Senator PACKWOOD, and the Senate conferees for their efforts toward shaping a tax bill which is consistent with the goals which have driven this effort since its inception months ago. Ever since the President first introduced his blueprint for tax reform, I've been skeptical of its future. So I commend my colleagues Senators PACKWOOD and LONG for their hard fight and tenacity in guiding a broad-based measure such as this through the institutional and political channels necessary to get where we are today.

For years, I've been fighting for a solution to the abuses which exist in the Tax Code as it affects agriculture. As many of my colleagues know, I've introduced legislation in the last two sessions of Congress which would correct these abuses and have even had the Senate support my concept in the form of a nonbinding resolution. Notwithstanding that resolution, my pleas for a binding solution had gone unheeded. The buck finally stopped when this bill hit the Senate Finance Committee.

It's for this reason that I commend my distinguished colleague, Chairman PACKWOOD, for his keen insight in addressing this issue in his bill and for retaining the Senate language in conference. A solution to this problem was long overdue, a solution I believe is provided for in the conference report to H.R. 3838.

For far too long, tax loss farmers have harvested the Tax Code, plowed up fragile lands and added to the farm sector's overproduction problems. My goal has been to return farming to those who are interested in farming for a profit rather than for a loss. By that, I mean bonafide, full-time, commercial-sized farms will be treated fairly and not put at a disadvantage by non-farmer tax sheltering. The conference bill helps me realize that goal.

Critics have argued that including this concept in the Tax Code will eliminate investment in agriculture. I won't argue that it will eliminate destructive investment. But it will not wipe out legitimate investment in agriculture. Anyone can still invest in farming and take full deductions, so long as they are in farming to make a profit, not a loss. Those who have dirt under their fingernails will be allowed full deductions, those who don't won't. It's as simple as that.

Mr. President, in addition to doing away with agricultural tax shelters, there are other reasons to reform the Tax Code, many of which have been addressed in H.R. 3838. For far too long, our Tax Code has been riddled with loopholes allowing a select few to avoid tax liability at the expense of the many. I believe lowered rates in exchange for eliminated deductions is a tradeoff every one of these hard-working Americans would choose to accept. For that reason, I'm very happy with the drastic rate reductions adopted by the conference committee.

The second observation, I would like to make is that there is something fundamentally wrong with a Tax Code which encourages investors to make investments in order to lose money rather than make it. Restoring investment decisions to a plane where they're based on economic substance rather than tax-motivated legalese has been a long time coming. In my opinion, this bill goes a long way toward addressing this inconsistency.

Despite my support for certain of the conference committee provisions, I

regret that my support for the bill overall has waned as it has progressed through the legislative process. I was happy to support the Senate-passed bill. Regrettably, that legislation has been substitutively altered by the conference committee. In my opinion, this legislation has markedly regressed from the Senate-passed version.

For example, Senators GRAMM, GORTON, and EVANS and I worked diligently on the Senate floor to restore at least a portion of the deduction for State sales taxes, with the assurance that full deductibility would be sought for in conference. I'm sorry to say that the conference committee struck even partial deductibility from their bill.

The average sales tax deduction for South Dakota's itemizing taxpayers in 1985 amounted to $505. Mr. President, I believe it is patently unfair to deprive taxpayers in States with no State income tax of the deduction for State sales taxes. Aside from the economic impact of this change, there is a principle involved here. Disallowing a deduction for State sales taxes while continuing to allow the deduction for State income taxes amounts to Uncle Sam instructing the State to change the manner in which it raises revenue. In the interest of protecting my Governor, State legislature, and people, I cannot support such a provision.

In addition, on the Senate floor, we were successful in restoring income averaging for farmers, a very popular provision for many South Dakota farm operators whose incomes fluctuate wildly from year to year. This amendment was also lost in conference.

Moreover, one of the fundamental principles of tax revision is that individuals should not be retroactively harmed by future changes in the Tax Code. That principle has been violated in this bill.

In the weeks since Senate passage of the bill, I have been literally overwhelmed by the number of disgruntled farmers and small businessmen. They are disgruntled not because Congress has chosen to repeal the investment tax credit, but because we have chosen to do so retroactively. I believe this body grossly underestimated the number of individuals who would be caught in the window between January 1, 1986 and passage of the Senate bill. This bill changes the rules in the middle of the game. This is unfair.

Mr. President, I recognize the diverse interests the managers of this bill had to accommodate in formulating the product that is before us today. Moreover, I respect the artful manner in which the chairman and ranking member have delicately balanced the various points of view with regard to this bill. I have the utmost respect for the managers of this bill. They have persevered against great odds and breathed new life into this initiative on more than occasion. They deserve tremendous credit for their efforts.

Despite my great respect for the work that has gone into this effort, I must oppose the legislation. The chairman himself has stated that we all have to carry the water for our respective States. Along with members of my staff, I spent almost a month traveling in South Dakota during the August recess. During that time, I received a great deal of feedback concerning tax reform. The overwhelming consensus perception was that the conference bill would adversely impact the South Dakota taxpayer.

I thank the Chair.

Mr. HELMS. Mr. President, the record is clear that the distinguished chairman of the Finance Committee, Mr. PACKWOOD, has done extraordinarily effective work in producing a tax reform bill. In June, he brought to the Senate floor a bill that contained the lowest tax rates in 50 years. It wasn't perfect—there were numerous provisions with which I disagreed—but it was a remarkable effort, and I was convinced that it would have been good for our economy.

But today we are faced with an up-or-down vote on a conference report significantly different from the tax bill approved by the Senate. I regret that it has been transformed into a version which for several reasons I simply cannot support.

Mr. President, I agree substantially with the direction in which this tax bill moves. It dramatically lowers individual and corporate tax rates while eliminating special tax breaks across the board. Those are much needed reforms. However, I'm concerned that most of the changes made by the conference committee were not made in the name of wise tax policy; rather, they were made because of the need to raise revenue in order to keep the bill revenue neutral. These changes shifted $120 billion of the tax burden to the country's business sector over the next 5 years. After studying the various analyses of the bill, I'm convinced that such drastic shift of the tax burden to the business sector will have a negative effect on our economy, an inflationary impact on our trade deficit, and eliminate any chance of our meeting the deficit targets under Gramm-Rudman-Hollings.

Last week the Senate proved once again how difficult it is for this body to make any real reductions in Federal spending. We passed a reconciliation bill which purportedly will save $13.3 billion next year. But that bill contained very few, if any, of the real spending reductions that must ultimately be made if Congress is serious about meeting the Gramm-Rudman targets in future years. Even if this tax bill is not given final approval, and even if the economy picks up, it will nevertheless be a tremendously difficult task to reach the deficit target of $108 billion in 1988. If, as projected, this bill loses $17 billion in 1988 and $15 billion in 1989, and we have no exceptionally strong offsetting stimulus to the economy, all realistic hope of complying with the Gramm-Rudman targets will be lost.

UNCERTAINTY OVER REVENUE ESTIMATES

Mr. President, the Joint Tax Committee probably has as fine a staff as any committee on Capitol Hill. But even our top economists differ on the direction our economy will turn in the short haul. Given that uncertainty, plus the inherent problems with estimating how massive tax changes will affect the economy, scant hope exists that this bill is, in fact, revenue neutral.

In addition, there are particular aspects of the estimate which concern me. For example, the committee projects that the bill will pick up $25 to $30 billion over 5 years through the elimination of the capital gains differential. Martin Feldstein, former White House economist, projects that the change will actually lose revenue. One does not need to be an economist to perceive that Mr. Feldstein is closer to the mark.

In 1981, when we reduced the capital gains rate from 28 percent to 20 percent, we actually gained revenue because of the increased number of transactions. It is not logical to accept the notion that we can now jack the rate back up and expect to increase revenue again.

Mr. President, if we do begin losing revenue over the next several years, it is already clear what some in Congress will attempt to do: Begin raising the rates. While I welcome the significantly lower rates contained in the bill, I fear that they may be short lived—perhaps not while President Reagan is in office, but I'm not so sure under a subsequent administration.

EFFECT ON ECONOMY

Mr. President, in addition to the very real possibility that the bill itself will lose revenue, I am gravely concerned about the negative effect it will have on our economy. The analyses I have read agree on one point—that the repeal of the investment tax credit, the elimination of the accelerated depreciation system and the removal of the capital gains differential will reduce the incentive for companies to invest. These changes will also retard the economic recovery in the agricultural sector and make it more difficult for many farmers to survive.

At a time when economists can't even agree on which way our economy will turn in the near future, it seems unwise to eliminate these important investment stimuli at once. This is bound to have a negative effect on

economic growth, which will, in turn, further reduce Federal revenue.

EFFECT ON TRADE DEFICIT

Mr. President, to pay for their added tax burden, businesses, large and small, will be forced to raise prices. This will obviously make our markets even more receptive to imported goods and make our manufacturers and farmers less competitive in international markets. I've seen estimates that the trade deficit could reach $170 billion this year, despite the recent decrease in the value of the dollar. If you think a protectionist sentiment is growing in Congress now, just wait until the trade deficit continues to soar next year.

SPECIFIC PROVISIONS OF BILL

There are a host of provisions in the bill which give me pause, such as some of the preference items contained in the alternate minimum tax for financial institutions, insurance companies, educational institutions and other businesses. One particular provision, elimination of the loan loss reserve for large banks, has been identified by some of my constituents, as well as the Federal Deposit Insurance Corporation, as the most troubling provision in the whole bill. Ironically, the elimination of this method comes at a time when regulators are encouraging banks to provide more adequately for potential losses.

I'll be the first to agree that we need to remove the incentives to invest in tax shelters. But I also agree with the point that has been made repeatedly on and off this floor: it is fundamentally unfair for Congress to create an investment incentive and later remove that incentive retroactively. I refer both to the application of the passive-loss rules to existing investments and to the retroactive repeal of the investment tax credit. How can we expect the American people to have faith in Congress?

I've listened to the supporters of the conference report acknowledge the serious defects in it, but then say that we can "fix" these problems. The retroactive provisions are most often mentioned in this regard. Such statements border on being disingenuous. Provisions are repealed retroactively in order to raise revenue. To "fix" those provisions will lose revenue. Where, pray tell, will we find the revenue in the next several years to make up for the revenue lost when we "fix" the bill. It won't happen, and we all know it.

In summary, Mr. President, this bill has many positive features. Obviously its most important virtue is the lower tax rates. There are already indications, though, that there will be efforts immediately to raise the rates once the bill is enacted. Furthermore, it doesn't take an economist to understand that if consumer prices increase, any money that individuals may save on their tax bill won't go very far.

Considering the state of our economy, and the size of our budget and trade deficits, I'm convinced that it would be unwise to enact tax legislation which is almost certain to slow economic growth in the near term, aggravate the growing trade deficit, and reduce, if not eliminate, our chances of reducing the budget deficit. Therefore, Mr. President, I cannot support this conference report.

Mr. THURMOND. Mr. President, I rise today in support of the Tax Reform Act of 1986. This historic piece of legislation is the culmination of a major effort by Members of Congress to improve the tax laws of this Nation. It seeks to achieve a fundamentally fair tax system in which taxpayers of equal income will pay equal taxes. I believe that the willingness of our citizens to pay their taxes is based on a recognition that this is the price of good government. However, Americans are perfectly justified in expecting that those similarly situated will share equally in the cost of government. I believe this bill is a needed step in that direction.

It is clear that no tax reform bill can please all affected. Furthermore, there are certain areas in this bill which I cannot totally support. For example, I am concerned about the impact that changes in the tax-exempt bond area will have on State and local financing. I am concerned that the repeal of the capital gains deduction will negatively impact the timber industry. This legislation will cause the real estate industry to undergo major restructuring in the next few years. The banking industry will also have to make major adjustments. Despite these concerns, it is necessary to balance all the various positive and negative aspects of this legislation and view it in its entirety. As a whole, in my judgment, this bill merits my support.

In the provisions affecting the individual taxpayer, 80 percent of Americans will pay taxes in the 15 percent bracket. A number of important deductions have been retained including the deduction for mortgage interest on first and second homes, State and local property taxes, State and local income taxes, charitable contributions for those who itemize, and medical expenses exceeding a certain amount.

I also believe that the provisions which apply to the corporate sector will benefit the economy. First, the maximum tax rate will be reduced from 46 percent to 34 percent. A recent article in the Wall Street Journal points out that a reduction in corporate tax rates will attract new foreign investments, and will also reduce American direct investment abroad. Studies cited estimated that the 1981-82 tax changes may have increased foreign direct investment in the United States by as much as 20 percent a year, while reducing American investments abroad by as much as 4 percent a year. I believe American companies should be encouraged to invest in the future of America, and I am optimistic that these provisions will accomplish such a result.

I have previously expressed concerns about the repeal of the 20-percent capital gains rate. However, it is important to put the new 28-percent rate into historical perspective. It is worth noting that the top rate on long-term capital gains was 25 percent in the United States until 1968—only slightly below the new proposed top rate. This rate did not appear to slow national economic growth during the 1950's and 1960's.

Mr. President, this bill is not perfect. Nevertheless, when viewed in its entirety, the advantages outweigh the disadvantages. Long-term positive benefits will emerge as a more productive economy is established, and financial decisions are made on the basis of economic merit rather than tax avoidance. For these reasons, I will vote in favor of this bill.

Mr. COHEN. Mr. President, I rise to express my support for the conference report on H.R. 3838, the Tax Reform Act of 1986. Since the conferees reached their final decisions on tax reform last month, we have all heard conflicting characterizations of what this bill will mean to our Nation. Some have hailed this tax bill as one of the most historic legislative achievements in recent memory. Others have condemned the bill as being a major threat to our economy. In deciding whether to support this conference report, it has been necessary to cut through the hyperbole and to ask the essential question of whether this bill is a positive step toward meaningful tax reform. In my opinion, the answer is an unequivocal "yes."

This bill contains major provisions that will make our tax laws fairer. It provides relief to 6 million low-income persons by removing them from the Federal income tax rolls. It benefits many low- and middle-income persons by expanding the personal exemption and standard deduction and by retaining indexing of the tax rates. It targets much of its tax relief to persons who do not itemize on their Federal income tax returns, which now constitutes over two-thirds of all taxpayers.

This bill places over 80 percent of all American taxpayers in the 15-percent marginal tax bracket and distributes the tax burden more equitably by broadening the tax base. It retains the tax benefits that are widely used by most taxpayers, such as the mortgage interest deduction, the charitable contribution deduction for itemizers, and the deduction for State and local income and property taxes. It gives

three out of four taxpayers a tax reduction, while making our tax system even more progressive than under current law.

In addition to these benefits to individuals, the bill revamps the entire structure of our tax laws. By shifting approximately $120 billion of the overall Federal income tax liability from individual taxpayers to corporations, this bill restores a balance in the Tax Code that has been upset over the years by the addition of countless tax loopholes and special interest provisions. By lowering corporate tax rates and removing tax shelters, this bill encourages more productive investments by businesses. By imposing a tougher minimum tax on corporations, the bill will put an end to the scandalous stories of companies which make millions in profits, yet pay little or no Federal income taxes. All of these factors will go far in restoring faith in our tax system, especially for the average taxpayer who now thinks that everyone except himself or herself is getting a tax break.

Undoubtedly, any tax reform bill of this magnitude presents many difficult choices. In many areas, I disagree with the decisions made by the conferees. I am, for example, particularly concerned over the retroactivity of some provisions, especially with regard to the passive loss limitations, repeal of the 3-year basis recovery rule that affects the pension benefits of Federal retirees, and retroactive repeal of the investment tax credit. As I expressed during the Senate's debate on this tax bill earlier this year, it is unfair to change the rules in the middle of the game on taxpayers who made investment or retirement decisions in good faith on the basis of existing tax laws. I also have concerns over the effects of certain provisions of this bill on charitable giving and local economic development, and believe that additional tax relief may be appropriate for small businesses. I strongly suspect that we will be revisiting the issue of tax reform in the coming Congresses to address these and other issues raised by this bill.

Despite my reservations over certain provisions and effects of this bill, I believe that this legislation presents a momentous opportunity for the Congress to say "yes" to improving our tax system and to turn us in the right direction of fundamental, meaningful tax reform. Enactment of this legislation is necessary to bring long-term health to our economy and to restore public confidence in the fairness of our tax laws, and I look forward to its immediate adoption.

Mr. HECHT. Mr. President, I rise today to voice my support for the Tax Reform Act of 1982. I believe this legislation provides many benefits for the American people. It is a bill that will take 6 million low-income taxpayers, including 700,000 elderly taxpayers, off the tax rolls. It is a bill that offers significant rate reductions for individuals. And furthermore, it is a bill which provides a more equitable distribution of tax burdens across all economic sectors. However, Mr. President, my support is tempered by my concerns over several provisions in the conference agreement.

Mr. President, I am opposed to the restrictions placed upon individual retirement accounts. IRA's have helped and encouraged millions of Americans, including many with moderate incomes, to save for their retirement. IRA's have also benefited the economy by generating new savings, by providing capital for business growth, and by enlarging the stable pool of savings available for long-term investment. Mr. President, when all of the facts are considered, it is clear to me that IRA's are working effectively, and to restrict this program is a mistake.

Mr. President, I also have great concern over the new tax rules applied to investors in limited partnerships. While I most certainly agree that it is necessary to change our tax policy to help curb abusive use of tax shelters, I am opposed to retroactively imposing restrictions on the millions of investors who have undertaken investments and committed future funds, in good faith, based upon existing tax laws. Over the past several years millions of investors have, through the formation of limited partnerships, bought land, built buildings and shopping centers, and created rental housing for low-and middle-income Americans. Now, to take away the incentives that were a critical part of the investment decision, in the middle of the game, is outright unfair.

Mr. President, there are many other provision which are cause for concern, the treatment of capital gain as ordinary income, the retroactive restrictions placed upon Federal employee pensions and the limitation of the business meals and entertainment deductions to 80 percent of actual expenses are just a few.

Despite these concerns Mr. President, the many positive aspects of tax reform cannot be denied. I believe that the positives of this legislation far outweigh the negatives, and I urge my colleagues to join me in voting for this bill.

Mr. BOREN. Mr. President, deciding how to vote on this tax bill has not been an easy decision. I commend my colleagues in the Senate Finance Committee, including Chairman PACKWOOD and Senator LONG, the ranking minority member, for their many long hours of work on this bill. I sincerely appreciate the fair reception which they and my colleagues in the committee and on the Senate floor gave to several amendments which I offered to the bill. I do believe that this bill is much improved from the one which first passed the House of Representatives.

While the bill has several good features, I cannot in conscience vote for it, because I honestly believe that, on balance, it will further weaken our economy by making it harder for us to compete in world markets.

The President and we in the Congress must not indulge ourselves in any false illusions that this tax bill will do anything to help solve our basic economic problems. Reducing the twin budget and trade deficits should be at the top of the agenda and Congress appears headed for adjournment without really addressing them.

From my mail from Oklahomans, which has run 40 to 1 against this tax bill, it is clear that our people want the real problems addressed so that we can turn around the terrible economic situation in our region and the underlying trouble which lurks barely beneath the surface of the entire national economy.

The tax bill will indirectly encourage more consumption while at the same time discourage saving, investment, and research which we so badly need to save American jobs by restoring our ability to compete with the rest of the world. We are already living beyond our means and if we destroy the ability of Americans to produce, we could well just end up consuming more goods produced by foreign countries while sending the bill to the next generation.

The bill has several good features including the closing of some loopholes, reduction of some rates, and provisions to make sure that companies which make millions of dollars cannot completely escape paying at least a minimum tax.

I regret that there are so many other negative features in the bill that I cannot vote for it.

Even with several positive amendments which were adopted, it will still place an additional $10 billion burden on the domestic energy industry when it is already in a depression.

It denies hard-pressed farmers the right to average their incomes from good and bad crop years.

It will curtail the incentives for millions of Americans to set up their own savings accounts for their retirement.

It provides an indirect surtax on upper middle income taxpayers to force them into a higher marginal rate than those who are very wealthy.

The effective marginal rate for a couple making a combined income of $80,000 per year will be higher than the rate for a couple making $10 million per year. The actual marginal rate in the first year of the bill for middle income taxpayers will be 38 per cent and not 28 per cent as advertised by the sponsors of the bill.

While some changes in the taxation of real estate investments were in order, the swiftness and severity of the changes could well cause severe economic dislocations in this sector and for financial institutions which are already hard-pressed by the devaluation of assets.

Many other individual defects in the bill could be listed in addition to the ones which I have outlined. Several provisions are retroactive and change the rules in the middle of long-term investment programs.

Above all, however, I am most concerned that the bill will tend to raise the cost of investments in the United States and further discourage saving. This will mean less research on new products and less modernization of our plants and equipment. Ultimately, lower investment means less productivity for American workers, higher trade imbalances, and fewer jobs.

When will we ever wake up to the fact that we will never get our economy on a solid footing until we deal with the budget and trade deficits? We can't keep living off the shelf while not replenishing the inventory.

We must do something to reduce capital costs and increase our savings rates. I hope that I am proven wrong, but I fear that this bill will do just the opposite.

FARMERS AND INCOME AVERAGING

Mr. President, income averaging is extremely important to the family farmers of our Nation. Regretfully, the conference deleted the Senate provision retaining income averaging for farmers.

Unlike the overwhelming majority of taxpayers, farmers' incomes are extremely volatile due to circumstances beyond their control. If the weather is good, a farmer might have a record harvest one year only to turn around the next year and have his entire crop wiped out by drought or flood. Until April of this year, Oklahoma wheat farmers faced the prospect of a relatively good crop. However, lack of rain in April resulted in premature ripening of the crop which reduced the yields and then, at harvest time there was an excessive amount of rain. As a result, yields were substantially reduced and some producers lost their entire crop.

Precisely because of situations such as the one we experienced in Oklahoma this year, income averaging is critically important to our farmers. Further, it is much more important than many would have you believe.

The Department of Agriculture circulated earlier this year a paper analyzing the Senate Finance Committee tax reform bill and the House bill. The document states:

Under current law, about 11 percent of individuals with farm business receipts utilize income averaging, resulting in an average savings of $800 per return in 1982. Most of these individuals would fall in the new 15-percent bracket under both the House and Senate bills, and thus would not be affected by the repeal of income averaging.

There are two aspects of the Department's statement which require scrutiny. First of all, individuals with farm business receipts include all the hobby farmers and all the taxpayers who do not rely on farming as their primary source of income but might have $100 worth of income a year from an agricultural investment. Of the 2.4 million "farmers" in the United States, only 604,000 "farmers" are family farmers. That's roughly about 25 percent of all taxpayers that report some farm income. It is quite possible that the 11 percent of the "farmers" utilizing income averaging in 1982 was comprised completely of family farmers, those who depend upon agriculture for a living. In other words, it is quite possible that almost 50 percent of all family farmers utilized income averaging in 1982. The statement used by the Department would have you think that only 11 percent of all family farmers used income averaging when the reality might be that 50 percent took advantage of income averaging that year.

Second, the Department says that most of those utilizing income averaging would fall in the 15-percent bracket and would not be affected by the repeal of income averaging. It may be true, Mr. President, that the hobby farmers may not be affected, since they are not dependent upon farming for a living and will not see their income drop dramatically when their entire crop is wiped out. By the Department's own numbers, hobby farmers rely on agriculture for only 3 percent of their total income. It stands to reason that they will not lose much if income averaging is repealed.

However, if officials at the Department believe that family farmers in Oklahoma or elsewhere in the United States will not be affected, they need to learn a little more about agriculture. Perhaps, the Department is guilty of examining the tax bill from the standpoint of what it would do "on average" to all individuals that have some farm receipts. "On average" a river could be only 2 feet deep, but that doesn't mean that people can't drown in the river. "On average" most individuals with farm receipts might not be affected, but 50 percent or more of the family farmers might be devastated by the repeal of income averaging.

The Department has argued that farmers no longer need income averaging because they will be in the 15 percent tax bracket. Income averaging won't make any difference, according to the Department. This is far from the reality when one looks at farm income over the past 10 or 15 years.

Between 1982 and 1983, net farm income in Oklahoma dropped by more than 50 percent. In 1977, net farm income was 85 percent lower than in 1976. From a careful examination of net income figures, it becomes apparent that there are volatile swings in farm income. Without income averaging, farmers will pay much more in taxes if their income rises and falls. For example, if a farmer makes $5,000 one year and $40,000 the next year, he pays over 40 percent more in taxes during the 2-year period than the taxpayer reporting $22,500 each of the 2 years.

Surely there is no one in this Chamber who believes this is equitable. Yet, this is the reality under the tax reform bill, unless, of course, we could find some way to control the weather.

Mr. President, I am deeply disappointed that the Senate provision on income averaging was not retained in the tax reform bill. There are many negative aspects of this legislation as far as farmers are concerned, but the loss of income averaging will have a serious effect on many agricultural producers, particularly those producers in the Southeastern part of the United States who suffered severe losses from the drought this summer.

If the tax reform bill is adopted, it is my hope that we can reexamine this issue in the next Congress.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mrs. Emery, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

DEFERRAL OF CERTAIN BUDGET AUTHORITY—MESSAGE FROM THE PRESIDENT—PM 177

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with accompanying papers; which, pursuant to the order of January 30, 1975, was referred jointly to the Committee on Appropriations, the Committee on the Budget, the Committee on Agriculture, Nutrition, and Forestry, the Committee on Armed Services, the Committee on Energy and Natural Resources, the Committee on Labor and

Human Resources, the Committee on the Judiciary, the Committee on Foreign Relations, the Committee on Commerce, Science, and Transportation, the Committee on Finance, and the Committee on Environment and Public Works:

To the Congress of the United States:

In accordance with the Impoundment Control Act of 1974, I herewith report 21 new deferrals of budget authority totaling $1,835,613,015.

The deferrals affect accounts in Funds Appropriated to the President, the Departments of Agriculture, Defense-Military, Defense-Civil, Energy, Health and Human Services, Justice, State, Transportation, and Treasury, the Commission on the Ukraine Famine, the Office of the Federal Inspector for the Alaska Gas Pipeline, and the Pennsylvania Avenue Development Corporation.

The details of these deferrals are contained in the attached report.

RONALD REAGAN.

THE WHITE HOUSE, *September 26, 1986.*

MESSAGES FROM THE HOUSE

At 11:23 a.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that in accordance with the provisions of House Resolution 562, the bill of the Senate (S. 638) entitled "An act to amend the Regional Rail Reorganization Act of 1973 to provide for the transfer of ownership of the Consolidated Rail Corporation to the private sector, and for other purposes," is hereby returned to the Senate.

The message also announced that pursuant to the provisions of section 276a-1 of title 22, United States Code, the Speaker appoints as members of the delegation to attend the conference of the Interparliamentary Union, to be held in Buenos Aires, Argentina, on October 6, to October 11, 1986, the following Members on the part of the House: Mr. PEPPER, chairman, Mr. HAMILTON, vice chairman, Mr. SEIBERLING, Mrs. BOGGS, Mr. HUBBARD, Mr. GARCIA, Mr. HAYES, Mr. FUSTER, Mr. HYDE, Mr. SHAW, and Mr. MONSON.

The message further announced that the House has passed the following bill and joint resolution, in which it requests the concurrence of the Senate:

H.R. 5379. An act to authorize the Secretary of Transportation to release restrictions on the use of certain property conveyed to the Peninsula Airport Commission, Virginia, for airport purposes; and

H.J. Res. 738. Joint resolution making continuing appropriations for the fiscal year 1987, and for other purposes.

The message also announced that the House disagrees to the amendment of the Senate to the bill (H.R. 5300) to provide for reconciliation pursuant to section 2 of the concurrent resolution on the budget for fiscal year 1987; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints the following as managers of the conference on the part of the House.

From the Committee on the Budget, for consideration of the entire House bill and Senate amendment, except for revenue measures on which conferees from the Committee on Ways and Means have been appointed: Mr. GRAY of Pennsylvania, Mr. LOWRY of Washington, Mr. DERRICK, Mr. JENKINS, Mr. ATKINS, Mr. LATTA, Mrs. MARTIN of Illinois, and Mr. LOEFFLER.

From the Committee on the Budget, solely for consideration of those portions of the House bill and Senate amendment containing revenue measures on which conferees from the Committee on Ways and Means have been appointed: Mr. JENKINS and Mr. LATTA.

From the Committee on Agriculture, solely for consideration of title II of the House bill and title I and section 501 of the Senate amendment: Mr. DE LA GARZA, Mr. JONES of Tennessee, Mr. STENHOLM (except for consideration of section 501 of the Senate amendment), Mr. BEDELL (solely for consideration of section 501 of the Senate amendment), Mr. MORRISON of Washington, and Mr. GUNDERSON.

From the Committee on Appropriations, solely for consideration of sections 11001 and 11002 of the House bill and sections 665 and 1106 of the Senate amendment: Mr. WHITTEN, Mr. FAZIO, and Mr. CONTE.

From the Committee on Banking, Finance and Urban Affairs, solely for the consideration of title III of the House bill, and title II of the Senate amendment: Mr. ST GERMAIN, Mr. GONZALEZ, Mr. ANNUNZIO, Mr. NEAL, Ms. OAKAR, Mr. WYLIE, Mr. MCKINNEY, and Mr. LEACH of Iowa.

From the Committee on Education and Labor, solely for consideration of section 11005 of the House bill and title VIII and sections 1210-1212 of the Senate amendment: Mr. HAWKINS, Mr. FORD of Michigan, Mr. CLAY, Mr. GAYDOS, Mr. BIAGGI, Mr. JEFFORDS, Mrs. ROUKEMA, and Mr. COLEMAN of Missouri.

From the Committee on Energy and Commerce, solely for consideration of sections 4701-4753 of the House bill and section 303 of the Senate amendment: Mr. DINGELL, Mr. FLORIO, Mr. SHARP, Mr. ECKART of Ohio, Mr. SLATTERY, Mr. LENT, Mr. WHITTAKER, and Mr. MADIGAN.

From the Committee on Energy and Commerce, solely for consideration of section 501 of the Senate amendment: Mr. DINGELL, Mr. WAXMAN, Mr. FLORIO, Mr. SHELBY, Mr. SLATTERY, Mr. LENT, Mr. MADIGAN, and Mr. WHITTAKER.

From the Committee on Energy and Commerce, solely for consideration of sections 4001, 4101, 4201-4206, 4301, 4302, 4401-4405, 5001, and 8101 of the House bill and sections 401-405, 411, and 502 of the Senate amendment: Mr. DINGELL, Mr. SHARP, Mr. MARKEY, Mr. SWIFT, Mr. SLATTERY, Mr. LENT, Mr. DANNEMEYER, and Mr. MOORHEAD.

From the Committee on Energy and Commerce, solely for consideration of subtitles F and G of title IV, parts 2-4 of subtitle C of title X, section 10001(c) and (d)(3), section 10102, and that portion of section 10206 amending subsection 710(b)(2) of the Social Security Act, of the House bill, and section 604(c), parts 2-4 of subtitle A of title VI, and subtitle B of title VI of the Senate amendment: Mr. DINGELL, Mr. WAXMAN, Mr. SCHEUER, Mr. WALGREN, Mr. SLATTERY, Mr. LENT, Mr. MADIGAN, and Mr. WHITTAKER.

From the Committee on Government Operations, solely for consideration of section 11003 of the House bill and section 653 of the Senate amendment: Mr. BROOKS, Mrs. COLLINS, Mr. ENGLISH, Mr. WAXMAN, Mr. WEISS, Mr. HORTON, Mr. WALKER, and Mr. CLINGER.

From the Committee on Government Operations, solely for consideration of sections 10207 and 11004 of the House bill and sections 1103, 1104, 1203, and 1204 of the Senate amendment: Mr. BROOKS, Mr. FUQUA, Mrs. COLLINS, Mr. ENGLISH, Mrs. BOXER, Mr. HORTON, Mr. WALKER, and Mr. CLINGER.

From the Committee on Interior and Insular Affairs, solely for consideration of title V and subtitle I of title VI of the House bill and section 502 of the Senate amendment: Mr. UDALL, Mr. SEIBERLING, Mr. WEAVER, Mr. MILLER of California, Mr. SHARP, Mr. YOUNG of Alaska, Mr. LUJAN, and Mr. LAGOMARSINO.

From the Committee on the Judiciary, solely for consideration of part C of title VII of the Senate amendment: Mr. RODINO, Mr. BROOKS, Mr. GLICKMAN, Mr. FRANK, Mr. BERMAN, Mr. FISH, Mr. BROWN of Colorado, and Mr. COBLE.

From the Committee on Merchant Marine and Fisheries, solely for consideration of title VI, except for part 5 of subtitle E thereof, subtitle C of title VII, and parts 1 through 4 of subtitle D of title VIII of the House bill, and sections 301, 302, and 501, and subtitle C of title IV of the Senate amendment: Mr. JONES of North Carolina, Mr. BIAGGI, Mr. BREAUX, Mr. STUDDS, Mr. LOWRY of Washington, Mr. DAVIS, Mr. SNYDER (except for consideration of subtitle D of title VI of the House bill), Mr. YOUNG of Alaska (except for consideration of subtitle I of title VI of the House bill), and Mr. FIELDS, (solely for consideration of subtitles D and I of title VI of the House bill).

From the Committee on Post Office and Civil Service, solely for consider-

ation of title VII of the House bill and sections 701, 711, and 1202 of the Senate amendment: Mr. FORD of Michigan, Ms. OAKAR, Mr. LELAND, Mr. TAYLOR, and Mr. HORTON.

From the Committee on Public Works and Transportation, solely for consideration of subtitles A and E of title VIII of the House bill and sections 503 and 504 of the Senate amendment: Mr. HOWARD, Mr. ANDERSON, Mr. NOWAK, Mr. EDGAR, Mr. APPLEGATE, Mr. SNYDER, Mr. SHUSTER, and Mr. CLINGER.

From the Committee on Public Works and Transportation, solely for consideration of section 501 of the Senate amendment: Mr. HOWARD, Mr. ROE, Mr. BOSCO, Mr. TOWNS, Mr. WISE, Mr. SNYDER, Mr. HAMMERSCHMIDT, and Mr. STANGELAND.

From the Committee on Public Works and Transportation, solely for consideration of subtitle B of title IV and subtitle B of title VIII of the House bill and section 411 of the Senate amendment: Mr. HOWARD, Mr. ANDERSON, Mr. EDGAR, Mr. RAHALL, Mr. APPLEGATE, Mr. SNYDER, Mr. HAMMERSCHMIDT, and Mr. SHUSTER.

From the Committee on Public Works and Transportation, solely for consideration of subtitle A of title VI, parts 1–4 of subtitle E of title VI, subtitle C of title VIII, and parts 1–4 of subtitle D of title VIII of the House bill: Mr. HOWARD, Mr. ROE, Mr. BOSCO, Mr. TOWNS, Mr. WISE, Mr. HAMMERSCHMIDT, Mr. SHUSTER, and Mr. STANGELAND.

From the Committee on Small Business, solely for consideration of title IX of the House bill, and title IX of the Senate amendment: Mr. MITCHELL, Mr. SMITH of Iowa, and Mr. MCDADE.

From the Committee on Ways and Means, solely for consideration of title X, subtitle F of title IV, part 5 of subtitle E of title VI, and part 5 of subtitle D of title VIII of the House bill and title VI, except for subtitle B thereof, title VI–A, except for section 665 thereof, title X, sections 1105, 1107, and 1201, subtitle B of title XII, and title XIII of the Senate amendment: Mr. ROSTENKOWSKI, Mr. GIBBONS, Mr. PICKLE, Mr. RANGEL, Mr. STARK, Mr. JACOBS, Mr. FORD of Tennessee, Mr. DUNCAN, Mr. ARCHER, Mr. CRANE, and Mr. GRADISON.

ENROLLED BILL SIGNED

At 1:06 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the Speaker pro tempore [Mr. WRIGHT] has signed the following enrolled bill:

S. 2294. An act to amend the Education of the Handicapped Act to reauthorize the discretionary programs under that act, to authorize an early intervention program under that act for handicapped infants and toddlers and their families, and for other purposes.

MEASURES REFERRED

The following joint resolution was read the first and second times by unanimous consent, and referred as indicated:

H.J. Res. 738. Joint resolution making continuing appropriations for the fiscal year 1987, and for other purposes; to the Committee on Appropriations.

MEASURES PLACED ON THE CALENDAR

The following bill was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 5379. An act to authorize the Secretary of Transportation to release restrictions on the use of certain property conveyed to the Peninsula Airport Commission, Virginia, for airport purposes.

ENROLLED BILL AND JOINT RESOLUTION PRESENTED

The Secretary of the Senate reported that on today, September 26, 1986, she had presented to the President of the United States the following enrolled joint resolution:

S. 2294. An act to amend the Education of the Handicapped Act to reauthorize the discretionary programs under that act, to authorize an early intervention program under that act for handicapped infants and toddlers and their families, and for other purposes; and

S.J. Res. 159. Joint resolution to designate the rose as the national floral emblem.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HEINZ (for Mr. GARN), from the Committee on Banking, Housing, and Urban Affairs:

Special report entitled "Second Monetary Policy Report for 1986" (with additional views) (Rept. No. 99-490).

By Mr. THURMOND, from the Committee on the Judiciary, with an amendment in the nature of a substitute:

S. 2270: A bill to amend the Immigration and Nationality Act to deter immigration-related marriage fraud and other immigration fraud (Rept. No. 99-491).

By Mr. THURMOND, from the Committee on the Judiciary, with an amendment:

S. 1145: A bill to increase the accountability of, policy coordination by, and management of priorities by agencies through an improved mechanism for congressional oversight of the rules of agencies (Rept. No. 99-492).

By Mr. ANDREWS, from the Select Committee on Indian Affairs, with an amendment in the nature of a substitute:

H.R. 1920: A bill to establish Federal standards and regulations for the conduct of gaming activities on Indian reservations and lands and for other purposes (Rept. No. 99-493).

By Mr. HATFIELD, from the Committee on Appropriations, with amendments:

H.J. Res. 738: A joint resolution making continuing appropriations for the fiscal year 1987, and for other purposes.

By Mr. DANFORTH, from the Committee on Commerce, Science, and Transportation, without amendment:

S. 2852: A bill to authorize the Secretary of Transportation to release restrictions on the use of certain property conveyed to the Peninsula Airport Commission, Virginia, for airport purposes.

● Mr. DANFORTH. Mr. President, on September 24, 1986, the Committee on Commerce, Science, and Transportation ordered reported S. 2852, releasing certain restrictions on the use of property conveyed to the Peninsula Airport Commission in Virginia for Patrick Henry Airport. I am filing this bill today on behalf of the Commerce Committee without written report, and so I take this opportunity to describe the background of this bill and its provisions for the information of the Senate.

In 1947 the United States conveyed certain property in Newport News and York County, VA, to the Peninsula Airport Commission. The statute which provided for the transfer—the Federal Airport Act—did not authorize the Secretary to grant releases from a restriction in the deed of conveyance that the property be used for airport purposes.

The airport commission now would like to obtain a release to permit construction of a public road over a portion of the airport tract. Technically, the road would constitute a nonairport use; however, construction of the road is desirable because it would improve access to a portion of the airport property. The statute which permitted the conveyance of the property to the airport commission did not allow the Secretary the discretion to remove the restriction from the deed. S. 2852 would give the Secretary discretion similar to that permitted for removal of deed restrictions for other airports on former federally owned land. Similar legislation has been enacted to cure identical problems affecting other airports.

The bill was introduced by Senator TRIBLE on September 23, 1986, is a companion bill to H.R. 5379, introduced on August 11, 1986, by Congressman BATEMAN and passed by the House of Representatives on September 24, 1986.

SECTION-BY-SECTION ANALYSIS

Section (a)—*Authorization for Restriction Removal.* This section states that notwithstanding section 16 of the Federal Airport Act (as in effect in 1947), the Secretary is authorized to grant releases from any terms, conditions, reservations and restrictions contained in the deed of conveyance of federally-owned property to the Peninsula Airport Commission.

Section (b)—*Terms of Release.* Any release granted under section (a) shall be subject to the conditions that (1) the Peninsula Airport Commission shall lease or convey the property for fair lease value or fair market value, as determined by the Secretary; and (2) any amount so received by the Peninsula Airport Commission shall be used for the

development, improvement, operation or maintenance of a public airport.●

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 Mrs. HAWKINS (for herself and Mr. D'AMATO):

S. 2881. A bill to terminate United States assistance to any country importing goods, services, or products from Cuba unless certain conditions are met; to the Committee on Foreign Relations.

By Mr. D'AMATO:

S. 2882. A bill to amend the National Housing Act to provide for the eligibility of certain property for single family mortgage insurance; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. EXON (for himself, Mr. ZORINSKY, and Mr. EAGLETON):

S. 2883. A bill to eliminate a certain Federal Energy Regulatory Commission rule; to the Committee on Energy and Natural Resources.

By Mr. GOLDWATER (for himself, Mr. DOLE, Mr. PACKWOOD, Mr. LAXALT, Mr. ABDNOR, Mr. STEVENS, Mr. KASTEN, Mr. HATCH, Mr. GARN, Mr. WILSON, Mrs. KASSEBAUM, Mr. TRIBLE, Mr. WARNER, Mr. ZORINSKY, Mr. NUNN, Mr. STENNIS, Mr. INOUYE, Mr. BOREN, Mr. SIMON, Mr. MOYNIHAN, Mr. FORD, Mr. EXON, Mr. DECONCINI, Mr. QUAYLE, Mr. THURMOND, and Mr. HELMS):

S.J. Res. 420. Relating to the commemoration of January 28, 1987, as a "National Day of Excellence;" to the Committee on the Judiciary.

By Mr. GLENN:

S.J. Res. 421. Joint resolution expressing the sense of Congress relative to bringing the Department of Energy defense facilities into compliance with applicable environmental laws, and for other purposes; to the Committee on Environment and Public Works.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. HEINZ (for himself, Mr. GORE, Mr. DOLE, Mr. BURDICK, Mr. MELCHER, Mr. LAUTENBERG, Mrs. HAWKINS, Mr. SPECTER, Mr. EXON, Mr. DIXON, Mr. MATSUNAGA, Mr. GLENN, Mr. SIMON, Mr. CHAFEE, Mr. DURENBERGER, Mr. INOUYE, Mr. CRANSTON, Mr. HECHT, Mr. HART, Mr. KERRY, Mr. HUMPHREY, Mr. WARNER, Mr. WILSON, Mr. COHEN, Mr. MCCONNELL, Mr. BUMPERS, Mr. STAFFORD, Mr. ABDNOR, Mr. TRIBLE, Mr. GORTON, Mr. RIEGLE, and Mr. PRYOR):

S. Con. Res. 165. Current resolution expressing the sense of Congress in opposition to employment discrimination against individuals who have, or have had, cancer based on such individual's cancer history; to the Committee on Labor and Human Resources.

By Mr. DOLE (for Mr. HEINZ) (for himself, Mr. GORE, Mr. DOLE, Mr. BURDICK, Mr. MELCHER, Mr. LAUTENBERG, Mrs. HAWKINS, Mr. SPECTER, Mr. EXON, Mr. DIXON, Mr. MATSUNAGA, Mr. GLENN, Mr. SIMON, Mr. CHAFEE, Mr. DURENBERGER, Mr. INOUYE, Mr. CRANSTON, Mr. HECHT, Mr. HART, Mr. KERRY, Mr. HUMPHREY, Mr. WARNER, Mr. WILSON, Mr. COHEN, Mr. MCCONNELL, Mr. BUMPERS, Mr. STAFFORD, Mr. ABDNOR, Mr. TRIBLE, Mr. GORTON, Mr. RIEGLE, and Mr. PRYOR):

S. Con. Res. 166. Concurrent resolution expressing the sense of Congress in opposition to employment discrimination against individuals who have, or have had, cancer based in such individual's cancer history; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mrs. HAWKINS (for herself and Mr. D'AMATO):

S. 2881. A bill to terminate United States assistance to any country importing goods, services, or products from Cuba unless certain conditions are met: to the Committee on Foreign Relations.

RESTRICTION OF UNITED STATES AID TO COUNTRIES THAT IMPORT CUBAN PRODUCTS

● Mrs. HAWKINS. Mr. President, I am introducing legislation today that will make it clear that the United States has reached the end of its rope concerning the Cuban Government's refusal to take back the criminals it thrust upon this country during the Mariel boatlift. The Immigration and Naturalization Service reports that there are over 6,000 Cubans in this country who are excludable under our immigration laws. These criminals are not petty criminals. They are, for the most part, hardened, violent criminals who have perpetrated some of the most heinous crimes imaginable. They are a threat to the safety and well-being of our local communities and they should be returned to Cuba.

My colleagues may recall that the Government of Cuba agreed to take back these criminals in December 1984. It quickly became clear, however, that the Cubans intended to use this agreement as leverage against us to stop the Radio Marti Program. The Cubans unilaterally broke off the agreement in May of 1985. Mr. President, it is the Cuban Government's responsibility to take back these criminals unconditionally. We should never submit to the blackmail represented by the Cuban attempt to kill Radio Marti. This Senator was not prepared to forsake the Cuban people by silencing the voice of freedom to that country; fortunately, neither was the administration. The Cuban Government's decision still leaves this country to handle the threat these criminals represent to our society. The legislation I am introducing represents an attempt to address this threat.

Mr. President, the time has come to make it clear to the other countries of the world that we believe that Cuba's refusal to take back its criminals is an affront to normal standards of international conduct. The legislation I am introducing will require the discontinuation of foreign aid to any country that imports Cuban goods. This legislation should broaden our embargo against Cuba because of its refusal to take back the criminals it dumped here. The provisions of this legislation will terminate upon the return of the excludable Cubans. Maybe the Cubans will start to understand how seriously we take this issue if other countries start discontinuing their imports of Cuban goods. Also, this approach should make it clear to other countries that the United States feels we should stand together in confronting the violation of the standards of international behavior represented by the Cuban action. These countries have a responsibility to uphold the standards of international behavior in that they benefit from the protection these standards uphold. I am sure that the legislation I am introducing will encourage these countries to move in the direction of taking a stand against the refusal of the Cuban Government to take back the Mariel criminals.

Mr. President, I should point out that two foreign aid programs are not included among those that would be withheld from a country if it imports Cuban goods. These two programs are international narcotics control assistance and disaster relief assistance. Thus, the ongoing effort to control illegal narcotics at the source and the effort to bring emergency humanitarian relief to those afflicted by unforseen disasters will not be interrupted.

Mr. President, I believe that this proposal will force the Cuban Government to redress the wrong they committed during the Mariel boatlift. The American people are tired of being made the victims of Fidel Castro's manipulations. The time has come to remove the Mariel criminals from our streets, communities, and prisons.

Finally, I want to thank Senator D'AMATO, who is a cosponsor of this measure, for his unwavering support in the effort to resolve this problem. His efforts have been tireless. With this proposal, I hope that we can put this problem behind us.●

● Mr. D'AMATO. Mr. President, I rise today as a cosponsor of legislation offered by my good friend and colleague, the junior Senator from Florida. This legislation will terminate U.S. assistance, under certain circumstances, to any nation importing goods, services, or products from Cuba. We propose this, not because we have any particular quarrel with these nations, but because we need this third-party leverage to force Cuba to live up to its international agreements. One of the most important aspects of this legislation, therefore, is that it will expire as

soon as Cuba keeps its word and takes back those Cubans who entered the United States during the 1980 Mariel boatlift and are excludable or deportable under United States immigration laws.

Mr. President, I commend the distinguished Senator from Florida for providing this body with an opportunity to act against Cuban intransigence in this area by applying this increased economic pressure. Fidel Castro's Cuba, as a surrogate for the Soviet Union, has been the single most destabilizing factor in Central and South America. As Castro seeks to spread Soviet influence form its bastion in the Caribbean, democratic nations of Latin America and around the world are indirectly assisting his efforts. By importing goods and services from Cuba, many Western nations are helping to keep Castro afloat. This legislation will discourage such assistance by denying U.S. aid to those nations.

It makes no sense for the United States to provide aid to nations that economically support Cuba, a nation with which we have broken all economic and diplomatic ties. We are basically undermining our own foreign policy.

Passage of this legislation, however, will not necessarily mean that we will end up cutting off vital economic aid to those friendly nations who trade with Cuba. Instead, Castro has every opportunity to preclude the necessity for this legislation by simply accepting back those undersirable Cubans which were boatlifted to United States shores in 1980. He had agreed to accept the very same Cubans in the past, but he reneged. This legislation provides further incentive to accept those undocumented Cubans.

Mr. President, it is time that our allies understand the nature of our relations with Cuba. Cuba represents both a long and short-term threat to United States security interests in this Hemisphere, as well as in Africa. Let us not forget that there are 35,000 Cuban troops and advisers in Angola. Cuba also is involved in illegal arms and drug trafficking in the region. The United States must do more to limit Castro's adventurism. I believe this legislation is a solid step in this direction.

Mr. President, I urge my colleagues to join me as a cosponsor of this bill, and I ask for expeditious review of this bill before the 99th Congress recesses.●

By Mr. D'AMATO:

S. 2882. A bill to amend the National Housing Act to provide for the eligibility of certain property for single family mortgage insurance; to the Committee on Banking, Housing, and Urban Affairs.

ELIGIBILITY OF CERTAIN PROPERTY FOR SINGLE FAMILY MORTGAGE INSURANCE

● Mr. D'AMATO. Mr. President, I rise today to introduce legislation to correct a severe mortgage insurance problem that a small city in upstate New York is experiencing. This legislation would enable the Federal Housing Administration, under provisions of the National Housing Act, to insure residential mortgages secured by property located on land that is within the Allegany Reservation of the Seneca Indian Nation.

The location of the city of Salamanca is the cause of its crisis. Approximately 85 percent of the city is located within the Allegany Reservation of the Seneca Nation on land which is subject to 99-year leases due to expire in 1991. Under special acts of Congress, these leases were ratified in 1892.

Although negotiations have been in progress for the last 10 years, a viable resolution of the impending termination of the leases has not yet been reached. As a result of the uncertain renewal, renegotiation, or other reasonable solutions, the city has experienced extreme economic hardships, including the flight of existing businesses, the inability to attract new economic development, and a diminished tax base. As of January 1, 1985, local lending institutions have refused to make any loans to Salamanca beyond a 5-year period. The inability to obtain residential mortgages has created a stagnant real estate market halting the buying and selling of residential properties.

The legislation I am offering today would be a much needed boost for this city. FHA insurance would get the real estate market moving. It would provide hope for the residents of the city of Salamanca.

Mr. President, this is not a controversial bill, but it is an important one. Passage of this legislation would send a strong message to the city of Salamanca demonstrating the U.S. Congress' concern and its willingness to assist this small city. I urge my colleagues to adopt this legislation expeditiously, and I ask unanimous consent that the full text of this legislation, which is identical to H.R. 5564 which will soon pass in the House, be printed in the RECORD at the conclusion of my remarks.

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

S. 2882

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 203 of the National Housing Act is amended by adding at the end the following new subsection:

"(q)(1) Notwithstanding any other provision of this section or any other section of this title, the Secretary may insure and commit to insure, under subsection (b) as modified by this subsection, any mortgage secured by property located on land that—

"(A) is within the Allegany Reservation of the Seneca Nation of New York Indians; and

"(B) is subject to a lease entered into for a term of 99 years pursuant to the Act of February 19, 1875 (Chapter 90; 18 Stat. 330) and the Act of September 30, 1890 (Chapter 1132; 26 Stat. 558).

"(2) A mortgage shall be eligible for insurance under subsection (b) as modified by this subsection without regard to limitations in this title relating to marketability of title or any other statutory restriction that the Secretary determines is contrary to the purpose of this subsection.

"(3) The Secretary, in connection with any mortgage insured under subsection (b) as modified by this subsection, shall have all statutory powers, authority, and responsibilities that the Secretary has with respect to other mortgages insured under subsection (b), except that the Secretary may modify such powers, authority, or responsibilities if the Secretary determines such action to be necessary because of the special nature of the mortgage involved.

"(4) Notwithstanding section 202, the insurance of a mortgage under subsection (b) as modified by this subsection shall be the obligation of the Special Risk Insurance Fund created in section 238.".●

By Mr. EXON (for himself, Mr. ZORINSKY, and Mr. EAGLETON):

S. 2883. A bill to eliminate a certain Federal Energy Regulatory Commission rule; to the Committee on Energy and Natural Resources.

OVERTURNING FERC RULE 451

Mr. EXON. Mr. President, earlier this year the Federal Energy Regulatory Commission approved what is known as FERC order 451. This order raises the just-and-reasonable price which producers of natural gas can charge for old gas. Today I am introducing legislation to overturn that order.

FERC order 451 troubles me both because the policy embodied in the rule is questionable and because the Commission has sought to accomplish through the regulatory process what Congress has refused to do legislatively.

In 1978, Congress explicitly decided not to decontrol old natural gas. Since then, there have been repeated efforts to reverse this policy. On each occasion, Congress has reaffirmed its original decision against decontrol. As recently as 1983, the Senate voted 67 to 28 against a bill decontrolling old natural gas. Seen in this light, adoption or order 451 represents a flagrant abuse of regulatory discretion.

The arrogance of the administration and the Commission in this area was highlighted in a February 6, 1986, Associated Press article. According to the article, one FERC Commissioner warned industry lobbyists to pay attention to administration efforts to bypass Congress and administratively raise Federal price ceilings on some supplies.

Incredibly, the rule which the Commission approved could permit old gas prices to soar as high as $2.57 per thousand cubic feet, while the current spot market price for new gas ranges anywhere from $1.40 to $2 per thousand cubic feet. In short, the proposal would raise the ceiling price of old gas to a level in excess of those prevailing in the market today.

The rule will likely transfer billions of dollars from consumers, including farmers, small businessmen, and homeowners to the major producing companies who own the vast majority of old gas reserves. This backdoor approach to old gas decontrol could easily amount to an increase of $85 per year for many natural gas users. That may not sound like a large increase to some, but to a majority of those who must live with higher priced gas, the burden could be quite heavy.

I repeat, Mr. President. If this FERC order is implemented and allowed to stand, there will be a large-scale transfer of money from consumers to the big oil companies and other energy companies. Nebraska farmers and ranchers cannot afford to pay it and neither can millions of households and businesses across America. Furthermore, they should not have to pay for it.

Although it is late in this session of Congress, there is still time to overturn this FERC order which is a blatant abuse of regulatory power and a snub of Congress and the American people.

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

S. 2883

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

SECTION 1. This Act may be cited as the "Natural Gas Consumer Protection Act of 1986."

SEC. 2. The Federal Energy Regulatory Commission shall not implement provisions of FERC order 451.

[From the Omaha World Herald, Feb. 6, 1986]

COMMISSIONER: EFFORTS TO RAISE NATURAL-GAS PRICE CEILING CONTINUE

WASHINGTON.—A government regulator responsible for controlling natural gas prices told industry lobbyists to pay attention to Reagan administration efforts to bypass Congress and administratively raise federal price ceilings on some supplies.

Charles Trabandt, one of four members of the Federal Energy Regulatory Commission, said the congressional climate for totally decontrolling gas prices is not favorable.

But Trabandt told gas industry representatives they should take seriously the administration's efforts to accomplish much the same results by allowing the prices of all "old" supplies to rise to the ceiling price for the most expensive categories.

The administration's legislative and administrative decontrol strategies are not mutually exclusive, Trabandt said in a speech before the Natural Gas Roundtable, an organization composed primarily of gas industry lobbyists.

Energy Secretary John Herrington filed a formal rulemaking proposal in November that would require the commission to consider "de-vintaging" the 40 percent of the nation's "old" gas drilled prior to 1978 and still under price controls. This would put all "old" gas in the most expensive category.

At the same time, Herrington said the administration again this year would ask Congress to remove those controls entirely. A similar legislative effort was overwhelmingly defeated in 1983.

Under the current partial controls, gas drilled since 1978 has no federal price ceilings. The "old" gas is divided into several categories, with ceilings ramping from about 78 cents to $1.60 per 1,000 cubic feet.

Spot-market prices for uncontrolled gas have fallen in recent years and in some parts of the country are now below $2.

By Mr. GOLDWATER:

S.J. Res. 420. A joint resolution to commemorate January 28, 1987, as "National Day of Excellence"; to the Committee on the Judiciary.

"NATIONAL DAY OF EXCELLENCE"

● Mr. GOLDWATER. Mr. President, I am very pleased to introduce a Senate joint resolution to authorize the President to issue a proclamation designating January 28, 1987, as a "National Day of Excellence" to honor the crew of the space shuttle *Challenger*. Last week, the House passed by unanimous consent House Joint Resolution 588 by Representative JIM KOLBE.

This joint resolution challenges Americans to rededicate themselves to strive for the highest standard possible, no matter the endeavor. By dedicating ourselves to a day of excellence at work, home, school, and in leisure activities, we will honor their memory in a tangible and a meaningful manner. Let us remember the dedicated lives of the *Challenger* crew by striving to attain levels of excellence previously felt unattainable. In this regard, it is very fitting that a schoolteacher of the handicapped in Tucson, AZ, Ed McDonald, initiated this proposal. Certainly, Mr. McDonald must see every day the striving to overcome handicaps which make simple tasks overwhelming challenges for his students.

Now, I am certain we have all wrestled over the past months on how we can honor these brave Americans. It is my firm belief this resolution is a fitting testimony to their dedication and memory. This day will not be a holiday, but a day devoted to achieving the best possible results in each and every endeavor undertaken. The pursuit of excellence is what has made America great and will allow future generations to lead full and free lives.

Let us remember the crew of the *Challenger* by making a silent pledge to settle for nothing less than the very best from ourselves on the "National Day of Excellence," January 28, 1987.●

By Mr. GLENN:

S.J. Res. 421. Joint resolution expressing the sense of Congress relative to bringing the Department of Energy defense facilities into compliance with applicable environmental laws, and for other purposes; to the Committee on Environment and Public Works.

DEPARTMENT OF ENERGY DEFENSE FACILITY COMPLIANCE WITH APPLICABLE ENVIRONMENTAL LAWS

● Mr. GLENN. Mr. President, on April 15, 1985, following my own preliminary investigation of the situation at the Feed Materials Production Center at Fernald, OH, I asked the General Accounting Office [GAO]—the investigative arm of Congress—to review the Department of Energy's management of its responsibilities in the areas of environment, safety, and health at DOE nuclear plants around the Nation.

My request has resulted in four recent reports by GAO. Two of them focused on the problems at Ohio facilities; one dealt with the status of DOE's initiatives to strengthen environment, safety, and health activities; and the most recent one documented deficiencies in the process and substance of DOE's Safety Analysis Reviews of its nuclear facilities.

Yesterday, I released the latest report in this series. It surveys the extent of soil and ground water contamination at nine DOE defense facilities located at seven sites around the Nation. And the facts revealed in this report are both shocking and frightening.

Specifically, eight out of the nine facilities surveyed have contaminated ground water with hazardous and/or radioactive materials. At the fuel fabrication plant in South Carolina, solvents in ground water have been found at levels over 30,000 times the proposed drinking water standards. Strontium 90 has been detected in ground water at the N-reactor site in Washington State at levels over 400 times higher than the drinking water standards.

At the Y-12 plant in Tennessee, solvents and nitrates in ground water have each been detected at levels over 1,000 times more than the proposed drinking water standards, mercury has been detected at levels 500 times the drinking water standard; arsenic levels are 60 times the drinking water standards; and chromium levels are over 30 times the standards.

And that's not all. Six of the nine DOE facilities have produced soil contamination in unexpected areas, including offsite locations. This includes the Y-12 plant at Oak Ridge where mercury contamination of an offsite creekbed and its floodplain is, in some locations, greater than 2,000 times the background levels and more than 150 times greater than guidelines estab-

lished by the State of Tennessee to protect public health.

At the Fernald plant in Ohio, uranium contamination of the soil is in some places more than 10 times background levels. And at Ohio's Mound Laboratory facility, plutonium levels are as much as 100 times the background levels.

What these figures show is that the Department of Energy and its predecessors have been carrying out their mission to produce nuclear weapons with an attitude of neglect bordering on contempt for environmental protection. What they've said, in effect, is "we're going to build bombs—and the environment be damned."

In so doing, they have created a situation that potentially threatens the health of large numbers of Americans. And their actions are going to force the United States to spend hundreds of millions of dollars—perhaps even billions of dollars—to clean up their mess.

Although DOE has recently initiated a number of actions to improve its performance on environmental, safety, and health matters, I believe it is too little, too late. In my judgment, we simply can no longer tolerate the self-regulation that the agency has practiced since the beginning of the nuclear age.

And that's exactly why I introduced a bill last year to give the Environmental Protection Agency complete jurisdiction over the regulation of all mixed waste at DOE facilities—except for mixed waste containing negligible quantities of nonradioactive hazardous materials.

Unfortunately, my bill has gone nowhere. It's still bottled up in committee, while these DOE facilities continue to poison our soil and ground water. Frankly, I don't know what the problem is.

But there's one thing I do know. I know we better wake up in this country; we better wake up before its too late and we find ourselves with an environmental disaster that makes the Chernobyl accident look tame.

So today I am again calling on my colleagues in the Congress to pass my legislation. Now I realize that Congress is unlikely to do so before we adjourn early next month. But in my judgment, the problem is serious enough that we cannot afford to sit around and do nothing until a new Congress is sworn in next January.

Accordingly, I rise to introduce a Senate joint resolution urging the Secretary of Energy to do five things.

First, to give environmental protection equal priority with weapons production at all DOE facilities.

Second, to provide for independent inspections of these facilities, focusing on the storage, treatment, and disposal of any mixed wastes at DOE sites. These inspections should be carried out by agencies of the States in which the plants are located.

Third, my joint resolution will urge the Secretary to provide for independent examination by the Nuclear Regulatory Commission of his Department's "Safety Analysis Reviews" of its nuclear plants.

And fourth, my joint resolution will ask the Secretary to provide Congress with a report detailing his Department's plans, milestones, and cost estimates for bringing these facilities into compliance with all applicable environmental laws.

Finally, and this is by far the most important point of all, my joint resolution will urge the President to include adequate funds for the cleanup of these sites in his 1988 budget. That budget is now in preparation—and the money necessary for cleanup should be included now—instead of forcing us to try and add it to the budget later.

There is no doubt that the cost of cleaning up these plants will be high. But the cost of doing nothing will be even higher. After all, what good does it do to protect ourselves from the Soviets by building nuclear weapons if we poison our own people in the process?

This is no time for tradeoffs. We must produce the nuclear weapons we need—but we must also protect the health of our people. And to protect their health, we must clean up these sites; not clean them up "if," not clean them up "but," and not clean them up "maybe" or "somebody." We must clean them up—period. And we should start today.●

ADDITIONAL COSPONSORS

S. 519

At the request of Mr. EVANS, the names of the Senator from Massachusetts [Mr. KENNEDY], and the Senator from New York [Mr. MOYNIHAN] were added as cosponsors of S. 519, a bill to require a study of the compensation and related systems in executive agencies, and for other purposes.

S. 1026

At the request of Mr. PRESSLER, the names of the Senator from New Mexico [Mr. BINGAMAN], and the Senator from South Dakota [Mr. ABDNOR] were added as cosponsors of S. 1026, a bill to direct the cooperation of certain Federal entities in the implementation of the Continental Scientific Drilling Program.

S. 2454

At the request of Mr. MURKOWSKI, the names of the Senator from Connecticut [Mr. DODD], the Senator from South Dakota [Mr. PRESSLER], and the Senator from Rhode Island [Mr. CHAFEE] were added as cosponsors of S. 2454, a bill to repeal section 1631 of the Department of Defense Authorization Act, 1985, relating to the liability of Government contractors for injuries or losses of property arising out of certain atomic weapons testing programs, and for other purposes.

S. 2734

At the request of Mr. MATHIAS, the name of the Senator from Pennsylvania [Mr. SPECTER] was added as a cosponsor of S. 2734, a bill to amend chapter 83 of title 5, United States Code, to provide civil service retirement credit for service performed under the Railroad Retirement Act, and for other purposes.

S. 2770

At the request of Mr. EXON, his name was withdrawn as a cosponsor of S. 2770, a bill to amend the Farm Credit Act of 1971 to provide the opportunity for competitive interest rates for the farmer, rancher, and cooperative borrowers of the Farm Credit System, and for other purposes.

S. 2781

At the request of Mr. EVANS, the names of the Senator from California [Mr. WILSON], the Senator from Michigan [Mr. LEVIN], and the Senator from Florida [Mrs. HAWKINS] were added as cosponsors of S. 2781, a bill to amend the Energy Policy and Conservation Act with respect to energy conservation standards for appliances.

S. 2835

At the request of Mr. BINGAMAN, the name of the Senator from Texas [Mr. BENTSEN] was added as a cosponsor of S. 2835, a bill to establish literacy programs for individuals of limited English proficiency.

S. 2840

At the request of Mr. STAFFORD, the name of the Senator from Massachusetts [Mr. KENNEDY] was added as a cosponsor of S. 2840, a bill entitled the "Superfund Amendments and Reauthorization Act of 1986."

S. 2878

At the request of Mr. HEINZ, his name was added as a cosponsor of S. 2878, a bill to strengthen the laws against illegal drugs, and for other purposes.

At the request of Mr. ZORINSKY, his name was added as a cosponsor of S. 2878, supra.

At the request of Mr. MATTINGLY, his name was added as a cosponsor of S. 2878, supra.

At the request of Mrs. HAWKINS, the names of the Senator from Nevada [Mr. LAXALT], and the Senator from Alaska [Mr. MURKOWSKI] were added as cosponsors of S. 2878, supra.

At the request of Mr. BENTSEN, his name was added as a cosponsor of S. 2878, supra.

SENATE JOINT RESOLUTION 359

At the request of Mr. NICKLES, the name of the Senator from Rhode Island [Mr. CHAFEE] was added as a cosponsor of Senate Joint Resolution 359, a joint resolution to designate March 17, 1987, as "National China-

Burma-India Veterans Association Day."

SENATE JOINT RESOLUTION 418

At the request of Mr. BRADLEY, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of Senate Joint Resolution 418, a joint resolution to designate February 4, 1987, as "National Women in Sports Day."

At the request of Mr. PACKWOOD, the names of the Senator from Maine [Mr. COHEN], the Senator from Tennessee [Mr. GORE], the Senator from Arkansas [Mr. PRYOR], the Senator from Alaska [Mr. STEVENS], the Senator from Nebraska [Mr. ZORINSKY], the Senator from Nevada [Mr. LAXALT], and the Senator from Montana [Mr. MELCHER] were added as cosponsors of Senate Joint Resolution 418, supra.

SENATE JOINT RESOLUTION 419

At the request of Mr. D'AMATO, his name was added as a cosponsor of Senate Joint Resolution 419, a joint resolution to designate December 11, 1986 as "National SEEK and College Discovery Day."

SENATE CONCURENT RESOLUTION 121

At the request of Mr. KENNEDY, the name of the Senator from California [Mr. CRANSTON] was added as a cosponsor of Senate Concurrent Resolution 121, a concurrent resolution expressing the sense of the Congress concerning representative government, political parties, and freedom of expression on Taiwan.

SENATE CONCURRENT RESOLUTION 130

At the request of Mr. HOLLINGS, the names of the Senator from Massachusetts [Mr. KENNEDY], the Senator from New Jersey [Mr. BRADLEY], the Senator from Kansas [Mrs. KASSEBAUM], the Senator from South Dakota [Mr. PRESSLER], the Senator from Maryland [Mr. SARBANES], and the Senator from Louisiana [Mr. JOHNSTON] were added as cosponsors of Senate Concurrent Resolution 130, a concurrent resolution to recognize the visit by the descendants of the original settlers of Purrysburg, South Carolina, to Neufchatel, Switzerland, in October of 1986 as an international gesture of goodwill.

SENATE CONCUkRENT RESOLUTION 154

At the request of Mr. D'AMATO, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of Senate Concurrent Resolution 154, a concurrent resolution concerning the Soviet Union's persecution of members of the Ukrainian and other public Helsinki Monitoring Groups.

SENATE RESOLUTION 464

At the request of Mr. ROTH, the name of the Senator from Ohio [Mr. METZENBAUM] was added as a cosponsor of Senate Resolution 464, a resolution to designate October 1986 as "Crack/Cocaine Awareness Month."

SENATE CONCURRENT RESOLUTION 165—RELATING TO EMPLOYMENT DISCRIMINATION BASED ON AN INDIVIDUAL'S CANCER HISTORY

Mr. HEINZ (for himself, Mr. GORE, Mr. DOLE, Mr. BURDICK, Mr. MELCHER, Mr. LAUTENBERG, Mrs. HAWKINS, Mr. SPECTER, Mr. EXON, Mr. DIXON, Mr. MATSUNAGA, Mr. GLENN, Mr. SIMON, Mr. CHAFEE, Mr. DURENBERGER, Mr. INOUYE, Mr. CRANSTON, Mr. HECHT, Mr. HART, Mr. KERRY, Mr. HUMPHREY, Mr. WARNER, Mr. WILSON, Mr. COHEN, Mr. MCCONNELL, Mr. BUMPERS, Mr. STAFFORD, Mr. ABDNOR, Mr. TRIBLE, Mr. GORTON, Mr. RIEGLE, and Mr. PRYOR) submitted the following concurrent resolution; which was referred to the Committee on Labor and Human Resources:

S. CON. RES. 165

Whereas there are more than five million Americans in our Nation with a cancer history and an estimated one million of them face the terrible injustice of employment discrimination;

Whereas one out of every two individuals now diagnosed as having cancer is cured, and as a result, the number of survivors will continue to dramatically increase;

Whereas employment discrimination against cancer survivors ranges from job denial to wage reduction, exclusion from and reduction in benefits, promotion denial, and in some cases outright dismissal; and

Whereas we must permit, and encourage, cancer survivors to remain fully integrated and productive members of society: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that the Congress—

(1) opposes employment discrimination against individuals who have, or have had, cancer based on such individual's cancer history, and

(2) urges that such individuals receive fair and equal treatment in the workplace.

Mr. HEINZ. Mr. President, I rise today to bring to the attention of this body what I consider to be a very important health and human rights issue in this country. It has to do with cancer. We all know that cancer still ranks as this Nation's number two killer but great strides in medical science have evened the race for cancer survival.

Today there are over some 5 million Americans who fought the battle for life and they have won and they are in the process of reclaiming their places in communities and work places. But, Mr. President, at the same time, fully one in five of these survivors will find it easier to bet the odds against cancer than bet the prejudice they are going to find back at work.

Recently, I have been shocked to learn of men and women in my own State of Pennsylvania whose very cure became a curse in the hands of their employers.

Let me give you two examples and they are real ones. The first is the case of Jim Coopman, who rose through the ranks of a steel company to become president. But when he returned to work after recovering from pancreatic cancer, instead of a warm welcome, he was told his physical condition made him "unable to perform his essential functions as President."

Despite three doctors' statements to the contrary, he was given the choice: be demoted or be discharged. The rewards of his previous successes were laid waste for the sole reason that he had survived cancer.

Take a second example:

When Chester County resident Alma Steinmetz discovered she needed breast cancer surgery, at that time her employer reassured her she would always have a job with us.

After only a month away, the receptionist—that was her job—returned to work only to be told that the schedule was booked. There was no place for her. Alma only got her job back 2 months later when her employer found out that she had filed a complaint against him with the State Human Relations Commission in Pennsylvania.

Once back at work, however, she suffered constant harassment that promised to continue unless she dropped her complaint. Alma, now unemployed, awaits a decision on her case. She did not decide to drop it.

The cases of Jim and Alma are not unique. Workers are shunned, shuffled, demoted, demoralized, denied raises and respect, even forced to use disposable writing instruments such as pencils instead of pens—all because they are cancer survivors.

A recent study completed at the University of Southern California found that more than half of cancer patients in white-collar jobs, and 84 percent of those in blue-collar occupations, suffered some kind of employment discrimination when they returned to work.

Mr. President, such cases shame this Nation. They tarnish the pride we should have in our progress toward defeating cancer. Ability—ability to do the job, and only that—should be the sole measure by which we are judged and by which people are judged for employment. It should not be their medical history.

Today, I ask that we join our colleagues in the House and pass a resolution that I hope we will call up later today which clearly places Congress on record against employment discrimination based on an individual's cancer history. Let us apply the same determination we have applied to eradicating cancer cells in the healthy body to eradicating such painful prejudice and malignant discrimination against cancer survivors.

I am pleased to say, Mr. President, that 31 Members of the Senate have joined me as original cosponsors of

this resolution. I do hope the Senate will call it up today. I think we will.

SENATE CONCURRENT RESOLUTION 166—RELATING TO EMPLOYMENT DISCRIMINATION BASED ON AN INDIVIDUAL'S CANCER HISTORY

Mr. DOLE (for Mr. HEINZ, for himself, Mr. GORE, Mr. BURDICK, Mr. MELCHER, Mr. LAUTENBERG, Mrs. HAWKINS, Mr. SPECTER, Mr. EXON, Mr. DIXON, Mr. MATSUNAGA, Mr. GLENN, Mr. SIMON, Mr. CHAFEE, Mr. DURENBERGER, Mr. INOUYE, Mr. CRANSTON, Mr. HECHT, Mr. HART, Mr. KERRY, Mr. HUMPHREY, Mr. WARNER, Mr. WILSON, Mr. COHEN, Mr. MCCONNELL, Mr. BUMPERS, Mr. STAFFORD, Mr. ABDNOR, Mr. TRIBLE, Mr. GORTON, Mr. RIEGLE, and Mr. PRYOR) submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 166

Whereas there are more than five million Americans in our Nation with a cancer history and an estimated one million of them face the terrible injustice of employment discrimination;

Whereas one out of every two individuals now diagnosed as having cancer is cured, and as a result, the number of survivors will continue to dramatically increase;

Whereas employment discrimination against cancer survivors ranges from job denial to wage reduction, exclusion from and reduction in benefits, promotion denial, and in some cases outright dismissal; and

Whereas we must permit, and encourage, cancer survivors to remain fully integrated and productive members of society: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that the Congress—

(1) opposes employment discrimination against individuals who have, or have had, cancer based on such individual's cancer history, and

(2) urges that such individuals receive fair and equal treatment in the workplace.

AMENDMENTS SUBMITTED

ANTIDRUG ABUSE ACT OF 1986

GORTON AMENDMENT NO. 3032

(Ordered to lie on the table.)

Mr. GORTON submitted an amendment intended to be proposed by him to the bill (S. 2878) to strengthen the laws against illegal drugs, and for other purposes; as follows:

At the appropriate place in the bill, insert the following:

SEC. . (a) The Administrator of the Environmental Protection Agency shall conduct a study of the manufacturing and distribution process of cyanide with a view to determining methods, procedures or other actions which might be taken, employed, or otherwise carried out in connection with such manufacturing and distribution in order to safeguard the public from the wrongful use of cyanide.

(b) Such study shall include, among other matters, the following:

(1) a determination of the sources of cyanide, including the name and location of each manufacturer thereof;

(2) an evaluation of the means and methods utilized by the manufacturer and others in the distribution of cyanide, including the name and location of each such distributor;

(3) an evaluation of the procedures employed in connection with the selling, at the wholesale and retail level, of cyanide, including a determination as to whether or not persons selling cyanide require the intended purchaser to identify himself or herself;

(4) a determination as to the extent to which recordkeeping requirements are imposed on, or carried out by, manufacturers of cyanide with respect to the specifications of each lot of cyanide produced by such manufacturer;

(5) a determination as to the feasibility and desirability of establishing a central registry of all lot specifications of cyanide for the purpose of providing quick access to investigative and law enforcement agencies;

(6) a consideration and review of all aspects of interstate versus intrastate transportation utilized in connection with the manufacturing, distribution, or use of cyanide;

(7) a determination as to the feasibility and desirability of requiring manufacturers of cyanide to color all such cyanide with a distinctive color so that the consuming public can more readily identify products laced with cyanide;

(8) a determination as to the feasibility and desirability of requiring limited-access storage for cyanide at universities, laboratories, and other institutions that use cyanide for research or other purposes;

(9) a determination as to the feasibility and desirability of issuing regulations to require any person who sells or otherwise transfers, at a retail level, any cyanide to record such sale or transfer, including the identity of the person purchasing or otherwise receiving such cyanide, the address of such person, and the intended use of such cyanide. Such records shall be available for such use, and retained for such period, as the aforementioned Administrator shall by regulation require.

(b) On or before the expiration of the 180-day period following the date of the enactment of this section, the Administrator of the Environmental Protection Agency shall report the results of such study to the Congress, together with his or her recommendations with respect thereto.

(c) As used in this section, the term—

(1) "person" means any individual, corporation, partnership, or other entity; and

(2) "cyanide" means sodium cyanide, potassium cyanide or any other toxic cyanide compound.

EXPORT-IMPORT BANK AMENDMENTS ACT OF 1986

HEINZ AMENDMENT NO. 3033

Mr. DOLE (for Mr. HEINZ) proposed an amendment to the bill (H.R. 5548) to amend the Export-Import Bank Act of 1945; as follows:

At the end of the bill add the following:

"POLICY TOWARD UNITED STATES BUSINESS TRANSACTIONS IN ANGOLA

"SEC. . (a) The Congress finds that—

"(1) the Marxist Popular Movement for the Liberation of Angola (hereafter in this resolution referred to as the "MPLA") has failed to hold fair and free elections since assuming power in Angola in 1975;

"(2) Angola currently harbors more than 35,000 Soviet and Cuban troops and advisers;

"(3) the Cubans and Soviets have channeled more than $4,000,000,000 in assistance and military aid in furtherance of this intervention in Africa;

"(4) the MPLA government of Angola obtains more than 90 percent of its foreign exchange from the extraction and production of oil;

"(5) most of Angola's oil is extracted in Cabinda Province, where 75 percent of it is extracted by the Chevron-Gulf Oil company;

"(6) the MPLA has refused to take meaningful steps to end its dependency on Soviet and Cuban forces, engage in national reconciliation efforts within Angola, or encourage the independence of Namibia;

"(7) United States business interests are in direct conflict with United States foreign policy objectives in aiding the MPLA government of Angola, which directly opposes Jonas Savimbi and UNITA, recipients of United States support; and

"(8) imposition of severe economic sanctions will encourage the MPLA to promote a fair political solution and negotiate with the United States toward a peaceful settlement.

"(b)(1) It is the sense of the Congress that the interests of the United States are best served when United States business transactions conducted in Angola do not directly or indirectly support Cuban troops and Soviet advisers.

"(2) The Congress hereby requests that the President use his special authorities under the International Emergency Economic Powers Act to block United States business transactions which conflict with United States security interests in Angola.

"GROUP ELIGIBILITY REQUIREMENTS

"SEC. (a) Section 222 of the Trade Act of 1974 (19 U.S.C. 2272) is amended to read as follows:

""SEC. 222. GROUP ELIGIBILITY REQUIREMENTS.

"'(a) The Secretary shall certify a group of workers (including workers in any agricultural firm or subdivision of an agricultural firm) as eligible to apply for adjustment assistance under this chapter if the Secretary determines that—

"'(1) a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision of the firm, have become totally or partially separated, or are threatened to become totally or partially separated.

"'(2) sales or production, or both, of such firm or subdivision have ceased absolutely, and

"'(3) increases of imports of articles like or directly competitive with articles—

"'(A) which are produced by such workers' firm or appropriate subdivision thereof, or

"'(B) in the case of workers of a firm in the oil or natural gas industry, for which such workers' firm, or appropriate subdivision thereof, provides essential parts or essential services,

contributed importantly to such total or partial separation, or threat thereof, and to such decline in sales or production.

"'(b) For purposes of subsection (a)(3)—

"'(1) The term 'contributed importantly' means a cause which is important but not

necessarily more important than any other cause.

"'(2) Natural gas shall be considered to be competitive with crude oil and refined petroleum products.

"'(3) Any firm, or subdivision of a firm, which—

"'(A) engages in the exploration for oil or natural gas,

" '(B) produces or extracts oil or natural gas, or

" '(C) processes or refines oil or natural gas, shall be considered to be a part of the oil or natural gas industry and to be a firm providing essential services for such oil or natural gas and for the processed or refined products of such oil or natural gas.

" '(4) Any firm which provides essential parts, or essential services, to another firm that conducts activities described in paragraph (3) with respect to oil or natural gas, as its principal trade or business, shall be considered to be a part of the oil or natural gas industry and to be a firm providing essential services for such oil or natural gas and for the processed or refined products of such oil or natural gas.".

"(b) Subsection (c) of section 251 of the Trade Act of 1974 (19 U.S.C. 2341(c)) is amended to read as follows:

" '(c)(1) The Secretary shall certify a firm (including any agricultural firm) as eligible to apply for adjustment assistance under this chapter if the Secretary determines that—

" '(A) a significant number or proportion of the workers in such firm have become totally or partially separated, or are threatened to become totally or partially separated,

" '(B) sales or production, or both, of such firm have decreased absolutely, and

" '(C) increases of imports of articles like or directly competitive with articles—

" '(i) which are produced by such firm, or

" '(ii) in the case of a firm in the oil or natural gas industry, for which such firm provides essential parts or essential services,

contributed importantly to such total or partial separation, or threat thereof, and to such decline in sales or production.

" '(2) For purposes of paragraph (1)(C)—

" '(A) The term 'contributed importantly' means a cause which is important but not necessarily more important than any other cause.

" '(B) Natural gas shall be considered to be competitive with crude oil and refined petroleum products.

" '(C) Any firm which—

" '(i) engages in the exploration for oil or natural gas,

" '(ii) produces or extracts oil or natural gas,

" '(iii) processes or refines oil or natural gas, or,

" '(iv) provides essential parts, or essential services, to another firm that conducts activities described in any of the preceding clauses as its principal trade or business,

shall be considered to be in the oil or natural gas industry and to be a firm providing essential services for such oil or natural gas and for the processed or refined products of such oil or natural gas.".

"(c)(1) the amendments made by this section shall apply with respect to petitions for certification which are filed or pending—

"(A) on or after September 30, 1986, and

"(B) before October 1, 1987.

"(2) Notwithstanding any other provision of law, no worker shall be eligible for assistance under subchapter B of chapter 2 of title II of the Trade Act of 1974 if—

"(A) such worker is covered by a certification made under subchapter A of such chapter only by reason of the amendment made by subsection (a) of this section, and

"(B) the total or partial separation of such worker from adversely affected employment occurs after September 30, 1987.

"OPPOSITION OF MULTILATERAL ASSISTANCE FOR FOREIGN SURPLUS COMMODITIES AND MINERALS

"SEC. . (a) The Secretary of the Treasury shall instruct the United States Executive Directors of the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Inter-American Development Bank, the International Monetary Fund, the Asian Development Bank, the Inter-American Investment Corporation, the African Development Bank, and the African Development Fund to use the voice and vote of the United States to oppose any assistance by these institutions, using funds appropriated or otherwise made available pursuant to any provision of law, for the production or extraction of any commodity or mineral for export, if—

"(1) such commodity or mineral, as the case may be, is in surplus on world markets; and

"(2) the export of such commodity or mineral, as the case may be, would cause substantial injury to the United States producers of the same, similar, or competing commodity or mineral.

"(b)(1) The amount of payments which the United States may make to the paid-in capital of an international financial institution described in subsection (a) during any capital expansion or replenishment of such institution may not exceed the amount of funds which such expansion or replenishment minus an amount which bears the same proportion to the aggregate amount of assistance described in paragraph (2) furnished by such institution as the United States share of the expansion or replenishment bears to the total amount of the expansion or replenishment.

"(2)(A) The aggregate amount of assistance referred to in paragraph (1) is the amount of assistance furnished by an international financial institution to all countries during the period described in subparagraph (B)—

"(i) to support the production or extraction of any commodity or mineral for export, if—

"(I) such commodity or mineral as the case may be, is in surplus on world markets; and

"(II) the export of such commodity or mineral, as the case may be, would cause substantial injury to the United States producers of the same, similar, or competing commodity or mineral; and

"(ii) to subsidize (other than under clause (1)) the exports of commodities and minerals from such countries.

"(B) The period referred to in subparagraph (A) is the same number of years as the capital expansion or replenishment period which immediately preceded the first year of the expansion or replenishment period.

"(3) For purposes of paragraph (2)(A)(ii), the term "subsidize" is used within the meaning of the Agreement on Interpretation and Application of Articles V, XVI, and XXIII of the General Agreement on Tariffs and Trade and the annex relating thereto, done at Geneva on April 12, 1979.

"(4) Any funds witheld from payments to an international financial institution pursuant to this section shall be used to reduce the public debt in the manner specified in section 3113 of title 31, United States Code.".

ANTI-DRUG ABUSE ACT

DOLE (AND OTHERS) AMENDMENT NO. 3034

Mr. DOLE (for himself, Mr. BYRD, Mr. THURMOND, Mr. BIDEN, Mrs. HAWKINS, Mr. CHILES, Mr. WILSON, Mr. DECONCINI, Mr. HATCH, Mr. CRANSTON, Mr. GRAMM, Mr. MOYNIHAN, Mr. SPECTER, Mr. DODD, Mr. TRIBLE, Mr. LEAHY, Mr. DENTON, Mr. MITCHELL, Mr. ABDNOR, Mr. NUNN, Mr. ROCKEFELLER, Mr. SASSER, Mr. DIXON, Mr. HEINZ, Mr. ZORINSKY, Mr. MATTINGLY, Mr. LAXALT, and Mr. MURKOWSKI) proposed an amendment to the bill (H.R. 5484) to strengthen Federal efforts to encourage foreign cooperation on eradicating illicit drug crops and in halting international drug traffic, to improve enforcement of Federal drug laws and enhance interdiction of illicit drug shipments, to provide strong Federal leadership in establishing effective drug abuse education programs, to expand Federal support for drug abuse treatment and rehabilitation efforts, and for other purposes.

(The text of amendment No. 3034 is indentical to the text of the Senate drug legislation S. 2878 introduced on September 25, 1986. The text of the legislation appears in the RECORD of September 25, 1986, beginning on page S13648.)

GORTON (AND OTHERS) AMENDMENT NO. 3035

(Ordered to lie on the table.)

Mr. GORTON (for himself, Mr. NICKLES, Mr. BOREN, and Mr. LAUTENBERG) submitted an amendment intended to be proposed by them to the bill H.R. 5484, supra; as follows:

SEC. . (a) The Congress finds and declares that—

(1) drug investigation and enforcement depend on timely acquisition of reliable information;

(2) the Federal Government's land remote sensing satellite, known as Landsat, generates worldwide data revealing characteristics of the Earth's surface and changes thereto;

(3) Landsat data, in conjunction with other sources, can contribute to drug investigation and enforcement efforts in many ways, as follows—

(A) Landsat data are valuable in support of both airborne and field drug investigation operations because Landsat data are more accurate than most maps, especially maps of remote, undeveloped areas;

(B) Landsat's frequent repeat coverage of given areas provides information about developments and changes in terrain, including indicators of drug production and trafficking, such as construction of small airstrips and development of road networks;

(C) mapping of areas and monitoring changes is more cost-effective with Landsat data than by aerial photography;

(D) changes detected over time by Landsat data can improve airborne surveillance by highlighting specific areas as targets for surveillance;

(E) Landsat data are unclassified and can be given openly to foreign governments to help their drug enforcement efforts, because many countries lack adequate maps for drug enforcement raids;

(F) Landsat's Thematic Mapper instrument provides data unavailable from other sources, including vegetation indexes which estimate crop yield over large areas and moisture measurements which can determine the navigability of remote terrain;

(4) Public Law 98-365 expresses the desire of the Congress for continued U.S. involvement and leadership in land remote sensing and continuous availability of land remote sensing data to the federal government;

(5) Public Law 99-62 authorizes the appropriation of $295 million in fiscal years 1985 through 1989, of which $170 million remains unobligated, for the development of a land remote sensing system pursuant to the aforementioned requirements of Public Law 98-365;

(6) the land remote sensing system authorized by these Public Laws is intended to follow the current Landsat system, the last satellite (Landsat-5) of which was launched on March 1, 1984 and has an expected failure date of March 1, 1987;

(7) failure of the Congress to provide fiscal year 1987 appropriations for a land remote sensing system effectively will end the Landsat program upon the demise of Landsat-5; and

(8) the House of Representatives has passed legislation (H.R. 5161) providing $75 million for Landsat development in fiscal year 1987 and the Senate has not yet considered legislation to fund Landsat development in fiscal year 1987.

(b) It is therefore the sense of the Senate that $55 million should be provided in fiscal year 1987 to continue development of the follow-on land remote sensing system authorized by Public Laws 98-365 and 99-62.

(c) The unobligated funds authorized by Public Law 99-62 may be made available through appropriations for the Departments of Commerce, Defense, Justice, Agriculture, Treasury, Interior, or the National Aeronautics and Space Administration.

DENTON AMENDMENT NO. 3036

(Ordered to lie on the table.)

Mr. DENTON submitted an amendment intended to be proposed by him to the bill H.R. 5484, supra; as follows:

At the appropriate place in the bill, insert the following:

SEC. . ADMINISTRATION OF CLASSIFICATION, PAY, AND LABOR RELATIONS FOR DRUG ENFORCEMENT ADMINISTRATION EMPLOYEES.

(a) CLASSIFICATION OF POSITIONS.—Section 5102(a)(1) of title 5, United States Code, is amended—

(1) by striking out "or" at the end of clause (viii);

(2) by inserting "or" after the semicolon at the end of clause (ix); and

(3) by inserting after clause (ix) the following new clause:

"(x) the Drug Enforcement Administration;".

(b) Prevailing Rate Systems.—Section 5342(a)(1) of such title is amended—

(1) by striking out "or" at the end of clause (I);

(2) by inserting "or" at the end of clause (J); and

(3) by inserting after clause (J) the following new clause:

"(K) the Drug Enforcement Administration;".

(c) LABOR-MANAGEMENT AND EMPLOYEE RELATIONS.—Section 7103(a)(3) of such title is amended—

(1) by striking out "or" at the end of clause (F);

(2) by inserting "or" at the end of clause (G); and

(3) by inserting after clause (G) the following new clause:

"(H) the Drug Enforcement Administration;".

(d) AUTHORITY WITH RESPECT TO PAY.—(1) The Administrator shall fix the rates of pay of the employees of the Drug Enforcement Administration consistent with the principles of section 5301(a), of title 5, United States Code.

(2) The Administrator may not fix any rate of pay under paragraph (1) in an amount exceeding the maximum rate of pay for grade GS-15 under section 5332 of title 5, United States Code.

(3) The Administrator shall—

(A) publish a schedule of rates of pay applicable to employees of the Drug Enforcement Administration;

(B) adjust the rates of pay of the employees of the Drug Enforcement Administration at the same time and to the same extent as rates of basic pay under the General Schedule are adjusted pursuant to subchapter I of chapter 53 of title 5, United States Code;

(C) provide for grade and pay retention for employees of the Drug Enforcement Administration consistent with the objectives of the provisions of subchapter VI of chapter 53 of title 5, United States Code;

(D) pay performance awards to employees of the Drug Enforcement Administration consistent with the objectives of section 5384 of title 5, United States Code; and

(E) administer the pay of such employees consistent with the provisions of chapter 55 of title 5, United States Code.

(e) PERFORMANCE MANAGEMENT AND RECOGNITION.—The Administrator may develop, implement, and administer a performance management and recognition system for employees of the Drug Enforcement Administration consistent with the provisions of chapter 54 of title 5, United States Code.

(f) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect on the first day of the first applicable pay period beginning not less than 30 days after the date of the enactment of this Act.

DENTON AMENDMENT NO. 3037

(Ordered to lie on the table.)

Mr. DENTON submitted an amendment intended to be proposed by him to the bill H.R. 5484, supra; as follows:

At the end of title II, add the following new section:

SEC. . The first section of the Act entitled "An Act to regulate the issue and validity of passports, and for other purposes", approved July 3, 1926 (22 U.S.C. 211a) is amended by adding at the end thereof the following:

"The Secretary of State may prescribe such regulations as may be necessary to establish procedures for indicating on passports issued by the United States the fact that the holder of such passport has been convicted of an offense under a Federal or State law relating to controlled substances or has been assessed a fine or civil penalty or has incurred a forfeiture under any Federal or State law relating to controlled substances.".

EXTENSION OF CERTAIN HOUSING AND COMMUNITY DEVELOPMENT PROGRAMS

GARN AMENDMENT NO. 3038

Mr. PACKWOOD (for Mr. GARN) proposed an amendment to the joint resolution (S.J. Res. 353) to provide for the extension of certain programs relating to housing and community development, and for other purposes; as follows:

On page 1, line 3, strike out "99-289" and insert in lieu thereof "99-345".

On page 1, line 4, strike out "June 6" and insert in lieu thereof "September 30".

NOTICES OF HEARINGS

SUBCOMMITTEE ON AGRICULTURAL RESEARCH, CONSERVATION, FORESTRY, AND GENERAL LEGISLATION

Mr. HELMS. Mr. President, I wish to announce that the Subcommittee on Agricultural Research, Conservation, and Forestry, and General Legislation, of the Committee on Agriculture, Nutrition, and Forestry, has scheduled a hearing to address three pieces of forestry legislation: S. 1767 (H.R. 148), the Michigan Wilderness Act of 1985; S. 2838, the Georgia Wilderness Act of 1985; and H.R. 4685, the Texas Wilderness Act Amendments of 1986.

The hearing will begin at 9:30 a.m. on Thursday, October 2, 1986, in SR 332.

For further information, please contact the committee staff at 224-2035.

AUTHORITY FOR COMMITTEES TO MEET

SELECT COMMITTEE ON INTELLIGENCE

Mr. MATHIAS. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Friday, September 26, in closed session, to receive a briefing on intelligence matters.

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

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. MATHIAS. 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 Friday, September 26, to hold a hearing on S. 2203, acid rain.

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

SUBCOMMITTEE ON INTERGOVERNMENTAL RELATIONS

Mr. MATHIAS. Mr. President, I ask unanimous consent that the Subcommittee on Intergovernmental Relations, of the Committee on Governmental Affairs be authorized to meet during the session of the Senate on Friday, September 26, in order to conduct a hearing on comprehensive federalism reform.

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

ADDITIONAL STATEMENTS

ADDRESS BY EZRA TAFT BENSON ON THE CONSTITUTION

● Mr. SYMMS. Mr. President, every so often a gifted individual will shed new light on, or give a fresh insight to a topic we thought we knew intimately. Such an event happened Tuesday, September 16 at Brigham Young University when The Church of Jesus Christ of Latter-day Saints President Ezra Taft Benson spoke on the U.S. Constitution.

His address was in commemoration of the 200th birthday of the Constitutional Convention. We are indeed fortunate to have had a group of the most uniquely talented men ever to be assembled at the birth of any nation, a gathering which produced the greatest document ever to govern a nation. Those Founding Fathers possessed wisdom and inspiration far beyond their generation as they authored a document which would endure unknown future assaults.

Ezra Taft Benson is of the same timber as the Founding Fathers and has devoted a lifetime to profound study of those great men and their product.

Mr. President, as we commence our celebration of the Bicentennial of the Constitution, I strongly urge every Member of this body to take a few minutes and ponder this great address on the Constitution:

THE CONSTITUTION—A HEAVENLY BANNER

(By Ezra Taft Benson)

My fellow Americans, on the 17th day of September, 1987, we commemorate the two-hundredth birthday of the Constitutional Convention, which gave birth to the document that Gladstone said is "the most wonderful work ever struck off at a given time by the brain and purpose of man."

I heartily endorse this assessment. It would be erroneous for us, however, to conclude that the document was the sole genius of the Founding Fathers. Theirs was a combined wisdom derived from heavenly inspiration, knowledge of political government from ages past, and the crucible of their own experience.

We pay honor—honor to the document itself, honor to the men who framed it, and honor to the God who inspired it and made possible its coming forth.

SOME BASIC PRINCIPLES

To understand the significance of the Constitution, we must first understand some basic, eternal principles. These principles have their beginning in the premortal councils of heaven.

The Principle of Agency

The first basic principle is agency. We understand that the purpose of the council in heaven was to announce and present the plan of redemption for the salvation of all of God's children. The council was called so that every man and woman could sustain the provisions of the Father's plan, which required that all people obtain mortal bodies, be tried and proven in all things, and have opportunity to choose of their own free will to obey the laws and ordinances essential to their exaltation.

Because a fallen condition was an essential part of this plan, an infinite, eternal sacrifice was also required to redeem us from this state. We are all familiar with the facts: how Lucifer—a personage of prominence—sought to amend the plan, while Jehovah sustained the plan. The Prophet Joseph Smith explained how this difference led to the war in heaven: "The contention in heaven was—Jesus said there would be certain souls that would not be saved; and the devil said he could save them all, and laid his plans before the grand council, who gave their vote in favor of Jesus Christ. So the devil rose up in rebellion against God, and was cast down."

The central issue in that council, then, was: Shall the children of God have untrammeled agency to choose the course they should follow, whether good or evil, or shall they be coerced and forced to be obedient? Christ and all who followed Him stood for the former proposition—freedom of choice; Satan stood for the latter—coercion and force. Because Satan and those who stood with him would not accept the vote of the council, but rose up in rebellion, they were cast down to the earth, where they have continued to foster the same plan. The war that began in heaven is not yet over. The conflict continues on the battlefield of mortality. And one of Lucifer's primary strategies has been to restrict our agency through the power of earthly governments. Proof of this is found in the long history of humanity.

When the first worldly government began as a theocracy, Adam's descendants soon departed from this perfect order and degenerated into various political systems. The result has been human misery and, for most of humankind, subjugation to some despotic government.

Look back in retrospect on almost six thousand years of human history! Freedom's moments have been infrequent and exceptional. From Nimrod to Napoleon, the conventional political ideology has been that the rights of life, liberty, and property were subject to a sovereign's will, rather than God-given. We must appreciate that we live in one of history's most exceptional moments—in a nation and a time of unprecedented freedom. Freedom as we know it has been experienced by perhaps less than one percent of the human family.

The Proper Role of Government

The second basic principle concerns the function and proper role of government. I should like to outline in clear, concise, and straightforward terms the guidelines that determine, now and in the future, my attitudes and actions toward all domestic proposals and projects of government. These are the principles that, in my opinion, proclaim the proper role of government in the domestic affairs of the nation:

[I] believe that governments were instituted of God for the benefit of man; and that he holds men accountable for their acts in relation to them.

[I] believe that no government can exist in peace, except such laws are framed and held inviolate as will secure to each individual the free exercise of conscience, the right of control of property, and the protection of life. . . .

[I] believe that all men are bound to sustain and uphold the respective governments in which they reside, while protected in their inherent and inalienable rights by the laws of such governments. (D&C 134:1-2,5.)

In other words, the most important single function of government is to secure the rights and freedoms of individual citizens.

The Source of Human Rights

The third important principle pertains to the source of basic human rights. Thomas Paine, back in the days of the American Revolution, explained: "Rights are not gifts from one man to another, nor from one class of men to another. . . . It is impossible to discover any origin of rights otherwise than in the origin of man; it consequently follows that rights appertain to man in right of his existence, and must therefore be equal to every man."

The great Thomas Jefferson asked: "Can the liberties of a nation be thought secure when we have removed their only firm basis, a conviction in the minds of the people that these liberties are of the gift of God? That they are not to be violated but with his wrath?"

The feelings of these great men are in keeping with the revelations of God through His prophet, who said:' "Men are free according to the flesh . . . and they are free to choose liberty and eternal life . . . or to choose captivity and death." (2 Nephi 2:27.)

Rights are either *God-given* as part of the divine plan, or they are *granted by government* as part of the political plan. Reason, necessity, tradition, and religious conviction all lead me to accept the divine origin of these rights. If we accept the premise that human rights are granted by government, then we must be willing to accept the corollary that they can be denied by government. I, for one, shall never accept that premise. As the French political economist Frederic Bastiat phrased it so succinctly, "Life, liberty, and property do not exist because men have made laws. On the contrary, it was the fact that life, liberty, and property existed beforehand that caused men to make laws in the first place."

We must ever keep in mind the inspired words of Thomas Jefferson, as found in the Declaration of Independence: "We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness. That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed."

People Are Superior to Governments

The fourth basic principle we must understand is that people are superior to the governments they form. Since God created people with certain inalienable rights, and they, in turn, created government to help secure and safeguard those rights, it follows that the people are superior to the creature

they created. We are superior to government and should remain master over it, not the other way around. Government is nothing more nor less than a relatively small group of citizens who have been hired, in a sense, by the rest of us to perform certain functions and discharge certain responsibilities we have authorized. It stands to reason that the government itself has no innate power nor privilege to do anything. Its only source of authority and power is from the people who have created it. This is made clear in the Preamble of the Constitution of the United States, which reads: "We the people . . . do ordain and establish this Constitution for the United States of America."

Governments Should Have Limited Powers

The final principle that is basic to our understanding of the Constitution is that governments should have only limited powers. The important thing to keep in mind is that the people who have created their government can give to that government only such powers as they, themselves, have in the first place. Obviously, they cannot give that which they do not possess. So the question boils down to this: What powers properly belong to each and very person in the absence of and prior to the establishment of any organized form of government?

In a primitive state, there is no doubt that every individual would be justified in using force, if necessary, for defense against physical harm, against theft of the fruits of his labor, and against enslavement by another.

Indeed, the early pioneers found that a great deal of their time and energy was spent defending all three—defending themselves, their property, and their liberty—in what properly was called the "lawless West." In order for people to prosper, they cannot afford to spend their time constantly guarding family, fields, and property against attack and theft, so they join together with their neighbors and hire a sheriff. At this precise moment, government is born. The individual citizens delegate to the sheriff their unquestionable right to protect themselves. The sheriff now does for them only what they had a right to do for themselves—nothing more. Quoting from Bastiat: "If every person has the right to defend—even by force—his person, his liberty, and his property, then if follows that a group of men have the right to organize and support a common force to protect these rights constantly. Thus the principle of collective right—its reason for existing, its lawfulness—is based on individual right."

The proper function of government, then, is limited to those spheres of activity within which the individual citizen has the right to act. By deriving its just powers from the governed, government becomes primarily a mechanism for defense against bodily harm, theft, and involuntary servitude. It cannot claim the power to redistribute money or property nor to force reluctant citizens to perform acts of charity against their will. Government is created by the people. No individual possesses the power to take another's wealth or to force others to do good, so no government has the right to do such things either. The creature cannot exceed the creator.

My attitude toward government is succinctly expressed by the following provision taken from the Alabama Constitution: "The sole object and only legitimate end of government is to protect the citizen in the enjoyment of life, liberty, and property, and when the government assumes other functions it is usurpation and oppression." (Article 1, Section 35.)

THE CONSTITUTION AND ITS COMING FORTH

With these basic principles firmly in mind, let us now turn to a discussion of the inspired document we call the Constitution. My purpose is not to recite the events that led to the American Revolution—we are all familiar with these. But I would say this: History is not an accident. Events are foreknown to God. His superintending influence is behind the actions of his righteous children. Long before America was even discovered, the Lord was moving and shaping events that would lead to the coming forth of the remarkable form of government established by the Constitution. America had to be free and independent to fulfill this destiny. I commend to you as excellent reading on this subject Elder Mark E. Petersen's book *The Great Prologue* (Salt Lake City: Deseret Book Co., 1975). As expressed so eloquently by John Adams before the signing of the Declaration, "There's a divinity that shapes our ends." Though mortal eyes and minds cannot fathom the end from the beginning, God does.

Every true American and true friend of liberty should love our inspired Constitution. Its creation was a miracle. In a letter to Marquis de LaFayette, on February 7, 1788, George Washington stated: "It appears to me . . . little short of a miracle, that the Delegates from so many different states (which States you know are also different from each other, in their manners, circumstances, and prejudices) should unite in forming a system of national Government, so little liable to well founded objections."

GOD RAISED UP WISE MEN TO CREATE THE CONSTITUTION

George Washington referred to this document as a miracle. This miracle could only have been performed by exceptional men. In a revelation to the Prophet Joseph Smith, the Savior declared, "I established the Constitution of this land, by the hands of wise men whom I raised up unto this very purpose." (D&C 101:80.) These were not ordinary men, but men chosen and held in reserve by the Lord for this very purpose.

Shortly after President Spencer W. Kimball became president of the Church, we met together in one of our weekly meetings. We spoke of the sacred records that are in the vaults of the various temples in the Church. As I was to fill a conference assignment of St. George, President Kimball asked me to go into the vault and check the early records. As I did so, I realized the fulfillment of a dream I had had ever since learning of the visit of the Founding Fathers to the St. George Temple. I saw with my own eyes the records of the work that was done for the Founding Fathers of this great nation, beginning with George Washington. Think of it, the Founding Fathers of this nation, those great men, appeared within those sacred walls and had their vicarious work done for them.

Wilford Woodruff's Testimony

President Wilford Woodruff spoke of this experience in these words: "Before I left St. George, the spirits of the dead gathered around me, wanting to know why we did not redeem them. Said they, 'You have had the use of the Endowment House for a number of years, and yet nothing has been done for us. We laid the foundation of the government you now enjoy, and we never apostatized from it, but we remained true to it and were faithful to God.' These were the signers of the Declaration of Independence, and they waited on me for two days and two nights. . . . I straightway went into the baptismal font and called upon Brother McCallister to baptize me for the signers of the Declaration of Independence, and fifty other eminent men, making one hundred in all, including John Wesley, Columbus, and others."

President Woodruff was an apostle and the president of the St. George Temple at the time of the appearing of these great men. These noble spirits came there with divine permission—evidence that this work of salvation goes forward on both sides of the veil.

At a later conference, in April 1898, after he became president of the Church, President Woodruff declared that "those men who laid the foundation of this American government had signed the Declaration of Independence were the best spirits the God of Heaven could find on the face of the earth. They were choice spirits . . . [and] were inspired of the Lord." We honor those men today. We are the grateful beneficiaries of their noble work.

The Constitution, an Inspired Document

During an address before members of the Church in 1855, President Brigham Young said: "The . . . Constitution of our country . . . was dictated by the invisible operations of the Almighty. . . . God's purpose, in raising up these men and inspiring them with daring sufficient to surmount every opposing power, was to prepare the way for the formation of a true republican government. . . .

"It was the voice of the Lord inspiring all those worthy men who bore influence in those trying times, not only to go forth in battle, but to exercise wisdom in council, fortitude, courage, and endurance in the tested field, as well as subsequently to form and adopt those wise and efficient measures which secured to themselves and succeeding generations, the blessing of a free and independent government."

Pure Motives of the Founding Fathers

James Madison, referred to as the Father of the Constitution, wrote a fitting tribute about his renowned colleagues: "Whatever may be the judgment pronounced on the competency of the architects of the Constitution, or whatever may be the destiny of the edifice prepared by them, I feel it a duty to express my profound and solemn conviction, derived from my intimate opportunity of observing and appreciating the views of the Convention, collectively and individually, that there never was an assembly of men, charged with a great and arduous trust, who were more pure in their motives, or more exclusively or anxiously devoted to the object committed to them, than were the members of the Federal Convention of 1787."

THE LORD APPROVED THE CONSTITUTION

But we honor more than those who brought forth the Constitution. We honor the Lord who revealed it. God himself has borne witness to the fact that He is pleased with the final product of the work of these great patriots.

In a revelation to the Prophet Joseph Smith on August 6, 1833, the Savior admonished: "I, the Lord, justify you, and your brethren of my church, in befriending that law which is the constitutional law of the land." (D&C 98:6.)

In the Kirtland Temple dedicatory prayer, given on March 27, 1836, the Lord directed the Prophet Joseph to say: "May those principles, which were so honorably and nobly

defended, namely, the Constitution of our land, by our fathers, be established forever." (D&C 109:54.)

A few years later, Joseph Smith, while unjustly incarcerated in a cold and depressing cell of Liberty Jail at Clay County, Missouri, frequently bore his testimony of the document's divinity: "The Constitution of the United States is a glorious standard; and is founded in the wisdom of God. It is a heavenly banner."

The coming forth of the Constitution is of such transcendent importance in the Lord's plan that ancient prophets foresaw this event and prophesied of it. In the dedicatory prayer for the Idaho Falls Temple, President George Albert Smith indicated that the Constitution fulfilled the ancient prophecy of Isaiah that "out of Zion shall go forth the law." (Isaiah 2:3.)

He said: "We thank thee that thou hast revealed to us that those who gave us our constitutional form of government were wise men in thy sight and that thou didst raise them up for the very purpose of putting forth that sacred document [the Constitution of the United States]. . . .

"We pray that kings and rulers and the people of all nations under heaven may be persuaded of the blessings enjoyed by the people of this land by reason of their freedom and under thy guidance and be constrained to adopt similar governmental systems, thus to fulfill the ancient prophecy of Isaiah and Micah that 'out of Zion shall go forth the law, and the word of the Lord from Jerusalem.' " (*Improvement Era*, October 1945, p. 564.)

In the final analysis, what the framers did, under the inspiration of God, was to draft a document that merited the approval of God Himself, who declared that it should "be maintained for the rights and protection of all flesh." (D&C 101:77.) How this was accomplished merits our further consideration.

THE DOCUMENT ITSELF

The Constitution consists of seven separate articles. The first three establish the three branches of our government—the legislative, the executive, and the judicial. The fourth article describes matters pertaining to states, most significantly the guarantee of a republican form of government to every state of the Union. Article 5 defines the amendment procedure of the document, a deliberately difficult process that should be clearly understood by every citizen. Article 6 covers several miscellaneous items, including a definition of the supreme law of the land, namely, the Constitution itself, the laws of the United States, and all treaties made. Article 7, the last, explains how the Constitution is to be ratified.

After ratification of the document, ten amendments were added and designated as our Bill of Rights. To date, the Constitution has been amended twenty-six times, the most recent amendment giving young people the right to vote at age eighteen.

Now to look at some of the major provisions of the document itself. Many principles could be examined, but I mention five as being crucial to the preservation of our freedom. If we understand the workability of these, we have taken the first step in defending our freedoms.

MAJOR PROVISIONS OF THE DOCUMENT

Sovereignty of the People

First: Sovereignty lies in the people themselves. Every governmental system has a sovereign, one or several who possess all the executive, legislative, and judicial powers. That sovereign may be an individual, a group, or the people themselves. Broadly speaking, there are only two governmental systems in the world today. One system recognizes that the sovereign power is vested in one person or a group of people who serve as head of state. This kind of government rests on the premise that the ruler grants to the people the rights and powers the ruler thinks they should have. This system is wrong, regardless of how benevolent the dictator may be, because it denies that which belongs to all people inalienably— the right to life, liberty, and property.

The Founding Fathers believed in common law, which holds that true sovereignty rests with the people. Believing this to be in accord with truth, they inserted this imperative in the Declaration of Independence: "To secure these rights [life, liberty, and the pursuit of happiness], governments are instituted among men, deriving their just powers from the consent of the governed."

Separation of Powers

Second: To safeguard these rights, the Founding Fathers provided for the separation of power among the three branches of government—the legislative, the executive, and the judicial. Each was to be independent of the other, yet each was to work in a unified relationship. As the great constitutionalist President J. Reuben Clark noted: "It is the union of independence and dependence of these branches—legislative, executive, and judicial—and of the governmental functions possessed by each of them, that constitutes the marvelous genius of this unrivaled document. . . . It was here that the divine inspiration came. It was truly a miracle." (*Church News*, November 29, 1952, p. 12.)

In order to avoid a concentration of power in any one branch, the Founding Fathers created a system of government that provided checks and balances. Congress could pass laws, but the president could check these laws with a veto. Congress, however, could override the veto and, by its means of initiative in taxation, could further restrain the executive department, the Supreme Court could nullify laws passed by the Congress and signed by the president, but Congress could limit the court's appellate jurisdiction. The president could appoint judges for their lifetime with the consent of the Senate.

The use of checks and balances was deliberately designed, first, to make it difficult for a minority of the people to control the government, and second, to place restraint on the government itself.

Limited Powers of Government

Third: The powers the people granted to the three branches of government were specifically limited. Originally, the Constitution permitted few powers to the federal government, these chiefly being, as Thomas Jefferson said, the powers concerning "war, peace, negotiation and distributing to every one exactly the functions he is competent to. Let the national government be entrusted with the defence of the nation, and its foreign and federal relations; the State governments with the *civil rights*, law, police, and administration of what concerns the State generally, the counties with the local concerns of the counties, and each ward direct the interest within itself. It is by dividing and subdividing these republics from the great national one down through all its subordinations . . . that all will be done for the best. *What has destroyed liberty and the rights of man in every government which has ever existed under the sun? The generalizing and concentrating all cares and powers into one body.*"

The Founding Fathers well understood human nature and its tendency to exercise unrighteous dominion when given authority. A Constitution was therefore designed to limit government to certain enumerated functions, beyond which was tyranny.

The Principle of Representation

Fourth: Our Constitutional government is based on the principle of representation. The principle of representation means that we have delegated to an elected official the power to represent us. The Constitution provides for both direct representation and indirect representation. Both forms of representation provide a tempering influence on pure democracy.

The House of Representatives was elected for only two years by direct vote of the people on a population basis. This concession to democracy was balanced by the establishment of a Senate, originally elected for six years, by state legislatures. This was an ingenious system whereby the Senate, not directly responsible to the people, could act as a restraining influence on any demagoguery by the House. No law could be passed without the majority approval of the House, whose members were directly elected by the populace; but also, a law had to have the majority concurrence of the Senate, who at that time were not elected by the people. In this way, the passions and impulses of the majority vote were checked.

The intent was to protect the individual's and the minority's rights to life, liberty, and the fruits of their labors—property. These rights were not to be subject to majority vote.

We all know, of course, that this system was altered by amendment so that today both House and Senate are elected by direct popular vote.

A Moral and Righteous People

Fifth: The Constitution was designed to work only with a moral and righteous people. "Our Constitution," said John Adams (first vice-president and second president of the United States), "was made only for a moral and religious people. It is wholly inadequate to the government of any other."

In recognizing God as the source of their rights, the Founding Fathers declared Him to be the ultimate authority for their basis of law. This led them to the conviction that people do not make law but merely acknowledge preexisting law, giving it specific application. The Constitution was conceived to be such an expression of higher law. And when their work was done, Madison wrote: "It is impossible for the man of pious reflection not to perceive in it a finger of that Almighty hand which has been so frequently and signally extended to our relief in the critical stage of the revolution." (*The Federalist*, no. 37.)

THE CRISIS OF OUR CONSTITUTION

This, then, is the ingenious and inspired document created by these good and wise men for the benefit and blessing of future generations. We are the beneficiaries of their work, and we owe a great debt of gratitude to them and to our God who led them in their task.

In a talk to the youth of the Church concerning America and the Constitution, President J. Reuben Clark said: "May I tell you a few of the elemental principles? It

[the Constitution] gave us, for perhaps the first time in all history, a republic with the three basic divisions of government—the Legislative, Executive, and Judicial—mutually and completely independent, the one from the other, under which it is not possible for any branch of the government legally to set up a system by which that branch can first conceive what it wants to do, then make the law ordering its doing and then, itself, judge its own enforcement of its own law, a system that has always brought extortion, oppression, intimidation, tyranny, despotism—a system that every dictator has employed and must employ." (*Improvement Era*, July 1940, p. 443.)

It is now two hundred years since the Constitution was written. Have we been wise beneficiaries of the gift entrusted to us? Have we valued and protected the principles laid down by this great document?

At this bicentennial celebration we must, with sadness, say that we have not been wise in keeping the trust of our Founding Fathers. For the past two centuries, those who do not prize freedom have chipped away at every major clause of our Constitution until today we face a crisis of great dimensions.

Erosion of Our Freedoms

Let me cite, just briefly, two examples of the erosion of our constitutional freedoms. Both have come about because we, the people, have allowed the government to ignore one of the most fundamental stipulations of the Constitution—namely, the separation of powers.

In recent years, we have allowed Congress to fund numerous federal agencies. While these agencies may provide some needed services and protection of rights, they also encroach significantly on our constitutional rights. The number of agencies seems to grow continually to regulate and control the lives of millions of citizens.

What many fail to realize is that most of these federal agencies are unconstitutional. Why are they unconstitutional? They are unconstitutional because they concentrate the functions of the legislative, executive, and judicial branches under one head. They have, in other words, power to make rulings, enforce rulings, and adjudicate penalties when rulings are violated. They are unconstitutional because they represent an assumption of power not delegated to the executive branch by the people. They are also unconstitutional because the people have no power to recall administrative agency personnel by their vote.

A second example of this abandonment of fundamental principles can be found in recent trends in the U.S. Supreme Court. Note what Lino A. Graglia, a professor of law at the University of Texas, has to say about this: "Purporting merely to enforce the Constitution, the Supreme Court has for some thirty years usurped and exercised legislative powers that its predecessors could not have dreamed of, making itself the most powerful and important institution of government in regard to the nature and quality of life in our society. . . .

"It has literally decided issues of life and death, removing from the states the power to prevent or significantly restrain the practice of abortion, and, after effectively prohibiting capital punishment for two decades, now imposing such costly and time-consuming restrictions on its use as almost to amount to prohibition.

"In the area of morality and religion, the Court has removed from both the federal and state government nearly all power to prohibit the distribution and sale or exhibition of pornographic materials. . . . It has prohibited the states from providing for prayer or Bible-reading in the public schools.

"The Court has created for criminal defendants rights that do not exist under any other system of law—for example, the possibility of almost endless appeals with all costs paid by the state—and which have made the prosecution and conviction of criminals so complex and difficult as to make the attempt frequently seem not worthwhile. It has severely restricted the power of the states and cities to limit marches and other public demonstrations and otherwise maintain order in the streets and other public places."

To all who have discerning eyes, it is apparent that the republican form of government established by our noble forefathers cannot long endure once fundamental principles are abandoned. Momentum is gathering for another conflict—a repetition of the crisis of two hundred years ago. This collision of ideas is worldwide. Another monumental moment is soon to be born. The issue is the same that precipitated the great premortal conflict—will men be free to determine their own course of action or must they be coerced?

The Prophecy of Joseph Smith

We are fast approaching that moment prophesied by Joseph Smith when he said: "Even this nation will be on the very verge of crumbling to pieces and tumbling to the ground, and when the Constitution is upon the brink of ruin, this people will be the staff upon which the nation shall lean, and they shall bear the Constitution away from the very verge of destruction." (July 19, 1840, Church Historian's Office, Salt Lake City.)

The Need to Prepare

Will we be prepared? Will we be among those who will "bear the Constitution away from the very verge of destruction?" If we desire to be numbered among those who will, here are some things we must do:

1. *We must be righteous and moral.* We must live the gospel principles—all of them. We have no right to expect a higher degree of morality from those who represent us than what we ourselves are. In the final analysis, people generally get the kind of government they deserve. To live a higher law means we will not seek to receive what we have not earned by our own labor. It means we will remember that government owes us nothing. It means we will keep the laws of the land. It means we will look to God as our Lawgiver and the Source of our liberty.

2. *We must learn the principles of the Constitution and then abide by its precepts.* We have been instructed again and again to reflect more intently on the meaning and importance of the Constitution and to adhere to its principles. What have we done about this instruction? Have we read the Constitution and pondered it? Are we aware of its principles? Could we defend it? Can we recognize when a law is constitutionally unsound? The Church will not tell us how to do this, but we are admonished to do it. I quote Abraham Lincoln: "Let [the Constitution] be taught in schools, in seminaries, and in colleges, let it be written in primers, in spelling books and in almanacs, let it be preached from the pulpit, proclaimed in legislative halls, and enforced in courts of justice. And, in short, let it become the political religion of the nation."

3. *We must become involved in civic affairs.* As citizens of this republic, we cannot do our duty and be idle spectators. It is vital that we follow this counsel from the Lord: "I, the Lord God, make you free, therefore ye are free indeed; and the law also maketh you free. Nevertheless, when the wicked rule the people mourn. Wherefore, honest men and wise men should be sought for diligently, and good men and wise men ye should observe to uphold; otherwise whatsoever is less than these cometh of evil. And I give unto you a commandment, that ye shall forsake all evil and cleave unto all good, that ye shall live by every word which proceedeth forth out of the mouth of God." (D&C 98:8-11.)

Note the qualities that the Lord demands in those who are to represent us. They must be good, wise, and honest. Some leaders may be honest and good but unwise in legislation they choose to support. Others may possess wisdom but be dishonest and unvirtuous. We must be concerted in our desires and efforts to see men and women represent us who possess all three of these qualities.

4. *We must make our influence felt by our vote, our letters, and our advice.* We must be wisely informed and let others know how we feel. We must take part in local precinct meetings and select delegates who will truly represent our feelings.

I have faith that the Constitution will be saved as prophesied by Joseph Smith. But it will not be saved in Washington. It will be saved by the citizens of the nation who love and cherish freedom. It will be saved by enlightened members of this Church—men and women who will subscribe to and abide the principles of the Constitution.

THE CONSTITUTION REQUIRES OUR LOYALTY AND SUPPORT

I reverence the Constitution of the United States as a sacred document. To me its words are akin to the revelations of God, for God has placed His stamp of approval on the Constitution of this land. I testify that the God of heaven sent some of His choicest spirits to lay the foundation of this government, and He has sent other choice spirits—even you who read my words—to preserve it.

Our feelings for this marvelous document should be the same as those attributed to John Adams by Daniel Webster. When others were vacillating on whether to adopt the Declaration of Independence, the sentiments of John Adams were these: "Sink or swim, live or die, survive or perish, I give my hand and my heart to this vote. It is true, indeed, that in the beginning we aimed not at independence. But there's a Divinity that shapes our ends . . . . Why, then, should we defer the Declaration? . . . You and I, indeed, may rue it. We may not live to see the time when this Declaration shall be made good. We may die; die Colonists, die slaves, die, it may be, ignominiously and on the scaffold.

"Be it so. Be it so.

"If it be the pleasure of Heaven that my country shall require the poor offering of my life, the victim shall be ready. . . . But while I do live, let me have a country, or at least the hope of a country, and that a free country.

"But whatever may be our fate, be assured . . . that this Declaration will stand. It may cost treasure, and it may cost blood, but it will stand and it will richly compensate for both.

"Through the thick gloom of the present, I see the brightness of the future as the sun in heaven. We shall make this a glorious, an

immortal day. When we are in our graves, our children will honor it. They will celebrate it with thanksgiving, with festivity, with bonfires, and illuminations. . . .

"Before God, I believe the hour is come. My judgment approves this measure, and my whole heart is in it. All that I have, and all that I am, and all that I hope, in this life, I am now ready here to stake upon it; and I leave off as I began, that live or die, survive or perish, I am for the Declaration. It is my living sentiment, and by the blessing of God it shall be my dying sentiment. Independence now, and Independence forever."

We, the blessed beneficiaries, likewise face difficult days in this beloved land, "a land which is choice above all other lands." (Ether 2:10.)

It may also cost us blood before we are through. It is my conviction, however, that when the Lord comes, the Stars and Stripes will be floating on the breeze over this people. May it be so, and may God give us the faith and the courage exhibited by those patriots who pledged their lives and fortunes that we might be free.

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THE RETIREMENT OF JUDGE EDWARD B. TOLES

● Mr. DIXON. Mr. President, I would like to take this opportunity to advise my colleagues of the retirement of a very distinguished judge and lawyer after 50 years of conscientious service to his community, State and Nation.

After 18 years of service as bankruptcy judge for the northern district of Illinois, Judge Edward B. Toles will take his retirement when his term expires on October 1, 1986.

Recently, Judge Toles was honored with the "Senior Counselor Award" by the Illinois State Bar, the Chicago Bar Association and the Judicial Council of the National Bar.

The career of Judge Toles stands as an outstanding example of the success that can be attained in our country with determination and talent and I think it would be very instructive to include some history of his extraordinary career.

I ask that articles from the Chicago Daily Defender and the Chicago Daily Law Bulletin regarding Judge Edward B. Toles be printed in the RECORD.

The articles follow:

[From The Chicago Defender, June 25, 1986]

BAR RECOGNIZES JUDGE TOLES

Judge Edward B. Toles, 76, will receive the "Senior Counselor Award" at the annual meetings of both the Illinois State Bar Association at the Marriott Hotel, Lincolnshire, Ill., and the Chicago Bar Association Thursday at the Bar Association Luncheon.

Judge Toles, a graduate of the University of Illinois (A.B. 1932) and Chicago's Loyola University School of Law (J.D. 1936) was admitted to the bar on February 13, 1936. On that date he entered the offices of the late Edward H. Morris, the fifth Black lawyer admitted to the Illinois Bar—on June 12, 1879.

Toles, former Assistant General Counsel for The Chicago Defender, was honored by the U.S. War Department for his services as Defender War Correspondent during World War II by Secretary of War Robert E. Patterson.

Toles was appointed the first Black Chicago U.S. Bankruptcy Judge in December 1968 and has served 18 years on the bench. He will retire October 1, 1986.

Married to the former Evelyn Echols for 42 years, they have one son, Edward B. Toles Jr.

The Chicago Bar Association will also honor 16 Chicago Black lawyers who were admitted to the Illinois Bar more than 50 years ago.

Included in the group is Earl B. Dickerson, age 95, admitted in 1920 and the first Black lawyer admitted to the Chicago Bar Association in 1945.

The remaining 15 lawyers and the year each was admitted are: Earl B. Dickerson, 1920; Houston H. Hall, 1925; Oscar C. Brown Sr., 1925; Aaron H. Payne, 1926; Edward M. Byrd, 1927; Alvin H. Moss, 1929; John T. Jones, 1930; Hon. Sidney A. Jones Jr., 1931; Fred H. Elliott, 1931; James A. McLendon, 1933, Harry H. Gibson, 1935; Truman K. Gibson Jr., 1935; Joseph Attell, 1935; Archie Mills, 1935; and George B. Nesbitt, 1935.

[From the Chicago Daily Law Bulletin, June 19, 1986]

TOLES: A MANDATE FROM DARROW

Even though he's been on the bench only 18 years, Edward B. Toles has had a passion for judicial matters for almost five decades.

Ever since his career was spiritually launched by Clarence Darrow, whom he heard speak when he was a student at Englewood High School, Toles has fought long and hard to get black lawyers appointed to the bench.

The 76-year-old jurist still recalls how Darrow's deeds and words, especially the latter, motivated him to pursue a career in law. After Darrow's speech, he approached the famous lawyer and told him of his plans.

Toles recalled that Darrow responded, "Well, I think this is what you should do." So the young black man turned those words into a mandate by combining them with some other motivations and goals.

"I knew that professionalization was the only way we could get ahead," said Toles. "We had to have some representatives in the courts."

His efforts to get blacks on the bench really picked up steam when Toles was on the judiciary committees of the National Bar Association and the Cook County Bar Association in the late 1950s. In 1961, when Toles became president of the CCBA, his campaign to increase blacks in the judiciary was even more active. He met with then-mayor Richard J. Daley and the late president John F. Kennedy to discuss the issue.

In May 1961, at the request of the Chicago Tribune editorial board, he published an op-ed piece called "A Legitimate Aim of Negro Lawyers," which put forth an argument as to why blacks should be appointed to judgeships. Three months later, Judge James B. Parsons, the first black man to join the federal bench in Chicago, was appointed to the U.S. District Court.

By the end of Toles' two-year term, the number of black judges in Chicago had jumped from four to eight. Then, when he completed his CCBA presidency, Toles himself was sponsored for a judgeship and in December of 1968 he became the first back to be appointed to the bankruptcy bench in Chicago.

But there were other pivotal events involving black lawyers that left their mark on the jurist.

One of the early ones occurred when he was a student at the University of Illinois in Champaign, where he received his B.A. in 1932 and attended law school for two years before graduating from Loyola Universty School of Law in 1936.

He and another black law student, George B. Nesbitt, were denied service at a downstate snack shop. They were irate. "We decided to sue the bastards," recalled Toles. "We did. We lost the case but the next year they opened up the barbershop and restaurant so we won something."

Indeed, while the Urbana jury had reached a verdict against the three students Toles and Nesbitt represented after a three-day trial in 1938, blacks in the area were soon free to patronize all restaurants, movie houses and barbershops.

That case was argued while Toles was at his first post-law-school job as an associate with the law offices of Edward H. Morris, the fifth black lawyer admitted to the Illinois bar. It was a general and varied practice and one that gave him his first taste of bankruptcy law. While there, Toles represented a 400-employee black insurance company that was having financial difficulties. He supervised their finances.

Morris' firm was also one of the only options for a young black lawyer at the time. "Black lawyers had no firms as the white lawyers did," Toles recalled, adding that

Chicago's black bar numbered only about 200 when he graduated from law school.

That situation, which the judge said hasn't improved much, provided another imetus in his lifelong judicial mission. "Blacks could not and still can not be admitted to big white firms, so the only place for you to make a competitive living is in the public arena," Toles explained. "They can't deny you that."

He got a brief taste of the same when he was appointed assistant attorney with the U.S. Housing Authority in Washington, D.C. in 1939, a post he held until 1941, when he served as assistant general counsel for the publishing company that published the Defender, Chicago's only black daily newspaper. When the war intervened in 1943, Toles became the Defender's correspondent, the first black to cover black troops in Europe.

Toles' major concentration in recent years has focused on the area's bankruptcy docket. As a judge, he's presided over some of the Northern District's largest cases. They include reorganizations from the Executive House hotel to the Warshawsky & Co. auto parts company, from the Gaslight Clubs case to Chicago's last brewery, Meister Brau.

But he's also continued to contribute the black bar. As the official historian for the National Bar association, the judge has proved to be an invaluable source of statistical and historical information on black lawyers and judges, much of which has figured its way into publications and congressional records.

The walls of Toles's chambers and courtroom offer a less formal version of black legal history. They are covered with pictures of the judge at various stages in his crusade to increase the number of blacks on the bench. Photos of most of Illinois black judges and of Toles with Kennedy, Daley, U.S. Supreme Court Chief Justice Warren Burger and countless others crowd alongside the many awards and recognitions Toles had received.

As he looks at the wall and ponders his pending retirement this fall, a characteristic gentle but toothy smile spreads across Toles' face and he softly says, "I have had 50 years of good fortune."●

WHAT EVER HAPPENED TO THE ENERGY CRISIS

● Mr. HEINZ. Mr. President, "What Ever Happened to the Energy Crisis," an op-ed by Mr. Gus. S. Nicholas, appeared in the Monday, September 22 Wall Street Journal, and I urge all of my colleagues to read it.

Mr. Nicholas argues, and I agree, that the energy crisis of the 1970's is still with us. I am concerned that the drop in oil prices has lulled us into a false sense of security. Just as oil prices plummeted almost overnight, so can they skyrocket in an equally short time, just as they did in the 1970's.

The fact remains that fossil fuels are a finite resource. There is less oil in the ground now than there was in the 1970's, and that amount diminishes every day.

Conservation is a vital component of our energy policy, and to the extent that we allow our conservation efforts to lapse we do so at the peril of America's security.

Mr. President, I ask that Mr. Nicholas' excellent and thoughtful article be printed in full at this point in the RECORD.

The article follows:

WHAT EVER HAPPENED TO THE ENERGY CRISIS?

(By Gus S. Nicholas)

With oil prices having plunged 50% and gasoline 40% since the last quarter of 1985, one could conclude—the recent OPEC accord not withstanding—that there never was an energy crisis. Does anyone even remember President Carter on TV with his sweater? The arguments for conservation, however, remain as powerful as ever.

Today's prices for fossil fuels and their derivatives are more a function of demand than any long-term energy supply solution. In 1984, the last year for which data are available, the U.S. used less energy than in 1973. World energy output meanwhile, in the third year of the first Reagan term, was down 2.6% from what was produced in President Carter's last year in office. Additionally, the flat U.S. consumption curve over the 12 years through 1984 was achieved in the face of a 30.7% increase in constant dollar gross national product. This is glowing testimony to the efficacy of conservation legislation and incentives. It was not a signal to relax auto mileage rules or phase out the energy investment tax credits, nor does it warrant raising the highway speed limit back to 70 mph.

In 1975, the Energy Policy and Energy Conservation Act became law. It mandated that in the nation's 10 largest industries, manufacturers consuming more than one trillion BTUs per year report their energy use per unit of output against 1972 as base. A goal was also set for these firms to reduce by 1980 their energy use per unit of output by an industry-specific percentage, e.g., 12% for food, 22% for textiles and 20% for paper. The food industry, for one, surpassed its 1980 goal and in 1985 operated with 28% less energy per unit of output than it did in 1972. From 1973 to 1983, the auto industry similarly improved the gasoline economy of its product by 27%, from 13.1 to 16.7 miles per gallon.

If we consumed energy today at the 1972 per dollar of GNP rate, and the incremental 23.4 quadrillion BTUs were supplied by imported oil at $15 a barrel, the U.S. trade deficit would balloon by $60 billion. Conversely, if the U.S. used energy as efficiently as Western Europe, our energy bill would be nearly halved. But only a more achievable 12% improvement would be necessary to eliminate imported fuel. At $15 a barrel this would reduce the trade deficit by $23 billion.

ECONOMIC GROWTH AND THE ENERGY MARKET

	U.S. GNP (in billions of 1972 dollars)	U.S. Energy consumption (Quadrillion Btus)	World energy production (Quadrillion Btus)
1973	1254.3	74.3	244.8
1974	1246.3	72.6	248.8
1975	1231.6	70.6	246.0
1976	1298.2	74.4	260.4
1977	1369.7	76.3	269.1
1978	1438.6	78.1	274.4
1979	1479.4	78.9	288.8
1980	1475.0	76.0	287.6
1981	1512.2	74.0	281.8
1982	1480.0	70.8	280.2
1983	1534.7	70.5	280.1
1984	1639.9	73.7	NA

Source: Energy Information Administration.

The U.S., with less than 5% of the world's population, uses more than 25% of its energy produced. Each American uses 312 million BTUs a year, 6.5 times the global average. Pulling the U.S. from the comparision does not yield a world with egalitarian per capita energy consumption rates but the disparity cannot be simply dismissed with the argument that the Third World drags down the world average. Per-capita U.S. energy usage is 1.8 times West Germany's, 1.9 times Switzerland's, 2.3 times Denmark's and 2.4 times Japan's, though by some yardsticks, these countries' living standards top America's.

At the present rate of world consumption the earth's estimated fossil fuel reserves would last 109 years. If the U.S. rates were extrapolated to the rest of the globe, world annual energy consumption would increase 5.28 times and the world fossil fuel cupboard would go bare in 20 years. But reducing U.S. consumption rates to West German levels would stretch fossil fuel reserves for the entire world by 13 years, and Japan's rates would keep the lights burning for 19 additional years.

Energy resources will be extended by a variety of means, not a single technology such as nuclear. Co-generation can as much as double the efficiency of the inherently inefficient power plant cycle from .35 to .75 BTU of electricity produced per BTU fuel consumed; there are enough potential hydroelectric sites in the U.S. to totally meet our electric requirements; solid waste could generate from 5% to 10% of U.S. electrical requirements; altered building codes could reduce residential energy use as much as 29%, and U.S. energy consumption 18%; recycled paper requires 36% as much energy and recycled aluminum 4% as much as the virgin materials, yet only about a fourth of those high energy using products is recycled.

To date, energy conservation projects have not been given economic credits for environmental clean-up they made unnecessary. Replacing systems only when justified by the cost of fuel saved suppresses conservation investments. It is not that there is a lack of acid rain caused environmental damage estimates, both in the U.S. and abroad. European Community estimates for forest damage are $200 million a year. One-third of Swiss and German forests are classified as dying. U.S. estimates for building damages range from $2 billion to $5 billion a year. In Europe corresponding numbers are $500 million to $2.7 billion. Experiments have shown that rain with acidity equal to that falling on the eastern U.S. cuts soybean yields 11%.

Per capita energy consumption

(Tons of oil equivalent, annual)

Country:	*Tons oil*
United States	7.59
Sweden	5.91
West Germany	4.31
Switzerland	3.89
Denmark	3.37
Japan	3.14
Italy	2.39
Spain	1.91
Turkey	.78

Source: OECD Observer.

The EPA has determined that the environmental benefits of air clean-up alone are equal to the cost of emission controls before even considering damage from acid fallout in the form of rain. Five to 10 years are necessary before significant reductions in emis-

sions can be made, so there is cause for clamor. But while a frontal attack on acid rain is in order, a strategically meritorious flanking action is the reduction of pollution via conservation initiatives incited by appropriate financial credits. Certainly scientists in both camps can respect a law that postulates: What does not go up, cannot come down.

The specter of $2-per-gallon gasoline was never the only argument for an energy policy. The marketplace is not a particularly noted long-range visionary. Why not launch programs dealing with the inevitable today, instead of crash, price sponsored programs in the future when depletion is on the horizon? It is incumbent on the leadership of the world's largest energy consumer to bring the energy issue to the fore and strengthen, not roll back, programs to address it.●

NRC IGNORES ITS OWN SAFETY REVIEW PROCEDURES

● Mr. BIDEN. Mr. President, the Nuclear Regulatory Commission [NRC] is considering approval of a full-power operating license for the Perry-1 nuclear powerplant in Ohio. Unfortunately, the NRC appears willing to take this final step toward commercial operation even though its own licensing appeal board believes there may be serious questions about the ability of the plant to operate safely.

The safety question was raised by the Ohio Citizens for Responsible Energy [OCRE], in relation to an earthquake on January 31 centered near the Perry reactor. Seismic equipment at the facility measured ground motion which exceeded the plant's design standards. Soon after the earthquake, OCRE, as an intervenor in the licensing case, filed a request for the atomic safety and licensing appeal board to reopen the licensing hearing based on this new information.

The Perry plant is close to qualifying for a full-power license. It would be very unusual for an appeals board to reopen a hearing at such a late date. However, the NRC's own regulations allow for just such an event, as long as certain criteria are met. The three-part test for reopening the hearing are:

First. Is the motion timely?

Second. Does it address significant safety or environmental issues?

Third. Might a different result have been reached had the newly proffered material been considered initially?

The appeal board reviewed the information on the earthquake in the intervenors' request, and the response to those charges by the plant operator and the NRC staff. The decision of the appeals board was that:

> Our examination of the documentary submissions of the applicants and staff have given rise to several questions that, in our view, require further exploration before we can decide with any degree of confidence whether a reopening of the record is justified.

The appeal board decided that it wanted to hold a 1-day hearing with a very limited purpose:

> To aid our determination on whether there is warrant to reopen the record for the admission and full litigation of OCRE's newly proposed seismic contention.

The appeal board proposal balanced questions about the impact of the earthquake on the plant structure with its desire to avoid a full scale reopening of the hearing on sketchy evidence.

Unfortunately, this apparently reasonable approach did not suit the NRC Commissioners. In an even more unusual procedure than the one contemplated by the appeal board, a majority of the Commissioners ordered the board to cancel its hearing. No review of the concerns raised by the earthquake would be made under the Commission's actions. The appeal board may believe that there was a potentially serious problem indicated by the earthquake, but a majority of the Commissioners clearly did not want a preliminary review.

To add to the list of unusual actions related to this case, the Sixth Circuit Court issued an injunction blocking the NRC from voting on a full-power license for Perry-1 until questions about the plant's ability to withstand an earthquake have been cleared up. This is the first time the NRC has been blocked from voting on a license because of a procedural issue.

This matter may be settled soon, because the Sixth Circuit Court has received written briefs on the issues and yesterday heard oral arguments. However, the actions of the NRC are cause for concern even after the court renders its decision in the case.

The Commission appears willing to disregard at least the spirit of its own regulations designed to ensure that all reasonable safety concerns are addressed before a full-power license is granted to a commercial plant. The indisputable fact that the seismic equipment in the foundation of the plant took measurements in excess of those the plant is designed to withstand would appear to raise a legitimate safety concern.

I am also concerned that the NRC, in its initial rejection of the appeal board's effort stated "simply put, the burden of satisfying reopening requirements is on the movant and boards must base their decisions on what is before them." In this case, the appeal board stated that the surface facts of the case were in favor of the OCRE request, but that the utility and NRC staff raised complex, technical arguments that the higher numbers did not pose a significant safety threat. After reviewing their comments on the decision to hold an informal hearing, it appears the appeal board wanted a further explanation of the technical information, not the OCRE information.

The signal the Commission's actions send to the staff is a poor one. The appeal board was handed a tricky case, and tried to find a way to resolve it in a way that would not require the resources of a more formal hearing. The Commission's response tells the appeal board that either it must become an instant expert in geology, seismology, and engineering mechanics, or it cannot reopen a hearing. The Commission cannot send this kind of message to its staff and expect them to be the advocates of safety that the public demands.

I am concerned that this action by the NRC is another example of the drift away from a commitment to safety at the Commission. It has not been a sudden shift, but rather one that has developed over the years. We need to reform the NRC to bring it into line with the changing responsibilities and conditions in the nuclear industry. The safety board proposal I have put forward is a step that should be taken to increase the visibility and effectiveness of safety considerations at the NRC.●

NATIONAL SEEK AND COLLEGE DISCOVERY DAY

● Mr. D'AMATO. Mr. President, I rise today as a cosponsor of a joint resolution to designate December 11, 1986, as "National SEEK and College Discovery Day."

A generation ago, the City University of New York instituted two revolutionary programs for minorities, the economically disadvantaged, and the educationally underprepared who otherwise would not have considered attending college or would not have met the traditional admissions requirements. One program, instituted at the community college level, is called College Discovery; the other, SEEK [Search for Elevation, Education and Knowledge], was instituted at the senior college level. These programs were used on a pilot basis at two community colleges and three of the system's senior colleges. The first groups of 650 were offered a unique program of counseling, remedial instruction, tutorial services, and financial aid.

SEEK and College Discovery became the first large-scale efforts to identify and nurture the talents of an underprivileged, underprepared population in the setting of a major university. These programs became a monumental success and, within no time, were expanded throughout the city university system. As a direct result of the programs' success, the university began its open admissions policy in 1970.

Entirely funded by the university, these programs now boast an enroll-

ment of over 14,000 students per year. They proudly serve as models for college remedial programs that have been established across our Nation, as well as for the Federal Trio Program. More than 100,000 students are the beneficiaries of SEEK and College Discovery as offered through city university. It is for this reason that I call upon my colleagues to recognize this remarkable achievement by designating December 11, 1986, as "National SEEK and College Discovery Day."

NATIONAL FORUM

● Mr. KERRY. Mr. President, I recently had the privilege of visiting Milton Academy in Milton, MA, where an exciting national movement is taking shape.

This past May, students at Milton Academy started a project known as the National Forum. The National Forum is a grassroots, educational effort on the issue of nuclear arms, designed to bring all the high school students of America together in a cooperative movement. The project currently consists of a petition drive to get the Nation's 15.6 million high school students to request a nationally televised forum on this issue.

The idea for the National Forum arose out of a speech last April presented by Dr. Helen Caldicott, founder of Physicians for Social Responsibility. Her clear and dramatic depiction of the consequences of nuclear war provoked a passionate and active response among students. For several days after her speech, classrooms and assembly halls were filled with discussions about the controversial subject. Although the students may have differed in their views about the nuclear arms race, they all agreed that they were insufficiently informed about the complexities of the issue, and wanted to learn more.

Their desire to learn led to open meetings which brought together more than 120 students and 30 faculty members. Interest remained at a high level, and the project began to take shape. By early June, the National Forum was established, and a summer group was formed to begin the process of putting together the petition drive and televised forum.

Five months after its inception, the National Forum is now a thriving organization with a staff of teachers and students busy printing literature, raising funds, "networking," and collecting endorsements. The first part of the project involves stuffing petitions into 67,000 envelopes bound for America's 20,000 high schools. An enclosure asks the country's 15.6 million high school students to sign the petition. The petition requests a televised forum on the nuclear arms issue and invites President Reagan to participate in this forum.

On September 18, students met with Massachusetts Governor Michael Dukakis in his office, where the Governor signed the petition and stuffed the first envelope. On Saturday, September 20, I had the privilege of talking with student supporters of the National Forum at Milton Academy. I had the opportunity to speak with students at the academy about this worthy project, and about some of the complex questions surrounding the nuclear arms race.

The National Forum hopes to complete its education project by the end of the school year. At that time, the organization will broadcast a 2-hour program, with four noted experts of differing views. The forum certainly has set forth ambitious goals for itself, but I believe it can achieve these goals. In any case, the National Forum fulfills a number of important functions for students. As the organization has stated:

It emphasizes the value of impartiality, of free and open discussion, a hallmark of American democracy;

It demonstrates that students of vastly differing views can come together over a common issue;

It involves future voters in a process of public discussion and decisionmaking, preparing them for the difficult tasks of citizenship;

It educates students about a crucial issue of our times;

It helps develop in students a consciousness beyond their own individual circumstances; and

It shows students that they can make a difference.

I believe that it does all this while it also serves to focus national attention in a new way on what is perhaps the most critical issue facing us today—the nuclear arms race. I commend the students who are participating in this project for their leadership and citizenship. Let me wish the National Forum the best of success in all its endeavors.●

TRIBUTE TO JACK FISH

● Mr. WALLOP. Mr. President, the beauty of Washington, DC, has not been created by accident. Certainly the magnificent design of this city has contributed greatly to its attractiveness. However, much of the beauty of our Nation's Capital may be attributed to the efforts of the National Park Service, and particularly, to the Director of the National Capital Region, Jack Fish. For 13 years, Jack has painstakingly overseen the care of our gardens, our parks, our memorials, and all other facilities managed by the Park Service in our Nation's Capital.

It was with great concern that I learned that Jack suffered a heart attack on September 9. I am, however, pleased to know that after bypass surgery, Jack is now home and making great progress.

I know that all of my colleagues join me in wishing Jack Fish a speedy recovery.●

NAUM AND INNA MEIMAN: A SPECIAL PLEA

● Mr. SIMON. Mr. President, as the Senate surges through its busiest time of the year, I would like to remind everyone of the importance of human rights. There are thousands of Soviet citizens being denied emigration rights and family reunification rights who are forced to live as outcasts in a society which does not want them, but will not allow them to leave.

I would like to make a special plea for my two very close friends, Naum and Inna Meiman. They are an elderly couple cut off from society in the Soviet Union. Their emigration requests have consistently been rejected.

Inna is dying of cancer. After removing four malignant tumors from Inna's neck, the Soviet doctors insist that there is nothing more they can do for the fifth tumor. The Soviets are aware of experimental treatment available in the West, but they refuse to permit the Meimans to emigrate.

I strongly urge the Soviet Union to allow the Meimans to emigrate to Israel.●

ABORTION AND INFORMED CONSENT: IDAHO

● Mr. HUMPHREY Mr. President, Rickie Sue in Idaho has written clearly about her abortion and the sort of counseling she received. It is obvious that she rightfully feels betrayed by the lack of information she was given.

Scores of letters to my office have indicated that this is the sort of informed consent many young women in this country are given every day. I earnestly urge my colleagues to join me in righting this glaring injustice. I encourage my colleagues, especially those from the State of Idaho, to cosponsor S. 2971 to ensure that women are given enough information to make an informed decision about abortion.

The letter follows:

MAY 29, 1986.

DEAR SENATOR HUMPHREY. I'm writing to express my complete support and deep desire to see the federal bill for "Informed Consent" passed.

Through my own experience with an abortion, I know that, had the abortion clinic and the Planned Parenthood clinic given me the "complete" and "true" information concerning the procedure of abortion (exactly how and what it was aborting), I never and I repeat never would have gone through with the abortion.

I feel also, had they shown me what my baby looked like at that stage and told me they were going to cut the baby in pieces and/or vacuum the baby apart and then out, I would have opted for life through adoption of raising the child myself.

I felt horribly "tricked" when I found out what really happened.

I come in contact with many women whose cry is this—"If I had only known what I did and that it was truly a baby, and not "just a blob," I never would have done it."

I know that if this federal bill for "Informed Consent" is passed, all women and girls will be able to make real decisions concerning their pregnancies and abortions.

Please strive hard in whatever ways necessary to pass this bill!

For the sake of the uninformed and their children.

Mrs. RICKIE SUE KENDALL,

HOPE, ID.,●

25TH ANNIVERSARY OF THE DEFENSE INTELLIGENCE AGENCY

● Mr. DURENBERGER. Mr. President, I want to take this opportunity to honor one of the preeminent agencies in the U.S. Government, the Defense Intelligence Agency [DIA] which is celebrating its silver anniversary today. Accurate, timely intelligence is essential to the formulation and implementation of national security policy and the conduct of foreign affairs. An integral part of the U.S. Intelligence Community, the DIA is the primary U.S. producer of foreign military intelligence. Its creation was the most significant organizational development in military intelligence in the post-World War II era. DIA serves as the manager of most defense intelligence production, and provides the Secretary of Defense and the Joint Chiefs of Staff [JCS], other policymakers, and the military departments with intelligence support.

As you can well appreciate, the U.S. foreign intelligence effort is critically important to the Nation in that it provides vital information to policymakers and military forces concerning the capabilities and intentions of other nations. DIA's beginnings can be traced to events of the late 1940's; discontent was evident as each service produced its own intelligence often resulting in duplication of effort and disparity in product. As the 1950's ended, the need for reliable coordinated intelligence was underscored with the launch of sputnik, mushrooming technological advances—particularly in communications and information availability, missile gap theories, and increasing world tensions. Moreover, accurate intelligence was required to meet the increased intelligence requirements of the Unified and Specified [U&S] Commands, the JCS, and the Office of the Secretary of Defense. A joint study group, appointed by President Eisenhower in May 1960 to examine military intelligence shortcomings, convinced then newly-appointed Secretary of Defense McNamara that the DIA concept had merit. The DIA became operational on October 1, 1961; calling personnel from existing resources in defense intelligence. The DIA was charged with improving the effectiveness and responsiveness of defense intelligence and bringing about efficiencies and economies in utilization of intelligence resources. Some 3 years were required before DIA became fully operational, but events on the international scene tested its mettle. Two of the great issues of our times—a superpower confrontation leading to the prospect of nuclear war over placement of Soviet nuclear missiles in Cuba, and the increasing commitment of United States forces in support of South Vietnam quickly forged DIA's role in intelligence support to decisionmakers. The DIA has continued to provide this critical support in every crisis confronting the Nation.

With internal consolidation accomplished, the early 1970's were transitional years for the DIA, it began establishing the DIA as a major voice and credible producer of national intelligence. As the Agency entered the current decade, new emphasis on automated data processing and new sources of information to keep stride with the worldwide explosion in information and technology elevated DIA's stake in the formulation of national security policy. The Agency has come of age—a fact signaled by its greater role in tactical as well as national intelligence, emerging concern for looking beyond the near term, and the Agency's products I would like to extend the congratulations of this body to the Defense Intelligence Agency on 25 years of outstanding service to the Nation and to extend our best wishes to its current director, Lt. Gen. Leonard H. Perroots, U.S. Air Force, as he leads the DIA into the next quarter century of service, "Committed to excellence in support of the Nation."

ALBUQUERQUE HISPANO CHAMBER OF COMMERCE

● Mr. BINGAMAN. Mr. President, I am pleased to take the floor today to invite my colleagues' attention to the recent accomplishment of the Albuquerque Hispano Chamber of Commerce. During the 7th Annual National Convention and International Business Exchange held in Denver, CO last week, the U.S. Hispanic Chamber of Commerce announced that the Albuquerque Chamber is the recipient of the U.S. Hispanic Chamber of the year award.

The Albuquerque Hispano Chamber was selected from among 200 Hispanic chambers in the Nation, and I am extremely proud that the accomplishments and achievements of this fine organization have been recognized.

The Albuquerque Hispano Chamber of Commerce is a relative newcomer, established only a decade ago. However, during these 10 years, it has successfully performed a leading role in preserving and encouraging the competitive enterprise system among Hispanic business through stable development and growth.

Over the years, the chamber has fostered a rapport with the entire Albuquerque and New Mexico business community and contributed to the entire region. Not only has it helped develop and expand small business membership with its Desarollo 1986 program, but as an adjunct to this program it has established a pilot training program to assist 17-28 year-old Bernalillo County residents who are interested in starting and operating their own businesses.

It has promoted and sponsored such events of interest and concern to the Hispanic business community as the Fiestas de Albuquerque, the Feria Artesana, a parade to commemorate the NCAA basketball final, and the Hispanic Culture Foundation. The Albuquerque Hispano Chamber of Commerce has, through these and many other programs, demonstrated its commitment and dedication to the New Mexico business community.

The Chamber whose motto is "Progress in the Embrace of Tradition" evokes the pioneer heritage in which we in New Mexico take great pride. Our forefathers were cowboys, ranchers, farmers, and businessmen. And it is in that pioneer spirit that the Albuquerque Hispano Chamber of Commerce has worked to promote economic development.

The Albuquerque Chamber has not only been a major source of information and influence, but is has been instrumental in promoting tourism in our State, and it has encouraged our young people to excel academically.

Under the efficient and effective leadership of its president, Mr. Ron Tafoya, and its executive director, Mr. John Garcia, the Albuquerque Hispano Chamber has grown from an original membership of 150 to nearly 900 members.

Its reputation has been firmly established. The group dedicated business and community leaders who are its members deserve the national recognition they have now won. Their tenacity, commitment, and promotion of the Hispanic community, the city of Albuquerque, and the Land of Enchantment are beyond question. I applaud this outstanding organization and the much deserved recognition.●

NATIONAL HUNGARIAN FREEDOM FIGHTERS DAY

● Mr. SIMON. Mr. President, I am pleased to cosponsor Senate Joint Resolution 385, which designates October 23, 1986, as "National Hungarian Freedom Fighters Day." This day is very special, because it commemorates the

30th anniversary of the Hungarian Resistance Movement's heroic revolt against Soviet occupation.

The Hungarian economy has turned out to be one of the most successful among planned economies, in large part because of the many market incentives. But Hungary is still a member of the Warsaw Pact and still has Soviet occupation troops on its soil. It still suffers from a controlled press and a denial of basic freedoms. Things are better there then in some other places in Eastern Europe, but there is still a long way to go.

Hungarian Americans have contributed richly to our country in every field of human endeavor. Let us hope that one day true freedom will come to Hungary, making all of Europe a safer and more vital place to live.●

CFTC REAUTHORIZATION AND FIFRA

● Mr. BOREN. Mr. President, it is with great interest that I have listened to the comments made by many individuals which indicate that I am the Senator who torpedoed S. 2045, the Commodity Futures Trading Commission [CFTC] reauthorization bill and S. 2792, Federal Insecticide, Fungicide, and Rodenticide Act amendments [FIFRA].

I understand I accomplished this by desiring to offer an amendment to either one of these bills. It apparently doesn't matter what is in my amendment, as I have shared that with no one. It has been said that I have stopped two bills. In fact, I have not tried to stop these bills, I simply want to have a chance to help distressed farmers before time runs out since the Senate has not yet been given a chance to act. Frankly, Mr. President, I had no idea I had sufficient influence in the Senate that I could kill bills. In all humility, I must confess that I don't possess such unlimited power.

I am quite willing to bring either one of these bills to the floor and offer my amendment on whichever one comes first and allow a vote on the proposal after a short debate. Those who oppose my proposal can simply vote against it. It isn't necessary to hold up these bills as a means of registering their opposition to my amendment. The Senate did begin debate on the CFTC bill and Senators were told there would be a couple of amendments. Senator ABDNOR was given the opportunity to offer an amendment on a subject about which he was very concerned. His amendment was offered, debated, and defeated. That is all I desire to do. I am quite willing to enter into a time agreement to limit debate on my amendment. I am quite willing to offer it and immediately vote on it without taking very much of the Senate's time.

All year, Mr. President, I have done everything I could to be accommodating on agricultural issues. In January and early February when the Senate considered S. 2036, a bill making technical corrections in the 1985 farm bill, I expressed an interest to the majority leader in offering a couple of amendments. Several of my colleagues had the same desire. Yet, we wanted to be accommodating and allowed the measure to go through the Senate without substantive farm bill amendments. On January 30 of this year, the majority leader stated:

> Several of my colleagues may have an interest in making other changes in the farm bill. But I ask all my colleagues to defer further amendments until a comprehensive corrections bill can be drafted. We need to get this change in cross-compliance in place immediately. Adding amendments will only invite efforts to broaden the legislation, reducing chances of its passage in both Houses and enactment into law.

Mr. President, the comprehensive corrections bill has not surfaced at all. It has become obvious that there will not be such a bill.

I know the majority leader desires to consider credit legislation for farmers, because he indicated this on the floor of this Chamber on March 11. He stated at that time:

> If there is nothing forthcoming from the administration on the credit side, there is no doubt in my mind we are going to have to spend some time on the Senate floor on credit legislation. In fact, many of us have already testified on possible provisions of legislation before the Banking Committee, which is looking at how we can help not only farmers but some of our small rural banks.

The administration has done nothing to provide credit relief to farmers and ranchers, nor have they done anything to keep our agricultural banks in operation during this time of stress. Senator DOLE testified on legislation which was supposed to provide some assistance to our banks, but S. 2752, as passed by the Senate Banking Committee, does nothing to help our agricultural banks. S. 2752 is on the Senate Calendar, but it's been there a long time.

I indicated to the majority leader when he made these remarks that I definitely wanted the Senate to consider credit legislation. The majority leader urged me not to put credit legislation on the Food Security Act improvements bill that was under consideration at that time. It was thought at that time that the Banking Committee would be reporting out a bill which would provide help to agricultural banks and to farmers and I would have the opportunity to offer an amendment at that time. In order to be accommodating, I did not offer credit legislation.

Since these remarks were made on the floor, however, we have had nine bank failures in Oklahoma, one of which was the second largest bank failure in the history of the United States. In addition, the FDIC had to give another bank an infusion of $130 million in order to prevent it from becoming the third largest bank failure in history.

So, I ask, Mr. President, where is all this help? When are we going to have an opportunity to provide relief to our Nation's farmers and ranchers and our agricultural banks? The Senate is still expected to adjourn on October 3 and the only chance we have to provide any help is now.

All I want is an opportunity to offer my amendment. The Senate will work its will on it. All I am requesting is an opportunity to have the Senate consider helping our farmers and ranchers who are in such desperate shape.

Mr. President, it is my hope that we will bring up either the CFTC bill or FIFRA so that we can have an opportunity to indicate our support or lack of support for our Nation's farmers and ranchers.●

□ 0010

Mr. PACKWOOD. 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.

□ 0020

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

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

ORDER OF PROCEDURE

Mr. PACKWOOD. Mr. President, I am about to propound a unanimous-consent request. Before I do, let me indicate that it is going to depend upon the willing and good-faith efforts of both Senator DOLE and Senator BYRD tomorrow because we may have actually allocated a bit more time than we have but we are going to vote at 4 o'clock under this unanimous-consent order even if all the time that is allocated has not been used up. We are simply going to hope that speakers who are going to speak for 15 minutes can be convinced to speak for 10 or 5 or not at all.

It is also dependent upon Senator METZENBAUM's being ready to start at 9 o'clock, or the time can be charged to him starting at 9.

Is that all right with the leader?

Mr. BYRD. Mr. President, the distinguished Senator from Ohio [Mr. METZENBAUM] has indicated that he will be here and will be prepared to speak at 9, so I suggest that the acting Republican leader get consent that Mr. METZENBAUM be recognized at 9 o'clock.

UNANIMOUS-CONSENT AGREEMENT

ORDER FOR RECESS UNTIL 8 A.M. ON SATURDAY, SEPTEMBER 27, 1986

Mr. PACKWOOD. I ask unanimous consent for the following: that when the Senate completes its business today, it stand in recess until the hour of 8 a.m.—8 a.m.—on Saturday, September 27.

I ask unanimous consent that all time between the hours of 8 o'clock and 4 o'clock be divided in the following way for debate on the conference report: 3 hours under the control of Senator METZENBAUM, and Senator METZENBAUM is to be recognized at 9 o'clock for the start of his time; 90 minutes under the control of Senator PACKWOOD; 2½ hours under the control of Senator LONG or his designee; 30 minutes under the control of Senator DECONCINI; 30 minutes under the control of Senator MELCHER.

I further ask unanimous consent that at 3:30 p.m., 15 minutes of the time already under the control of Senator LONG be available for Senator LONG at 3:30 and 15 minutes of the 90 minutes of time under my control be available at 3:45 p.m.

I further ask unanimous consent that a vote occur on adoption of the conference report at no later than 4 o'clock p.m. tomorrow.

CONSIDERATION OF H.R. 5484

I ask unanimous consent that, following disposition of the conference report, the Senate will resume the drug bill.

Therefore, votes will occur during tomorrow's session of the Senate.

Mr. BYRD. Mr. President, reserving the right to object, the distinguished acting Republican leader does not mean, I am sure he does not mean that last sentence in the unanimous-consent request. He states that for advisory purposes.

Mr. PACKWOOD. There is not a unanimous-consent order that votes will occur during the day, that is correct.

Mr. BYRD. Second, the distinguished acting Republican leader has made no allowance for the prayer. As I understand his request, beginning at 8 o'clock, the 8 hours are to begin running.

ORDER FOR PRAYER

Mr. PACKWOOD. I ask unanimous consent that the prayer take place at 8 o'clock and not be counted against the 8 hours.

The PRESIDING OFFICER. Is there objection to the entire unanimous-consent request?

Mr. BYRD. Mr. President, reserving the right to object, I will not object. May I say that the hour is 12:27 a.m. I say that for the purpose of the RECORD. We have not been able to contact all Senators but we have made diligent efforts to do so.

With the time that has been stated and the identification of those Senators who are in control of the time as propounded in the request by the distinguished Senator from Oregon [Mr. PACKWOOD], it is going to be impossible, almost impossible, for all Senators who are even now listening for time, with the amounts of time that have been listed in the order, to have that time. So, really, what we are doing is trusting to a little luck here. We are trusting that Senators will be prepared to speak. We are trusting that, hopefully, Senators will not use——

Mr. PACKWOOD. And we are trusting that they will be here to speak, as today, almost back to back, so we will not have 5 or 6 minutes of quorum call waiting for someone to come. And we are hoping that Senator METZENBAUM will not need all his 3 hours. We do not know. These are all ifs and possibilities but no matter what we will vote at 4 o'clock.

□ 0030

Mr. BYRD. Well, I do not want to just single out Senator METZENBAUM, but I am simply saying I am hoping that Senators will be willing to be here and ready to speak back to back and that they will be willing hopefully to reduce their time, if possible.

Now, as for myself, I am willing to be here at 8 o'clock in the morning, and I will be the first to speak. I am going to cut back my time in an effort to cooperate because I realize that the distinguished acting Republican leader and the distinguished majority leader have problems on their side. I have problems on my side. So we do have a 4 o'clock final time, and it is going to take some cooperation among all Senators to reach that goal. I think we are all going to have to give and take a little, hopefully, and I enter into this in that spirit. I am sure the Senator from Oregon does. So I have no objection, Mr. President.

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

Mr. PACKWOOD. I want to ask one further clarification that we talked about earlier.

Mr. BYRD. Yes.

Mr. PACKWOOD. If by chance neither one of us can fill the time after the minority leader's speech until 9 o'clock when Senator METZENBAUM's time starts to run, that time was not to be charged against the 90 minutes that was under my control.

Mr. BYRD. That time cannot be charged against any particular Senator, as I see it. It just makes the time all that more binding in order to finish our work at 4, and that is why each Senator is going to have to be constrained even more and more.

Mr. PACKWOOD. Here is the agreement. It is 8:15. I put in a quorum call because the Senator has not arrived yet.

Mr. BYRD. Yes.

Mr. PACKWOOD. In the unanimous consent up until 9 o'clock that kind of quorum call will not be charged against my time even if I place the quorum call.

Mr. BYRD. No; that time is not going to be charged against the Senator's time.

Mr. PACKWOOD. I thank the minority leader.

The PRESIDING OFFICER. Is that in the form of a unanimous-consent request?

Mr. PACKWOOD. That is also part of the unanimous-consent.

Mr. BYRD. Well, that is perfectly all right with me. Yes, let us include that.

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

Mr. PACKWOOD. Was that for the entire unanimous-consent request?

The PRESIDING OFFICER. All of the unanimous consent request has now been granted.

Mr. PACKWOOD. My staff has said clearly when we have been referring to tomorrow we mean today.

Mr. BYRD. Well, it is 12:33 in the morning. We mean Saturday.

Mr. PACKWOOD. Saturday, that is right.

Mr. BYRD. In this time agreement, we do not even have time for quorum calls.

Mr. PACKWOOD. Quorum calls will count against your time or my time, except prior to 9 o'clock. It is hoped that Senators will be here.

Mr. BYRD. I should point out that under this agreement, the time for quorum calls eats into the 8 hours, so Senators are urged to be on the floor and speak back-to-back. They are also urged to keep in mind that in order for Senators who want to speak to have the opportunity to do so, all Senators should try to reduce their time.

Mr. President, I thank the Chair. I have nothing further.

ROUTINE MORNING BUSINESS

Mr. PACKWOOD. I ask unanimous consent there now be a period for the transaction of routine morning business not to exceed 5 minutes.

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

EXTENSION OF CERTAIN PROGRAMS RELATING TO HOUSING AND COMMUNITY DEVELOPMENT

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the Senate turn to Calendar No. 661, Senate Joint Resolution 353, housing extension.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

A joint resolution (S.J. Res. 353) to provide for the extension of certain programs relating to housing and community development, and for other purposes.

The Senate proceeded to consider the joint resolution.

AMENDMENT NO. 3038

(Purpose: To make technical amendments to conform to the last temporary extension)

Mr. PACKWOOD. Mr. President, I send an amendment to the desk on behalf of Senator GARN and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Oregon [Mr. PACKWOOD], for Mr. GARN, proposes an amendment numbered 3038:

On page 1, line 3, strike out "99-289" and insert in lieu thereof "99-345".

On page 1, line 4, strike out "June 6" and insert in lieu thereof "September 30".

Mr. PACKWOOD. Mr. President, I move adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3038) was agreed to.

Mr. PACKWOOD. Mr. President, I move adoption of the joint resolution, as amended.

The PRESIDING OFFICER. If there are no further amendments to be proposed, the question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed and to be read a third time.

The joint resolution was read the third time and passed.

The joint resolution (S.J. Res. 353), is as follows:

S.J. RES. 353

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That each provision of law amended by Public Law 99-345 is amended by striking out "September 30, 1986" wherever it appears and inserting in lieu thereof "September 30, 1987".

Mr. PACKWOOD. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

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

The motion to lay on the table was agreed to.

EXTENSION OF CERTAIN PROVISIONS OF THE GARN-ST GERMAIN DEPOSITORY INSTITUTIONS ACT

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 5521.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 5521) to extend until October 13, 1986, the emergency acquisition and net worth guarantee provisions of the Garn-St Germain Depository Institutions Act of 1982.

The bill was considered, ordered to a third reading, read the third time and passed.

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

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

The motion to lay on the table was agreed to.

AMENDMENTS TO FAIR LABOR STANDARDS ACT OF 1938

Mr. PACKWOOD. Mr. President, I send a bill to the desk on behalf of Senator METZENBAUM and others, and ask for its immediate consideration.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 2884) to amend the Fair Labor Standards Act of 1938 to require that wages based on individual productivity be paid to handicapped workers employed under certificates issued by the Secretary of Labor.

Mr. METZENBAUM. Mr. President, on behalf of myself and Senator Nickles, and Senator Hatch, I offer the following Statement setting forth the intent of the sponsor of S. 2884.

This bill, S. 2884, will help improve employment opportunities for handicapped persons, especially those employed in sheltered work programs.

Section 14(c) of the Fair Labor Standards Act provides for special minimum wage requirements for persons whose productivity is impaired by a physical or mental handicap. In 1966, this provision was amended to require multiple certificates for different programs and different workers.

The current law and regulations seem to place undue emphasis on meeting voluminous paper requirements related to certification. In addition, while the current requirement of a minimum or floor rate—50 percent of the minimum wage—for each certificated worker is intended to protect employees, it has in fact become largely an administrative burden because 87 percent of the workers are exempted. The significant increase in number of exemptions since 1966 reflects a shift in the population employed in sheltered work programs from the physically disabled to persons with more severe mental disabilities.

The current law also has been applied by the Department of Labor to require physical separation of the more severely disabled in work activities centers. This requirement may lead to unfair segregation of severely handicapped employees, denying them the opportunity to work with more productive employees who may serve as positive role models.

Senator NICKLES introduced S. 2148, a bill to amend section 14(c) of the Fair Labor Standards Act, on March 6 of this year. The bill simplifies the certification process by providing for a single certificate based on the productivity of the individual handicapped worker. The bill also removes the requirement that persons employed in work activities centers be separated from other employees.

This new bill, S. 2884, is offered by Senators METZENBAUM, NICKLES, and HATCH as a substitute for S. 2148. It includes all the provisions contained in S. 2148, but adds provisions assuring that handicapped workers with impaired productivity are protected against the possibility of exploitation or abuse.

The Metzenbaum-Nickles-Hatch bill requires employers to conduct regular reviews of the special minimum wage rates paid to their own employees, and of prevailing rates for comparable work performed by experienced nonhandicapped employees in the same locality. The bill also requires that current employees being paid a special minimum wage not have that wage rate reduced prior to June 1, 1988 without prior authorization from the Secretary of Labor.

The provisions of new paragraph 5 of section 14(c) are designed to provide procedural due process safeguards for handicapped employees who are paid under special minimum wage rate certificates. Employees who wish to challenge their special minimum wage rate have a right to a hearing and a right to a prompt decision from an impartial decisionmaker. The burden of proof is on the employer to justify the wage rate being paid.

The standard applied by the hearing examiner when determining what special minimum wage rate, if any, is justified, is set forth at subparagraph 5(d) of the bill. This standard is the same standard that is to be applied by the Secretary when providing for the issuance of special minimum wage certificates, as set forth at subparagraphs 1(b) and (1)(c) of the bill.

The due process protection provided in the bill is an important benefit for this vulnerable sector of our work force. We expect that it will be exercised responsibly. We intend that it not be used as a means of harrassment against employers.

The bill also provides that an employer operating a sheltered work program may still maintain or establish a separate work activities center. Nothing in this bill requires such employers to unify their operations unless they so choose.

The intent of S. 2884 is to provide a more rational, fair and objective basis for determining wages to be paid to handicapped employees with impaired productivity while fully protecting the rights of individual workers. Streamlining the wage determination process is beneficial both to sheltered work programs that employ the handicapped and to the handicapped employees of such workshops. Wage determinations must still be based on each individual worker's productivity, which must be measured at regular periodic intervals. By removing several categories of certificates that employers must obtain from the Department of Labor, the Department will have additional resources available to assure the fairest possible administration of section 14(c) for all concerned.

The bill has received letters of support or endorsement from the Association for Retarded Citizens of the United States, the National Association of Rehabilitation Facilities, Goodwill Industries of America, the National Federation of the Blind, the United Cerebral Palsy Associations, the National Easter Seal Society, and the Association for Persons With Severe Handicaps. I ask unanimous consent that these letters be printed in the RECORD as part of our joint statement.

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

ASSOCIATION FOR RETARDED CITIZENS OF THE UNITED STATES,
Arlington, TX, September 23, 1986.

Hon. HOWARD METZENBAUM,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR METZENBAUM: On behalf of the 160,000 members of the Association for Retarded Citizens of the United States, I wish to convey our strong support for the substitute amendment you and Senator Nickles plan to offer to S. 2148. As you know, the ARC-U.S. advocates on behalf of all persons with mental retardation to enable them to lead productive lives. Our Association is particularly aware of the difficulties adults with moderate and severe mental retardation have in attaining employment which maximizes their earning potential.

Your substitute amendment to S. 2148 will improve the guarantees afforded to workers with disabilities employed by sheltered workshops and work activities centers and enable such facilities to operate more efficiently. The combined effect of these amendments is expected to assist workers with disabilities to receive remuneration based on their actual productivity and establishes an important due process mechanism to safeguard their earnings.

The legislation will also free facilities which operate sheltered workshops and work activities centers from much unwarranted "red-tape," thus allowing staff to devote more time and energy to improving the work skills of the employees.

We commend you for offering this amendment and encourage you to do all you can to foster its becoming law in this Congress.

Sincerely,
V. K. "WARREN" TASHJIAN,
President.

NATIONAL ASSOCIATION OF REHABILITATION FACILITIES,
Washington, DC, September 23, 1986.

Senator HOWARD METZENBUAM,
Russell Senate Office Building,
U.S. Senate,
Washington, DC.

DEAR SENATOR METZENBAUM: We understand that the Senate Labor and Human Resources Committee will mark-up an amendment in the nature of a substitute of S. 2148 on Wednesday, September 24. It is our understanding that the amendment would, in addition to the original provisions of S. 2148, provide for:

(1) a review at least every six months of the wages paid disabled workers under this provision.

(2) wage adjustments at least once a year to reflect changes in prevailing rates.

(3) a two-year transition period providing that wages currently guaranteed by a certificate shall not be reduced without prior authorization of the Secretary of Labor.

(4) provide that employees (or parents and guardians when appropriate) may petition the Department of Labor for a review by an Administrative Law Judge to determine whether a special minimum wage is justified. The ALJ shall consider only the productivity of the employee, the conditions under which the productivity was measured, and the productivity of other employees doing essentially the same work in reaching a determination.

With the above provisions, the National Association of Rehabilitation Facilities would endorse S. 2148. NARF believes that this bill will expand employment opportunities for severely disabled persons while providing safeguards that special wages paid to disabled workers will be fair.

You and your staff are to be commended in bringing this important legislative action by the Senate.

Sincerely,
CHARLES W. HARLES,
Associate Director for Vocational Rehabilitation.

GOODWILL INDUSTRIES OF AMERICA, INC.,
Bethesda, MD, September 23, 1986.

Hon. HOWARD METZENBAUM,
Committee on Labor and Human Resources, Washington, DC.

DEAR SENATOR METZENBAUM: The substitute amendment to S. 2148 to be offered jointly by you and Senator Nickles at the Committee mark up session on September 24 has the support of Goodwill Industries of America, Inc.

As the nation's largest network of privately-operated vocational rehabilitation facilities, we believe that this compromise legislation amending the Fair Labor Standards Act will produce multiple benefits. Individuals with severe disabilities in "work activity centers" will benefit from the elimination of the requirement that they be physically separated from more productive workers. Nonprofit sheltered workshops employing and providing training to individuals with disabilities will be relieved of burdensome paperwork requirements caused by current Department of Labor regulations, and the Department of Labor will be able to concentrate its investigative resources on substantive wage and hour compliance. Finally, individuals with disabilities employed by sheltered workshops will be provided with sufficient protections to guarantee that their wages are based on productivity and are commensurate with wages paid to workers who are not disabled.

Again, Goodwill Industries supports this substitute amendment and we urge expeditious action by the Committee on Labor and Human Resources and the full Senate.

Sincerely,
MIRIAM B. GOULDING,
General Counsel and Director of Governmental Affairs.

NATIONAL FEDERATION OF THE BLIND,
Baltimore, MD, September 23, 1986.

Hon. HOWARD METZENBAUM,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR METZENBAUM: I am writing to advise you of the support of the National Federation of the Blind for your amendment to S. 2148. If enacted as part of section 14(c) of the Fair Labor Standards Act (FLSA), your amendment would provide much needed procedural due process safeguards for individuals or groups subject to the section 14(c) subminimum wage. For blind persons whose subminimum wages more often result from employer inefficiency and exploitation than from lack of worker productivity, the appeal rights provided by an amendment would be a distinct improvement over current law.

The position we are taking on your amendment does not alter our opposition to subminimum wages for all blind workers. Modern production techniques, coupled with technological advancements, allow blind people to work as productively as other industrial employees covered by the FLSA. The employer controlled wage setting practices now used under current law are patently unfair and encourage employers (especially sheltered workshops) to exploit the blind by obtaining cheap labor. Moreover, the abuses permitted under the law are compounded by the lack of effective monitoring by the Department of Labor (DOL) and the automatic approval by DOL of workshop requests for minimum wage exemptions.

Nothing short of the termination of authority to pay blind workers less than the minimum wage will remove the substantial exploitation that now occurs. Nevertheless, we believe that your amendment can be a significant step toward combatting unfair and illegal low wages. For this reason we support and applaud your effort.

Sincerely yours,
JAMES GASHEL,
Director of Governmental Affairs.

UNITED CEREBRAL PALSY ASSOCIATION,
Washington, DC, September 23, 1986.

Hon. HOWARD M. METZENBAUM,
Russell Senate Office Building,
Washington, DC.

DEAR SENATOR METZENBAUM: On behalf of United Cerebral Palsy Associations, Inc., I am writing in support of your substitute amendment of S. 2148. UCPA is a national network of 220 private nonprofit agencies in 45 states who provide a variety of services to disabled individuals and their families. UCPA is committed to the idea that all individuals with cerebral palsy, with appropriate supportive services, can work in an integrated work environment.

UCPA is supportive of these amendments and believes they will protect disabled individuals who are employed in work activities centers and sheltered workshops, while giving them the opportunity to be more productive. UCPA is also pleased to see a review

process for all disabled individuals included in the amendment.

We thank you for your concern for individuals with cerebral palsy and other severe disabilities. We hope that through your efforts, disabled individuals will be given more opportunities to be more independent members of society.

Sincerely,

KAREN S. FRANKLIN,
Policy Associate.

NATIONAL EASTER SEAL SOCIETY,
Washington, DC, September 23, 1986.

Hon. HOWARD M. METZENBAUM,
Russell Senate Office Building,
Washington, DC.

DEAR SENATOR METENBAUM: I am writing on behalf of the National Easter Seal Society to express support for the substitute amendment to S. 2148 to be offered jointly by you and Senator Don Nickles at the full Committee mark-up on September 24, 1986. The substitute amendment effectively addresses the issue of clients' rights and the need for improved efficiency under Fair Labor Standards Act requirements for vocational rehabilitation programs.

The National Easter Seal Society serves people of all ages with all types of disabilities. Last year, more than one million persons were served by Easter Seal Societies nationwide. At present, 47 Easter Seal centers provide vocational rehabilitation services to persons with disabilities, including development disabilities, multiple impairments, and mental illness. Each of these centers serves between 25 and 200 individuals, many of whom will directly benefit from the revisions proposed under S. 2148.

As an advocate for people with disabilities, the National Society strongly supports the strengthening of client protections under the Fair Labor Standards Act. We encourage you to develop report language which coordinates client protection and appeals procedures under S. 2148 with existing standards set by the Commission on Accreditation of Rehabilitation Facilities (CARF). CARF currently accredits a substantial share of vocational rehabilitation programs, totalling more than 1,100 work service programs and over 650 work activity programs.

All Easter Seal vocational rehabilitation programs are CARF-accredited. We believe that coordination of client protection appeals procedures would enhance efficiency and minimize costly duplication of effort.

As a provider of vocational rehabilitation services, the National Society welcomes provisions contained in S. 2148 which simplify work center requirements under section 14(c) of the Fair Labor Standards Act. Simplification of the multiple certificate system, implementation of wages based on individual productivity, and the integration of work activities center employees with workers with less severe disabilities, will significantly improve the ability of Easter Seals and others to serve people with disabilities.

On behalf of the National Easter Seal Society, thank you for your diligent and valuable efforts.

Sincerely,

JOSEPH D. ROMER,
Director of Governmental Affairs.

THE ASSOCIATION FOR PERSONS WITH SEVERE HANDICAPS,
Washington, DC, September 23, 1986.

Hon. HOWARD M. METZENBAUM,
Russell Senate Office Building,
Washington, DC.

DEAR SENATOR METZENBAUM: On behalf of The Association for Persons with Severe Handicaps (TASH), I write in support of your substitute amendment to S. 2148. TASH is a growing national and international organization of over 6,000 professionals and parents with an interest in the lives of persons who experience severe disabilities from birth through adulthood. Certainly, key among those interests are employment opportunities.

Having carefully studied your proposed amendment, we feel we can endorse and support it.

We certainly have no objection to legislation designed to protect from exploitation people who are now in work activity centers and sheltered workshops. However, TASH's main concern is for people who have been excluded from employment opportunities in integrated settings. As an organization, we support and work towards the development of such work opportunities by private and non-profit employers outside the work activity centers and sheltered workshops. We would support any measure compatible with this goal and ask that in the final drafting of your proposal that you guard carefully against inadvertently developing requirements that would serve as a disincentive for private employers to hire persons with severe handicaps.

We thank you for your obvious concern for persons with mental retardation and your hard work in developing legislation that will ease regulatory barriers to their employment.

Sincerely,

CELANE MCWHORTER,
Director, TASH Government Relations.

Mr. NICKLES. Mr. President, I rise in support of S. 2884. Earlier this Congress I introduced a predecessor bill, S. 2148, along with 11 cosponsors. In the 97th Congress, the Labor Subcommittee held hearings on a slightly different version. These hearings convinced me that current law was a detriment to the primary employers of the severely handicapped; sheltered workshops and work activities centers. Those operators holding both certificates were barred from comingling their clientele. Consequently, both the business side of the operation and the therapeutic side were often hindered. Precious resources were also wasted. I became a firm believer that section 14(c) of the Fair Labor Standards Act needed to be amended.

This year, Senator METZENBAUM and I negotiated out several changes to S. 2148. I am pleased to say that this cooperative effort now appears on the verge of becoming law. The interest groups that represent the handicapped support this bill and I am told that it is acceptable to the proper Members of the House as well. Once again the members of this committee have cooperated on legislation. I appreciate the efforts of Senator METZENBAUM and Senator HATCH as well as the support of all the cosponsors. It is fair to say that we would not be here today without their support and leadership.

Mr. METZENBAUM. I thank the subcommittee chairman for his kind words. Like the Garcia bill, this effort does indeed demonstrate that it is possible for the members of the Labor and Human Resources Committee to generate productive legislation. I, too, am pleased that our efforts appear to be paying off. I have discussed this issue with our counterparts in the House of Representatives and I believe that they will accept this negotiated compromise and clear the bill for the President.

Mr. HATCH. It is a pleasure to be a part of this team effort. I congratulate both Senator NICKLES and Senator METZENBAUM. Their persistence on this issue has paid off: Handicapped workers and the operators of sheltered workshops and work activities centers will benefit. I suspect that many of these shops—particularly the small shops in rural areas—will realize a substantial cost savings once this bill is enacted. Again, I congratulate Senator NICKLES and Senator METZENBAUM.

Mr. HATCH. Mr. President, I am pleased to join Senators NICKLES and METZENBAUM as a sponsor of this amendment to the Fair Labor Standards Act which will help expand employment opportunities for handicapped workers. As our colleagues can appreciate, if the three of us can get together and sponsor the same legislation, it must be a pretty good bill. I commend the Senators from Oklahoma and Ohio for their hard work on this legislation.

I am also pleased to note that the bill has the support of major organizations concerned with protecting the rights of and creating meaningful employment opportunities for handicapped workers, including the Easter Seal Society and the National Association of Rehabilitation Facilities. They have encouraged us to push forward with this legislation even at this late hour in the session. This is an indication, I believe, of the importance with which this measure is viewed.

This bill will reduce the redtap required for employers to operate sheltered workshops under the Fair Labor Standards Act without compromising the rights of individual workers. That is a goal worthy of unanimous support.

Mr. METZENBAUM. Mr. President, I am pleased that through a substitute amendment which I proposed and negotiated with Senator NICKLES, we have been able to work out a bill that has the support of the major groups representing both sheltered workshop operators and employees of those workshops.

The impetus for this legislation was to enable sheltered workshops to

achieve more efficient operation. That is a laudable objective. But at the same time that we eliminate burdensome paperwork requirements, we must be sure that handicapped workers with impaired productive capacities are protected against the possibility of exploitation or abuse. This bill secures workers their full protection. For this reason, as well as for its improvements in efficiency, it deserves the unanimous support of the Senate.

The bill was considered, ordered to a third reading, read the third time, and passed as follows:

S. 2884

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (c) of section 14 of the Fair Labor Standards Act of 1938 (29 U.S.C. 214) is amended to read as follows:

"(c)(1) The Secretary, to the extent necessary to prevent curtailment of opportunities for employment, shall by regulation or order provide for the employment, under special certificates, of individuals (including individuals employed in agriculture) whose earning or productive capacity is impaired by age, physical or mental deficiency, or injury, at wages which are—

"(A) lower than the minimum wage applicable under section 6,

"(B) commensurate with those paid to nonhandicapped workers, employed in the vicinity in which the individuals under the certificates are employed, for essentially the same type, quality, and quantity of work, and

"(C) related to the individual's productivity.

"(2) The Secretary shall not issue a certificate under paragraph (1) unless the employer provides written assurances to the Secretary that—

"(A) in the case of individuals paid on an hourly rate basis, wages paid in accordance with paragraph (1) will be reviewed by the employer at periodic intervals at least once every 6 months, and

"(B) wages paid in accordance with paragraph (1) will be adjusted by the employer at periodic intervals, at least once each year, to reflect changes in the prevailing wage paid to experienced nonhandicapped individuals employed in the locality for essentially the same type of work.

"(3) Notwithstanding paragraph (1), no employer shall be permitted to reduce the hourly wage rate prescribed by certificate under this subsection in effect on June 1, 1986, of any handicapped individual for a period of two years from such date without prior authorization of the Secretary.

"(4) Nothing in this subsection shall be construed to prohibit an employer from maintaining or establishing work activities centers to provide therapeutic activities for handicapped clients.

"(5)(A) Notwithstanding any other provision of this subsection, any employee receiving a special minimum wage at a rate specified pursuant to this subsection or the parent or guardian of such an employee may petition the Secretary to obtain a review of such special minimum wage rate. An employee or the employee's parent or guardian may file such a petition for and in behalf of the employee or in behalf of the employee and other employees similarly situated. No employee may be a party to any such action unless the employee or the employee's parent or guardian gives consent in writing to become such a party and such consent is filed with the Secretary.

"(B) Upon receipt of a petition filed in accordance with subparagraph (A), the Secretary within 10 days shall assign the petition to an administrative law judge appointed pursuant to section 3105 of title 5, United States Code. The administrative law judge shall conduct a hearing on the record in accordance with section 554 of title 5, United States Code, with respect to such petition within 30 days after assignment.

"(C) In any such proceeding, the employer shall have the burden of demonstrating that the special minimum wage rate is justified as necessary in order to prevent curtailment of opportunities for employment.

"(D) In determining whether any special minimum wage rate is justified pursuant to subparagraph (C), the administrative law judge shall consider—

"(i) the productivity of the employee or employees identified in the petition and the conditions under which such productivity was measured; and

"(ii) the productivity of other employees performing work of essentially the same type and quality for other employers in the same vicinity.

"(E) The administrative law judge shall issue a decision within 30 days after the hearing provided for in subparagraph (B). Such action shall be deemed to be a final agency action unless within 30 days the Secretary grants a request to review the decision of the administrative law judge. Either the petitioner or the employer may request review by the Secretary within 15 days of the date of issuance of the decision by the administrative law judge.

"(F) The Secretary, within 30 days after receiving a request for review, shall review the record and either adopt the decision of the administrative law judge or issue exceptions. The decision of the administrative law judge, together with any exceptions, shall be deemed to be a final agency action.

"(G) A final agency action shall be subject to judicial review pursuant to chapter 7 of title 5, United States Code. An action seeking such review shall be brought within 30 days of a final agency action described in subparagraph (F).

Mr. PACKWOOD. Mr. President, I move to reconsider the vote by which the bill has passed.

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

The motion to lay on the table was agreed to.

RECESS UNTIL 8 A.M. TODAY

Mr. PACKWOOD. Mr. President, I move we stand in recess in accordance with the previous order.

The motion was agreed to, and, at 12:39 a.m., the Senate recessed until today, Saturday, September 27, 1986, at 8 a.m.

NOMINATIONS

Executive nominations received by the Senate September 26, 1986:

THE JUDICIARY

Joseph F. Anderson, Jr., of South Carolina, to be U.S. district judge for the district of South Carolina, vice Charles E. Simons, Jr., retired.

William L. Dwyer, of Washington, to be U.S. district judge for the western district of Washington, vice Donald S. Voorhees, retiring.

DEPARTMENT OF JUSTICE

Robert L. Barr, Jr., of Georgia, to be U.S. attorney for the Northern District of Georgia for the term of 4 years, vice Larry D. Thompson, resigned.

COMMUNICATIONS SATELLITE CORPORATION

E. Pendleton James, of Connecticut, to be a member of the Board of Directors of the Communications Satellite Corporation until the date of the annual meeting of the Corporation in 1989, reappointment.

CORPORATION FOR PUBLIC BROADCASTING

Daniel L. Brenner, of the District of Columbia, to be a member of the Board of Directors of the Corporation for Public Broadcasting for a term expiring March 26, 1991, vice Howard A. White, term expired.

FEDERAL ELECTION COMMISSION

Scott E. Thomas, of the District of Columbia, to be a member of the Federal Election Commission for a term expiring April 30, 1991, vice Thomas Everett Harris, term expired.

IN THE AIR FORCE

The following officer under the provisions of section 8019, title 10, United States Code, for appointment as chief, Air Force Reserve:

Maj. Gen. Roger P. Scheer, xxx-xx-x... xxx-... FV, Air Force Reserve.

DEPARTMENT OF STATE

Frank Shakespeare, of Connecticut, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Holy See.

THE JUDICIARY

Bruce M. Selya, of Rhode Island, to be U.S. circuit judge for the first circuit vice a new position created by Public Law 98-353, approved July 10, 1984.